

VIOLATIONS SCORING PROCEDURE UPDATE

Department of Toxic Substances Control – Our mission is to protect the people, communities, and environment of California from harmful chemicals by cleaning up contaminated sites, enforcing hazardous waste laws, and compelling the development of safer products.

DTSC Proposes Revisions to the Violations Scoring Procedure used to Strengthen Safeguards for Hazardous Waste Permits

In 2019, the Department of Toxic Substances Control (DTSC) implemented the Violations Scoring Procedure (VSP) regulations. These new regulations strengthened the protectiveness of the Department's permitting decisions using several of the criteria suggested in Senate Bill 673 (SB 673, 2015) such as stronger financial assurance requirements and a more transparent and accountable consideration of facility compliance history. Since implementation of the VSP, DTSC has identified the need for additional clarification in regulation language, reevaluation of the time needed to complete requirements, and other potential changes to the regulations.

2021 Violations Scoring Procedure Proposed Revisions

What is the regulatory proposal? The 2021 proposed Violations Scoring Procedure (VSP) revisions seek to make the VSP work more effectively for its intended purpose by incorporating lessons learned from the previous two years of scoring operating hazardous waste management facilities.

How is it applied? The revisions will apply to the approximately 75 operating hazardous waste facilities statewide that manage different amounts and types of hazardous waste and have hazardous waste permits. This does not include post-closure facilities. This includes treatment, storage, transfer, disposal, and standardized permit facilities.

Why is it needed? The VSP process has uncovered some minor problems with implementation that need to be corrected, and some issues with scoring facilities have become prevalent. Some of the issues to be reconsidered are definitions, timing of the scoring, and the averaging of scores.

2021 Violations Scoring Procedure Revision Elements

The public is invited to a meeting to provide comments on the following potential revision elements:

- **Element 1: Definition of an Inspection** – describes the definition of what is considered an inspection. The current regulations do not clearly include all the compliance inspection types that can be used in compliance scoring and do not clearly specify the scope of an inspection.
- **Element 2: Scoring Number of Years to be Considered** – describes the number of years of inspection scores shall be used to calculate the score. The current regulations specify 10 years of inspection scores to be included in the VSP score.
- **Element 3: Scoring Frequency and Tier Assignment** – describes the frequency at which VSP scores will be calculated and issued along with the associated compliance tier assignment. Current regulations specify that VSP scores will be calculated annually. Inspection scores are finalized if not disputed or upon dispute resolution official's written decision. The requirements for compliance tiers will be imposed when all the inspection scores are finalized.
- **Element 4: Scoring Divisor** – provides a method of comparing scores for facilities that are frequently inspected to sites that are rarely inspected. The current scoring is the sum of the inspection scores of a facility for the previous 10 years divided by the number of inspections during that 10-year period.
- **Element 5: Scoring Definition** – refers to changes to the scoring that may be considered, including how to score newly permitted facilities. The current regulations do not clearly exclude offsite transportation violations or take into account a change in facility ownership.
- **Element 6: Other Changes** – describes other miscellaneous minor changes that must made.

DTSC's Planned Public Engagement to Support the Regulatory Changes

DTSC will meet with community advocacy groups, local governments, and industry representatives to gather comments during the virtual listening session on these proposed revisions prior to initiating a formal regulatory process.



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