CAL3-DEPT OF TOXIC SERVICES

Moderator: Patrick Barclay

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7:30 pm CT

Coordinator: Welcome and thank you for standing by. At this time all participants are in a listen-only mode until the question-and-answer session of today’s conference. At that time you may press star followed 1 and record your name clearly if you’d like to ask a question. I would like to inform all parties that today’s conference is being recorded. If you have any objections you may hang up at this time. I would now like to turn the conference over to (Patrice Bowen) Thank you.

(Patrice Bowen): Thank you (Marcus). Good evening everyone. My name is (Patrice Bowen) and I work with the Department of Toxic Substances Control. We’d like to welcome you to the Violations Scoring Procedure Webinar. We appreciate you joining us this evening.

For those of you who have already connected to today’s Webinar the slide we’re currently displaying on the screen has all the information for accessing this evening’s Webinar. Also as you join the audio portion of our Webinar through the phone line, please make sure to state your name only. There’s no need to provide any additional information. And after that, your phone will be automatically placed on mute.

After our presentation portion of this Webinar, we invite the participants to join the question cue by pressing star 1 on their phone. Once we open up the question and answer portion of the Webinar, the phone operator will state your name and un-mute your phone line so that everyone participating in today’s discussion can hear you.

Now we certainly realize that the phone may be challenging for some, so we’ve provided two ways to share your questions and comments with us. One - you can use our Q and A box in the blue (team)’s application. And secondly, you can also email us at dtscpublicmeeting@dtsc.ca.gov.

We’ll do all that we can to respond to your questions and we will ensure that during the Webinar that we will try to answer the questions to the best of our ability.

Again, we appreciate your patience and we’re trying to make this Webinar accessible in multiple ways. However, if you’re having any trouble connecting to the blue (team’s) application of the Webinar, we have linked the presentation slides on our Web site as a downloadable PDF which you can use to follow along.

I’ll repeat this information about meeting accessibility again, but please free to contact us at any time using the email provided. Again, that email address is dtscpublicmeeting@dtsc.ca.gov.

We’re just going to wait just a few minutes more to allow additional people to join the Webinar. Thank you - we appreciate your patience.

Thanks again for your patience. We’re ready to get started. Again, my name is (Patrice Bowen). I serve as Chief for the Office of Environmental Equity at the Department of Toxic Substances Control - what will be referred to as DTSC throughout this evening seminar. I’ll be serving as a facilitator for our discussion.

Supporting me today are members of our DTSC executive staff as well as our DTSC Webinar team members. And we are also being provided assistance by our phone line operator - (Marcus). Thank you all. We appreciate you supporting this Webinar this evening.

Before I introduce out acting director, Dr. (Meredith Williams) to provide her opening remarks, I’d like to note that DTSC leadership members who are also participating in the question and answer portion of our discussion this evening.

With this at the table is Ms. (Gargolfy) who serves as our acting Deputy Director for our Hazardous Waste Management Program and we are also joined by our Deputy Director of the Office of Environmental Equity, Ms. (Ana Mascaranus) who in her capacity (Ana) will be providing responses to questions regarding DTSCs environmental justice, public participation and travel affairs program. We thank you all for joining us at the table and now we’re ready to get started.

With that, I’d like to introduce our acting Director -- Dr. (Meredith Williams) -- to provide opening remarks - Dr. (Williams).

Dr. (Meredith Williams): Thank you (Patrice). Welcome everyone who’s participating in this Webinar today. We’re happy to share information with you about the Violation Scoring Procedure or VSP as we call it. And many of you have been engaged with us for quite some time as we developed this process and adopted regulations.

The regulations came out of SB -673 in 2015 after which we developed regulations. And again, we want to thank you at this time for all of the input and feedback we got on the development of those regulations and we consider this a continuation of that conversation.

It is a new process and because it’s a new process and a new tool for us in our tool kit for ensuring that hazardous waste is managed safely throughout the state we want to make sure that everyone understands this process. It is different than anything we’ve done to date and so hopefully the information we provide today will give you some clarity on how we - on what the process entails, how we applied it and what things will look like moving forward. So with that I will turn it back to (Patrice) and thank you again all for participating.

(Patrice Bowen): Thank you Dr. (Meredith). We’re now ready to hear from our DTSC subject matter expert -- with us our Senior Engineer, Ms. (Evelia Rodriguez) and our Senior Scientist, Dr. (Ryan Mia) -- who will be providing an overview and background on the Violations Scoring Procedures.

Additionally (Evelia) and (Ryan) will also be leading us through a discussion on the Violation Scoring Process as well as a VC - VSP dispute process and then concluding their presentation on the permitting process.

We’d like to share with you at the conclusion of the presentation. We will be opening the phone lines to begin the question/answer portion of our Webinar. At that time, we’ll invite the participants again to join the question cue by pressing star 1 on their phone. We’re ready to begin with the presentations - (Evelia) and (Ryan), thank you.

(Evelia Rodriguez): Good evening everybody. My name is (Evelia Rodriguez) and I am a Senior Engineer - Senior Hazardous Substance Engineer with the Department of Toxics. As Dr. (Meredith Williams) explained to you, the VSP regulations were adopted in response to Senate Bill 673. This law directed the department to adopt regulations to establish or revise the standards used for determining whether to issue hazardous waste facilities permit. The regulations may include criteria for the denial and suspension of a permit.

Moving to Slide 6 - in the Bill 673 with the various areas of improvement that DTSC should consider when writing the regulations. On this chart we will see the various elements of the regulation that have been adopted as of January 1st 2019. That includes the training of facility personnel, a health risk assessment, compliance history, financial assurance, and community involvement.

Compliance history has been scarred because that is how a DTSC addressed the violations occurring in the past facilities and we translated this to our Violations Scoring Procedure Regulation.

DTSC continues to work on these and other protections. We are currently working on a second regulatory proposal that addresses the last two elements as B-673 which is community vulnerability, (cumulative) impacts and minimum setback distances or sensitive sites.

Slide 7 - the Violations Scoring Procedure puts into action Senate Bill 673 compliance history requirements. The procedure was developed to be consistent and transparent. VSP is a systematic process for assessing a facility’s compliance history. VSP further supports permanent decisions. (Ryan) will later describe in detail the scoring process.

Next slide 8 - there are thousands of business and households that generate hazardous waste in California. In any given year, over 50,000 generators generate hazardous waste. Businesses that generate hazardous waste can vary from a small business such as auto shops to large companies like refineries and chemical companies. The waste varies greatly also. It can vary from fluorescent tube lights to batteries all the way up to tons of contaminated soil and refinery waste - next slide.

All this hazardous waste is handled by about 78 operating facilities. These facilities receive hazardous waste and treat, store, transfer or dispose of this waste in the state of California. There is at the very end of this presentation a link to an interactive map that shows all 78 facilities and it is available on the VSP web page.

This map has each of our facilities identified and includes a link to enforcement reports. Now I’m going to hand over the speaker to Dr. (Ryan Mia) who will go on to describe the scoring process.

(Ryan Mia): Thank you (Evelia) - once again my name is (Ryan Mia). I’m at Senior Scientist in the Departments Enforcement Division and today I’m excited to share with you the process of how exactly DTSC calculated the VSP Scores. And so this is going to be a very general overview and not facility specific in anyway.

But as we go through what these terms are meaning it will allow me to describe how the inspection and facility scores were calculated. Some of the terms we’re going to go over are potential harm, (extent) to deviation, repeat violation, inspection violation score, facility VSP score and compliance tiers.

I’m moving to Slide 11. This is simply an overview of the entire process in which inspections are conducted. An inspection violation score is generated. A facility of VSP score is then calculated resulted in an assignment of compliance tiers.

We’re going to move to Slide Number 12. So as (Evelia) talked about we’ll be talking about scoring inspections and how DTSC calculated the VSP Scores. The VSP regulations took effect January 1, 2019 and so what we’re going to talk about now is what exactly is the facility VSP score?

So the facility VSP score is a score that’s calculated for every operating hazardous waste facility in California that currently holds a DTSC permit. It’s not a score for every facility DTSC has inspected.

It’s also a score that’s updated annually and so it’s not a number that stays the same all the time. In addition it’s a tool - it’s one of the many tools that will be used to better support the permanent decision-making process and so it’s not the only criteria DTSC will use to evaluate the facility’s suitability for permit approval or denial.

In addition, it was calculated - the VSP facility score was calculated by assessing each Class 1 violation cited by DTSC over the previous 10 calendar years or any Class 2 violation that rises to the level of a Class I violation. And so it’s not a scoring procedure that evaluated every single violation that DTSC cited during that 10-year period of time.

It’s also not a scoring procedure that took into account the other agency - any other agency violations that were cited in the past. We’ll move ahead to Slide Number 13.

Potential harm - so each Class 1 violation that was scored was evaluated for something called potential harm. What is potential harm? It’s essentially how much the hazardous waste involved with a violation present a threat to public health and safety or the environment. And the potential for harm is categorized as either minimal, moderate or major but there’s a lot of different criteria that are examined - a number of different factors that are examined when we evaluate potential harm.

Some of these factors include the characteristics of the substances involved, the amount of the substances involved, the extent to which human health and human life is threatened, the extent to which animal life is threatened, the extent to which the environment is threatened, and the extent to which portable water supplies are threatened. So all of those come into play as we are evaluating each - as we evaluated each Class I violation. As I said before, the potential for harm was categorized as minimal, moderate or major.

The next item that was used to calculate the score was something called Extent of Deviation. And so again each Class 1 Violation was evaluated for the Extent of Deviation which was the extent to which the facility’s action deviates from the requirements identified.

And so again, similar to potential harm there’s categories of minimal, moderate or major but it’s the extent to which the facility missed the mark in terms of their requirement. And so like a minimal potential harm would be a case in which the requirements function nearly is intended. Whereas a moderate potential to harm the scenario in which the requirement functioned to some extent and then a major deviation of course is a case in which the requirement was completely ignored and none of its provisions were complied with.

So then how does that come into practice here? We move to Slide Number 15 and there’s a scoring matrix that we employed and this is right from the regulations. But after each potential -- each violation - potential harm was assigned and each violation’s Extent of Deviation was identified. According to this matrix is how the initial score is calculated.

So in a case where we had a violation with the potential harm of moderate and then for the same violation if we had an Extent of Deviation in which the Extent of Deviation was a minimal, it corresponds to an initial score of 6 because the moderate potential harm and the minimal Extent of Deviation corresponds to a score of 6 on this Table.

And then after an initial score was calculated using this matrix, each violation was then evaluated to determine if there was a repeat violation - and moving ahead to Slide 16.

So repeat violation is whether or not the same violation was cited within three prior years or the last three inspections - which ever time period was longer. So if a violation was cited during that time then if it was repeated once there would be an upward adjustment of 25. If it was repeated twice, then it would be adjusted 50% and then if it was repeated three or more times then there was an upward adjustment of 100% in all of those cases - next slide.

So then the Inspection Violation Score was then calculated and what the Inspection Violation Score is, is the sum of all the scores of all the Class 1 violations for each DTSC inspection. And then it also incorporates any adjustments for repeat violations.

So how does this come into play? An example that’s provided here is for an inspection in which there were three Class 1 Violations cited. As you can see, the first Class 1 Violation has the potential harm assigned as a minimal designation. The Extent of Deviation was assigned a moderate designation providing an initial score of 6. Without a repeat there’s no adjustment for the final score for that Class 1 Violation.

For the second Class 1 Violation which was assigned a moderate potential harm and a moderate Extent of Deviation resulting in a score - an initial score of 12 was also found to be repeating so then it increases that score by 25% resulting in a score of 15 for that violation.

And then the third one is estimated using the same parameters as we discussed and then the Inspection Violation Score is then the sum of all of those individual Class 1 Violations scored. In this case, the Inspection Score is 41.

The next slide, Number 19 - so then, what then is the final Inspection Violation Score? There’s two things that need to occur in order for an Inspection Violation Score to become final. The first is a case in which the facility does not file a dispute document within 60 days of DTSC sending the Inspection Violation Score. If that happens within 60 days, the inspection score becomes final. Or when DTSC issues a written decision granting or denying the dispute sought by the facility that’s also the score that becomes final.

My colleague (Evelia) will next talk a little bit about that dispute process, Slide Number 20.

(Evelia Rodriguez): (Ryan) has explained what an Inspection Violation Score is and how it is calculated. I want to point out here that the final Inspection Score is not immediately final. We need to either allow for a dispute process to be submitted or wait those 60 days before it becomes final if that dispute is not contested.

Now the dispute process is very important to ensure accuracy of the scoring. It will allow facilities due process because of the severity of the consequences. The dispute process itself has been laid out on the Slide Number 21.

Dispute process for the facility applies only to the provisional Inspection Violation Score which is the score that’s issued that has not become final. The facility has 60 days to submit a dispute document after DTSC sends the information to the facility. The Dispute Document Forms are all available online on our VS webpage.

Contents of the Dispute Document include the basis of the dispute and all supporting material. The facility may request some extension and the department must either approve it or deny it. Again, forms can be found on the VSP webpage.

DTSC may resolve part of the dispute or will resolve all of the dispute. The dispute is closed and not subject to further dispute when a written decision is sent to the facility. Now as a point of clarification here, disputes can apply to the inspections that occurred before the effective date or after the effective date.

The important point here is in this initial issuance of the facility VSP, it includes both historical inspection and - for the last 10 calendar years. And so it’s a one-time opening of the entire record for which disputes will be allowed. Now (Ryan) will proceed with describing what the facility VSP score is.

(Ryan Mia): Thank you (Evelia), this is (Ryan Mia) once again. So we did talk now about what the Inspection Violation Score and how that Inspection Violation Score becomes final and now we’re going to move towards the Facility VSP Score. Moving now to Slide Number 23.

Slide Number 23 describes what the Facility VSP Score is and it is basically the sum of all of the inspection violation scores for each compliance inspection conducted during the proceeding 10 year period divided by the number of compliance inspections.

The next slide has an example - slide Number 24. So this is an example of a facility in which DTSC conducted six inspections over the last ten years ranging from 2009 to 2018. And so each of those inspections has an Inspection Violation Score. If you can remember from before, the 2010 example that was provided had a score of 41. And then you continued to move down and just essentially add up the Inspection Violation Scores.

And so the sum total of all those Inspection Violation Scores over the last 10 years for this facility is 90. And then you take that Number 90 and you divide it by the number of DTSC inspections that occurred during that timeframe which was six. And so 90 divided by 6 resulted in a VSP Facility Score of 15. My colleague (Evelia) will now talk about what that numeric facility VSP score means in terms of compliance tier - (Evelia).

(Evelia Rodriguez): Thanks (Ryan) - now compliance tiers are used to sort facilities into groups that will then require the facilities to address compliance issues. DTSC will assign the compliance tier as acceptable when the facility VSP Score is less than 20. When the facility score is greater than 20 and less than 40, it is considered conditionally acceptable and unacceptable is assigned to all those facilities that receive a Facility VSP Score of 40 or greater - next slide please.

Now here are the results of the 2019 Facility VSP Scores. Again, this covers calendar years from 2009 through 2018. Facility VSP Scores and tiers will be calculated every year. And the results for the 78 facilities in this initial issuance of the facility VSP are 64 were found to be acceptable, 9 received an assigned appliance tier of conditionally acceptable and 5 were assigned a compliance tier of unacceptable.

So what does all of this mean? (July) 27 - those facilities receiving an acceptable compliance tier have no additional permitting consequences under VSP. However, a zero Facility VSP Score does not mean the facility has had a perfect compliance history. It means that the facility has not been cited for a Class 1 Hazardous Waste Violation in the past 10 years.

It could mean that there are other Class 2 or minor violations or it’s possible that a facility may have been cited by another environmental regulatory agency such as the California Air Resources Board or the Water Board - next slide.

For the nine facilities that were assigned conditionally acceptable, all these nine facilities will have to conduct audits. The facility will be submitting a list of third- party auditors to DTSC and after DTSC has approved these auditors the facility may retain their services.

The audit report to be submitted will go through two rounds and with each of these completed audit reports will be a compliance implementation plan. Now what a compliance implementation plan is, is a schedule and a list of actions the facility must complete in order to fix all of their compliance issues.

Once DTSC has approved the compliance implementation plan, it becomes enforceable which means the facility must comply with actions needed to correct findings. In an addition, DTSC may then impose additional permit requirements. The additional requirements that DTSC may impose include restrictions on these operations, enhancement of permit conditions, litigation measures, and prohibitions on certain hazardous waste activity.

Lastly, we get to Slide 29. The five facilities that DTSC assigned the unacceptable tier will trigger adverse permit actions. DTSC will initiate permit denial, suspension or revocation. A facility may challenge an unacceptable tier, and if this occurs a public meeting will take place during a challenge where DTSC will present its findings. A facility will be able to explain its position and the public will be invited to share their concerns, their questions, and their comments as to whether the facility should continue operating or whether we should proceed with the adverse permit actions. DTSC will issue a decision on its tier assignment.

While the tier assignment is being challenged DTSC can introduce requirements in the interim which includes audits, additional training, facility improvement, public engagement and monitoring.

If after the challenge the tier stands, DTSC will continue with its denial proceedings. However, if during the public notice for the permit denial, DTSC makes a finding of overriding considerations, makes a finding that the facility poses no risk and makes a finding that the improvements have already been instituted. DTSC may in that -- under those circumstances -- issue the permit but then it will mandatorily impose additional restrictions.

The restrictions that would be imposed is if it is a 10-year permit it would only issue a 5-year permit. It would include enhanced compliance requirements and litigation measures. With this it ends the requirements that will be imposed by the different compliance tiers that will be assigned based on the Facility VSP Scores. And now I’ll turn the microphone over to Dr. (Mia).

(Ryan Mia): Thank you (Evelia). And so there is a lot more information that is available on our Web site. And so what I’m going to do now is I’m actually going to our Web site to show you what those - what that information is.

On our Web site there is a specific VSP or Violation Scoring Procedure page and so how you get to that is you go to our Web site - dtsc.ca.gov and you can hover over the hazardous waste icon at the top of the page. And on the very right-hand bottom corner of that menu -- there’s a submenu that pops up -- you can get to the Violation Scoring Procedure page by clicking on the link that’s provided in that submenu and it will take you to this page.

And on this page we have a well of information talking about the background - a lot of what we talked about today - the Inspection Violation Scores and how that came about. And then on the right there’s a few of the items that I want to highlight today. There’s the Violation Scoring Procedure Webinar so the information in the slides that we share today is going to be provided there.

There is a VSP Fact Sheet that’s there as well. There’s also a final copy of the VSP regulations and then there’s also a copy of the Violation Dispute Document and the Dispute Extension Document. There’s an example matrix that’s blank there.

And then there’s also a map of operating permitted facilities. And if you click on the Map of Operating Permitted Facilities on the right-hand side of the page, it will take you to an interactive map in which you see the entire state of California and each of these 78 permitted facilities is represented here by a blue dot. And you can choose to collect or find a particular address or a zip code to see if one of these facilities exist in or around you live or where you’re interested in finding more about in California.

But then what happens too is it allows you to if you actually click on one of these dots it will tell you a lot more information about each of these facilities.

By the way the color on the map is representative of an overlay of the CalEnviroScreen tool which was developed by the California Office of Environmental Health Hazard Assessment. The CalEnviroScreen identifies communities by census track that are disproportionately burdened by and vulnerable to multiple sources of pollution.

So if you click on the individual dots, sometimes it is this map but what happens is there is actually a lot more information. It tells you the actual facility name. It tells you the EPID number. It tells you the address. And then if you click here it actually takes you to the enforcement - I’m sorry the enforcement web page on enviro-store which will then allow you to view information like who was the recent inspector from DTSC and also it gives you access to the individual inspections upon which the VSP Scores were evaluated. And so to actually review those reports you have access to it on this page.

Another really nice feature on this page also -- if you continue down the page - there’s actually a list of the 2019 Facility VSP Scores and their compliance tier assignments. And so you can search by individual facility names, but you can also see what all the other scores were for all these other faculties. And then what’s also really neat as well is these links - there’s under the facility names there - you can see that those facility names are highlighted in blue. If you click on one of those facility names, it will take you to and provide you with an actual copy of the violation scoring matrix that was then used to essentially score and then develop the individual Facility VSP Scores that you see for the facility.

And this document is actually really too small for you to see right here, but it’s just simply for illustration where we have the individual inspections. We have the justification for why it is a Class 1 Violation. We have the regulatory citation that was violated. We have a description of the violation. We have its designation for potential for harm and extent of deviation and then we have justifications for each potential for harm justification and extent of deviation justification.

We also then have its initial score and then whether or not that violation was a repeat violation. And since this was not the dates of the previous violation was not applicable so and then there wasn’t a repeat so there was no adjustment factor, so that Inspection Score was 15 for the inspections that occurred in 2011 or in this case AERC Recycling Solutions.

But there’s a wealth of information available to you if you would like to visit this webpage, and I highly recommend that you do that and I’m highlighting just what’s available on these Web sites. So getting back to then our presentation I believe that’s the large majority - that is the majority of the information that we have available for you today and we are now going to actually move into the question and answer period portion of the presentation.

(Patrice Bowen): Thank you (Ryan) and thank you (Evelia). We appreciate your thorough and informative presentation. It’s now time for us to move into the question and answer portion of our Webinar. We ask that you at this time that any questions that you have regarding the presentation be shared with us by a number of ways. You can press 1 on your phone and state your name to ask a question and you can also use our DTSC email by emailing us a [dtscpublicmeeting@dtsc.ca.gov](mailto:dtscpublicmeeting@dtsc.ca.gov). Again, we have two ways to share your questions with us by pressing Star 1 stating your name to ask a question and also by using our DTSC email [dtscpublicmeeting@dtsc.ca.gov](mailto:dtscpublicmeeting@dtsc.ca.gov).

At this time we’re ready to start the question/answer portion of our Webinar. Operator, if you can assist us please. Can you please describe to our participants how to be placed in the cue to answer their questions - thank you?

Coordinator: Thank you, we will now begin the question and answer session. If you would like to ask a question, please press Star followed by 1 on your phone and record your name clearly. One moment please while we wait for the first question.

(Patrice Bowen): Thank you operator. Do we have any questions?

Coordinator: No questions at this time. Thank you operator - at this time we’re going to move to our email box and take questions there - Dr. (Mia).

(Ryan Mia): Thank you very much. So we’ve received a few inquiries via email inbox and so I wanted just to address some of them. I’m going to combine a couple of them because they are very similar in nature.

One of the questions is why are some inspections grouped and not counted separately which would impact the (denominator) and calculations. What classifies an inspection that counts anytime DTSC visits a facility there is a potential for a violation and then the question that is similar is - financial records view on compliance evaluation inspections would combine into one inspection. Why - what was the regulatory support for this?

A simple answer here is that we did combine Compliance Evaluations Inspections with financial records of the inspections because the Compliance Evaluation Inspections that DTSC conduct are often drivers for us to also evaluate the financial suitability of the permitted facilities at that time so the compliance evaluation essentially drives the need for us to then do the financial records review evaluations.

So they’re very closely linked. And so we made the call in terms of the scoring to combine those because one wouldn’t have occurred without - the financial records review wouldn’t have occurred without the Compliance Evaluation Inspection.

(Patrice Bowen): Thank you Dr. (Mia). It looks like we do have a few more questions that have come in through our email line. Again, that email is [dtscpublicmeeting@dtsc.ca.gov](mailto:dtscpublicmeeting@dtsc.ca.gov). Dr. (Mia), second question please.

(Ryan Mia): Thank you, this is (Ryan Mia) from the Enforcement Division. So another question came in and on our Slide 24 example this was the facility VSP Score example in which we added the inspection scores and divided by the number of inspections which was 6. But the question is - if there was an over - what if there was an overall improvement trend over the six inspection days, is there any credit given for improved performance? Conversely what if Inspection Violation Scores go up over time, any penalties?

This is also an excellent question. The scores -- over time -- if they show improvement will improve the scores in subsequent years. Likewise, if the facility does not do as well more recently the upcoming inspections will also be added every year and then the last year will be removed.

So it’s more - for the individual scores for this year there’s no impact or assessment with respect to improvement or not improvement with respect to the violation scores but over the course of years - subsequent years there will be improvement seen if there has been an increase in return to compliance and lack of violations therein.

(Patrice Bowen): Thank you (Ryan) - again we appreciate the feedback. For those of you that wish to ask a question, please press Star 1 on your phones now to be placed in the question and answer cue. We do have a few more questions that are coming in from our email box. Again, to email us please contact us at [dtscpublicmeeting@dtsc.ca.gov](mailto:dtscpublicmeeting@dtsc.ca.gov). We do have a few more questions.

(Evelia Rodriguez): Hello, this is (Evelia) speaking. The question I have is who at DTSC will hold the hearing on appeals of the VSP Scoring level and what is the procedure?

Before I answer this question, I just want to be clear. A Dispute Document will address individual inspections and their Inspection Violation Scores. A challenge is only for the compliance tiers and it is only allowed for the unacceptable tier. Appeals are applicable only to permanent decisions and those follow the procedure that DTSC has always had in place.

So if the question is who holds hearing on appeals, the answer is an independent Hearing Officer. If the question is, who holds hearings on the score of an inspection violation, the answer is there will be no hearing. If the question is, who holds the hearing to challenge the unacceptable tier, again there is no hearing. It will be a public meeting in which the facility DTSC and the public will all participate in. I hope that answers that question.

Second question I have was actually received post the first Webinar. And this question is, if someone does not challenge their score in 2019 because they were in the acceptable compliance tier but several years later does challenge the score because the score has moved up into conditionally acceptable, can the person challenge the scoring of all violations occurring during that 10-year period, and the answer is no.

You can only challenge again a compliance tier but you can dispute violations. But once those 10 years -- and in this initial issue the facility and inspection score all those 10 years -- are open for one time only. You have 60 days from DTSC sending the facility the Inspection Violation Score to file a dispute document.

Does the person waive the right? Yes, if the facility or the person or the owner and operator did not permit the documentation within 60 days of DTSC sending that initial score or the provisional Inspection Violation Score, they are waiving their right.

(Patrice Bowen): Thank you (Evelia), we appreciate the feedback. Operator, we would like to check again to see if we’ve had any questions come into our question cue.

Coordinator: We do have one question. (Mary Escarino), your line is open.

(Mary Escarino): Thank you, I have two questions actually. I would like to know why we’re level to violations not included in the model for scoring these companies? And the second question is if a company has received an unacceptable rating how soon will DTSC get - revoke their permits or how soon would the company be required to stop any activity at their site?

(Ryan Mia): This is (Ryan Mia) I’ll answer - I’ll go ahead and answer the first part of that question but I believe there’s others who are likely to answer the second part of the question. The first part of the question was why weren’t all Class 2 Violations evaluated at the part of the VSP scores. And the regulations - because the regulations clearly state that the VSP score is only to be calculated using Class 1 Violations.

And then Class 2 Violations are evaluated to determine whether or not they rise to the level of the Class 1 Violation.

And so the way that we handled that is we went back to the regulatory definition of what a Class 1 Violation was and I’m going to read just a very brief description of what a Class 1 Violation is in the regulation.

So a Class 1 Violation is a deviation from the requirements that represent the significant threat to people in the environment or it’s significant enough that it could result in a facility’s failure to make sure hazardous waste end up where it’s required to go, prevent hazardous waste releases to the environment, assure early detection of the releases, assure there is enough money available to take care of the releases, assure there is enough money to pay for facility closure or perform cleanup or corrective action for releases or it is a long lasting or repeated Class 2 Violation committed by an unresponsive violator.

And so what we did was we went ahead and scored all the Class 1 Violations. But for all the Class 2 Violations we actually evaluated those violations against this bar that I kind of just described to you in general. And so if it didn’t meet any of the criteria in any of those descriptions it didn’t raise the level of the Class 1 Violation nor remain the Class 2 Violation and was not included in the violation scoring.

(Patrice Bowen): Thank you (Ryan) - now Part 2 of that question will be answered by Ms. (Evelia Rodriguez) - (Evelia).

(Evelia Rodriguez): The question - if I heard it correctly - was how soon after the facility VSP score is assigned a compliance tier of unacceptable will DTSC initiate permit denial proceedings? I just want to remind everybody that a facility is allowed to dispute the underlying Inspection Violation Scores, and that procedure allows a facility 60 days to submit a Dispute Document and then allows DTSC 90 days to actually resolve the dispute.

In addition, the - although we will be initiating adverse permit actions, a facility is allowed to challenge the unacceptable tier which would require a public meeting and that in of itself will take additional time. So if you’re asking if you will see closures occur immediately, the answer is no. You won’t see them in the near future but you will see them as soon as we allow the faculties to go through the process that have been laid out in the VSP regulations - thank you.

(Rizgar Ghazi): A similar question that follows - so to answer that question that was asked earlier, I want to read that and it kind of follows up on (Evelia)’s response. I’ll read the question first. By the way, this is (Rizgar Ghazi), the acting Deputy Director for the Hazardous Waste Management Program.

The question starts - we currently center our ways to a facility that is classified unacceptable score by DTSC have broken their permit. Should people be concerned about the status or the ways to (unintelligible) of the faculty? Should we stop sending ways to the facility? As (Evelia) had mentioned, the facility has its due process. We must follow the due process. Once the (positional) score is finalized and the tiering of the facility is finalized as well, the department - immigration requires a department to initiate permit denial process. That is also a due process for the facility where the facility gets to challenge departments of denial of the permit.

In addition to public (unintelligible) had their input in the process during the denial process. During that period, the facility legally could operate as a hazardous waste operations. Until that is final and with the permit getting a decision (unintelligible) facilities is final the facility continues to operate. And once that’s finalized the facility is required to initiate closure of its operations - thank you.

(Ryan Mia): All right, this is (Ryan Mia) once again. I do have a clarifying comment for the caller and then the question that was asked regarding Class 1 versus Class 2 Violations.

So in addition to just following what the regulations said, I just wanted to simplify sort of in more plain language what a Class 1 Violation is versus what a Class 2 Violation is. So you can think of Class 1 Violations is kind of the most serious and significant types of hazardous waste management violation and some of these examples would include like - failure to prevent a release of hazardous waste to the environment, you know, storage violations, incapable waste storage, or transportation in deteriorated containers.

What’s Class 2s are not as serious as Class 1 but they’re still violations and so those - some examples of those would be things like administrative errors and, you know, keeping inaccurate waste transportation records and so but as I said before as well as some Class 2 Violation may raise the level of Class 1 Violation if there’s , you know, if it’s happening again and again and it’s being committed by an unresponsive facility so just for clarification purposes is what I wanted to state, a more simplified definition of what those were, thank you.

(Patrice Bowen): Thank you (Ryan) operator, we’d like to return back to the cue. Are there any questions in the questions cue?

Coordinator: Yes there is, (Marias Carino), your line is open.

(Marias Carino): I wanted to know if the VSP’s matrix - I’m looking at for a specific company shows all the inspection dates. What discretion, if any, is given to the person or personnel completing the VSP score to exclude any of these inspection dates or two take a Level 1 Violation and downgrade it to a Level 2 aligned for the score to be changed. Is there any discretion in the scores or is there also any inspections that are at your discretion omitted from the matrix?

(Ryan Mia): This is (Ryan Mia) and thank you for that question. That’s an excellent, excellent question. But in a nutshell for any Class 1 Violation that was cited we never downgrade it to a Class 2. If it was cited as a Class 1 Violation, we score it as a Class 1 Violation.

And likewise as well, any DTSC inspection that was conducted we evaluated that inspection. We didn’t exclude the only - as we stated before - the inspections that we didn’t count were those that were conducted by other agencies or other entities. But for the DTSC inspections we evaluated all the inspections that was conducted by DTSC.

(Patrice Bowen): Thank you Dr. (Mia). Operator, do we have any additional questions in the cue?

Coordinator: No questions at this time.

(Patrice Bowen): Thank you, we do have a follow-up response by (Rizgar Ghazi) - (Rizgar).

(Rizgar Ghazi): I just want to clarify in addition to what (Ryan) said. A Class 1 Violation can be dropped, and the only time it does drop when VTSC makes that determination that it’s based on the during the settlement negotiations and through judicial proceedings there maybe opportunities to drop those Class 1 Violations only through those mechanisms.

However, when we cited violation - a Class 1 Violation - and that particular violation has not been disputed or hasn’t been dropped through judicial proceedings that Score (unintelligible) Class 1 Violation will remain - thank you.

(Ryan Mia): Yes, thank you (Rizgar), that was a very important clarification. So DTSC did not score any violations that were canceled, retracted, withdrawn or successfully challenged in an administrative or judicial proceeding or through settlement negotiations. Those are the ones that we excluded because of during the administrative or settlement process they might have been - there might have been some additional information that has come to light that was then evaluated as the part of the settlement negotiations.

(Patrice Bowen): Thank you (Rizgar), thank you (Ryan). Again, we would like to invite our participants to ask questions of us. To do that, please press Star 1 and state your name to be placed into our question cue. You can also contact us via email at [dtscpublicmeeting@dtsc.ca.gov](mailto:dtscpublicmeeting@dtsc.ca.gov). Again, press Star 1 to be placed into our question cue or email us. Operator, do we have any additional calls into the question cue?

Coordinator: No questions at this time.

(Patrice Bowen): Thank you operator.

(Rizgar Ghazi): This is (Rizgar Ghazi) again. I have a question. We received a violation 10 years ago and we accepted the violation because we did not realize the future applications on the violation on the violation. Is there a process to now go back and review the violation through administrative hearings? The (unintelligible) allows the facility to dispute the provisional VSP Score and dispute official while making a determination if a Dispute Document is submitted refuting that particular violations. Once the dispute official hears - reviews the document he or she will make that final determination and the score becomes final.

(Patrice Bowen): Thank you (Rizgar). Again, for those of you that wish to submit a question, please press Star 1 and be placed into the question cue. Again, you can also contact us by emailing us dtscpublicmeeting@dtsc.ca.gov. Please also note that a full transcript of this Webinar will be posted on our VSP webpage on the DTSC Web site. Again, we’ll wait momentarily while more people send their message to the dtscpublicmeeting email address at dtscpublicmeeting@ca.gov.

We do have two questions that have come into our email box.

(Evelia Rodriguez): This is (Evelia Rodriguez) once more. The question we received is, we have filed a dispute and has not heard anything in that regard. How long should we expect the review to take? Does that - does this mean that we have to dispute with Enforcement Division and the VSP Division? Who has precedents?

A dispute will be reviewed by a Dispute Resolution Official and that process allows the official to take 90 days to make a determination. You do not have to submit the dispute with both the enforcement and the VSP Division. In fact, our Dispute Resolution Official to be very independent from the act that led us to the facility VSP Score and will be an independent person who will look at the entire case with fresh eyes. And who has precedence? Again, it will be the Dispute Resolution Official.

(Patrice Bowen): Thank you (Evelia). Now we would like to hear from (Rizgar Ghazi).

(Rizgar Ghazi): Thank you (Patrice). I have another question here. Does the DTSC have any concerns about the fact that the VSP only applies to California Hazardous Waste Facilities? Does the VSP have concerns about the fact that competing out-of-state facilities will have an advantage of not being subject to the VSP? If so, does DTSC have any idea how this can be addressed?

I just want to make it clear that DTSC has authority for facilities operating in California only. So regulations in our (unintelligible) Center focuses on facilities operating in California does not reach out to facilities out of state. The VSP Score though does bring transparency and accountability to facilities operating in California. VSP is one tool. Many enforcement tools that California has to hold hazardous waste facilities accountable. The VSP Score brings to light the facilities operating in compliance to record and this is a process where brings in transparency on the facilities operating record - thank you.

Dr. (Meredith Williams): This is (Meredith Williams) and I’ll just add to that, that the California legislature did decide that they wanted to add additional protections again for the sake of transparency that aren’t required in other states. And we are complying with the statutory obligations and that’s not atypical in California that our legislature would decide to make - to put in place requirements that are not common elsewhere around the country. California is known for its environmental leadership, and I think this maybe one of those cases where we just have decided - the legislature has decided to set the bar differently.

(Patrice Bowen): Thank you Dr. (Williams). Again, for those of you wishing to present a question, please press Star 1 on your phone to be placed into the question cue. Additionally, you can reach us via email dtscpublicmeeting@dtsc.ca.gov. Again, we encourage your questions. Operator, are there any additional questions in the question cue?

Coordinator: Yes there is -- (Marias Careno) -- your line is open.

(Marias Carino): Yes, hi my question is for Dr. (Meredith Williams). I just wanted to ask her if she will be responding to the letter that was received from Earth Justice and Clean Air Coalition of Avocado-North Whittier. There was a fuller part where these two agencies did an independent score of (unintelligible) if she will be replying to that letter in the near future.

Dr. (Meredith Williams): This is (Meredith Williams) and yes, and of - yes we certainly plan to respond to the letter. We wanted to finalize that score on our end and review the information that was provided when that letter was submitted and we will be putting together a response to that letter.

I also want to back up to the question of the Dispute Official. I have - excuse me - I have appointed a Dispute Official. They have begun work to review any disputes that have already been initiated and so you can expect to see movement on disputes that are already have been submitted.

(Patrice Bowen): Thank you Dr. (Williams). Again, your feedback is important to us. If you wish to submit a question, please press Star 1 on your phone to be placed into the question cue. Additionally, reach us at dtscpublicmeeting@dtsc.ca.gov.

Operator, do we have any additional questions in the question cue?

Coordinator: No questions at this time.

(Patrice Bowen): Thank you operator. We do have a question that’s coming through our email box - (Ryan).

(Ryan Mia): Thank you, this is (Ryan Mia) and so a question that came in through the email box was what counts as an inspection? Could a site visit be counted as an inspection? How do facilities know when an “inspection” is occurring versus not occurring?

And so a simple way to know about - in order for a facility to know about whether an inspection is occurring versus not is for all compliance evaluation inspections or for any inspection the inspectors always request consent from the facility managers or the facility identifying the purpose of the visit and describing briefly kind of the what’s going to be taking place in the course of action for that inspection.

And then another key difference between just a regular site inspection is there’s an Inspection Report that is subsequently generated from that inspection. If there are violations that are identified during that inspection, there’s a summary of violations that’s provided to the facility manager at that point. But those - the consent for inspection as well as the inspection reports are the two main things that differentiate an inspection from a site visit.

(Patrice Bowen): Thank you (Ryan). Again operator, are there any questions that have come in through the question cue?

Coordinator: No questions at this time.

(Patrice Bowen): Thank you operator. We’ll wait just a few more minutes to retrieve those questions that are coming in through our email box. If you wish to email us, please do so at emailing us at dtscpublicmeeting@dtsc.ca.gov.

(Rizgar Ghazi): This is (Rizgar Ghazi) again. I wanted to bring some additional clarification to (Ryan’s) response to when does a facility know this is an inspection? I just want to clarify that when DTSC inspector or there’s a site visit if there’s a staff - DTSC staff do see a violation, we are obligated to issue a violations and to follow through that. There’s not necessarily need an inspector in scheme of that. Critical staff does not need to state that the purpose of the visit of the site if they see violations or required by law to follow through.

(Patrice Bowen): Thank you (Rizgar) for providing that clarification. Operator, we would like to return back to our question cue. Are there any questions?

Coordinator: No questions at this time.

(Patrice Bowen): Thank you operator. Again and as a friendly reminder, a full transcript will be provided at this Webinar and will be placed on our DTSC Web site on the VSP webpage. We’re waiting just a few more minutes for questions to come in. Again if you’re interested in sharing a question, please press Star 1 on your phone. And additionally you can email us at the dtscpublicmeeting@dtsc.ca.gov.

Thank you all so much. It looks as if we have responded to all the questions that have come in today. And so we’re going to move to concluding our meeting. But prior to concluding again, we would like to welcome our acting Director, Dr. (Meredith Williams) for some closing remarks - Dr. (Williams).

Dr. (Meredith Williams): Thank you (Patrice) and thank you to all of you who participated in this Webinar. We thank you for the participation, your attention, the questions you provided and the ongoing engagement as we implement the Violations Scoring Procedure. I encourage you to explore the resources that (Ryan) shared that give you more details about how we did our scoring and individual scores for individual facilities. And as more questions arise, we will do our best to be available and to provide responses and clarifications so that we can all navigate this new process together.

These are significant changes in how we look at facilities around the state. We think they’re quite beneficial and we look forward to continuing to use the Violations Scoring Procedure as one of the many tools to ensure the safety of the hazardous waste permitted facilities around the state. So with that I again thank you for taking time out of your evening to spend with us as we rolled out this process and (Patrice).

(Patrice Bowen): Again on behalf of our entire DTSC team and our executive leaders - Dr. (Meredith Williams) and our Chief Deputy Director - (Francesca Negri) - thank you all for your participation and for joining us at the table this evening. Your involvement and your feedback is important to us.

In closing and as a friendly reminder please feel free to send additional questions and comments to us following the Webinar at the dtscpublicmeeting@dtsc.ca.gov email box. Thanks again and have a wonderful evening.

Coordinator: Thank you for participating in today’s conference. You may disconnect at this time.

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