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## Department of Toxic Substances Control

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### PRESENTATION SUMMARY

August 2023

**Summary:** The Department of Toxic Substances Control (DTSC) has developed concepts to revise the California Code of Regulations, title 22 (22 CCR), sections 66272.60-66272.69, which regard the assessment of administrative penalties for violations of the Hazardous Waste Control Law. The concepts increase penalty assessment consistency and focus on strong enforcement against serious violators in overburdened communities.

Prior outreach showed stakeholders wanted clear language, transparency, set penalties, penalty table clarity, greater penalties for severe violations and repeat violators, and decreased penalties for small businesses. DTSC additionally seeks to better serve environmental justice communities through these concepts.

This presentation previews the concepts to give you an opportunity to send feedback to DTSC. Your feedback may be used to draft the proposed regulations.

#### Proposed Updates

**Set Penalties:** Common violations with low harm will have a set penalty amount. The inspector can choose to use a set penalty or to calculate a penalty based on the violation circumstances using the penalty table. These penalties will only apply to non-permitted facilities.

**Penalty Table:** DTSC's [current regulations](#) contain a table with nine ranges with each range having three penalty options. The ranges are chosen by the violation's potential for harm and extent of deviation. The current table weighs both factors equally and assesses a \$0 minimum penalty. The proposed table expands each range from three to five penalty options, weighs harm more heavily than extent of deviation, and adds a minimum \$700 penalty.

**Potential For Harm:** The potential for harm is based on the extent to which humans, animals, potable drinking water, and the environment may be harmed, and the amount and characteristic of the waste. DTSC will add evidence of release, extent and persistence of waste, waste mismanagement, and preventative measures taken as factors to consider.

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**Penalty Range Selection:** The regulations have no details on how to determine a penalty within a range. The proposed edit will provide rules on how to select a penalty. The inspector starts with the lowest penalty in the range and goes up in the range based on the number of the following circumstances that may be applicable: if the waste involved was a Federal hazardous waste, if the violation occurred three or more times, if multiple violations are grouped for a single penalty, if a release occurred, and the size and sophistication of the violator.

## New Adjustments

**Self-Disclosure:** Regulated entities will receive a lower penalty for self-reporting violations to DTSC. This concept promotes compliance and builds relationships with the regulated community.

**Unique Factors:** This concept will lower the penalty for violations caused by certain events that are out of the control of the regulated entities. The regulations are currently unclear on how to lower the penalty based on these unplanned events.

**Environmental Equity:** This adjustment boosts environmental equity in enforcement matters. This adjustment applies to any facility located in an area with a cumulative CalEnviroScreen score of 50 or greater. The penalty will be increased by 5-20 percent depending on the waste handled at the facility. Penalties collected from this adjustment may be directed to impacted communities via Supplemental Environmental Projects (pending necessary legislative action) or the Toxic Substances Control Account for site cleanup.

## General Changes

**Plain Language:** The government must write regulations in plain, straightforward language using an easy readable style. This is required by the federal Plain Writing Act of 2010 and California Government Code 6219. DTSC will update 22 CCR sections 66272.60-66272.69 in line with these requirements.

**Multiday:** Per day penalties are applied for violations that go on for more than one day. The per day penalty is increased from 2% to 5% of the base penalty. A 20% per day penalty will apply to violators who fail to return to compliance.

**Economic Benefit:** If the economic benefit is more than \$500, an adjustment will be applied to the base penalty.

## Feedback

Please provide your feedback by completing this [form](#). If you have any questions, please contact [penaltyregs@dtsc.ca.gov](mailto:penaltyregs@dtsc.ca.gov) or 916-282-8806.