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Title 22@ Social Security

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Division 4.5@ Environmental Health Standards for the Management of Hazardous Waste

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Chapter 21@ Procedures for Hazardous Waste Permit Decisions

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Article 3@ Violations Scoring Procedure for Hazardous Waste Facility Operations

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Section 66271.53@ Provisional and Final Inspection Violation Scores

66271.53 Provisional and Final Inspection Violation Scores

(a)

Provisional Inspection Violation Score Calculation. A provisional inspection violation score is the sum of the scores for all Class I violations found during a compliance inspection as calculated pursuant to section 66271.51 and adjusted for repeat violations pursuant to section 66271.52.

(b)

Issuance of Provisional Inspection Violation Scores.(1) For compliance inspections that occur after the effective date of this article, the Department shall issue a provisional inspection violation score, including all Class I violation scores on which the provisional inspection violation score is based, to the owner or operator concurrently with the inspection report provided to the owner or operator pursuant to section 66272.1(c). (2) For compliance inspections that occurred before the effective date of this article, the Department shall issue provisional inspection violation scores, including all Class I violation scores on which the provisional inspection violation scores are based, to the owner or operator when the Department provides the owner or operator with written notice, in accordance with section 66271.54(c), of the facility's assignment to a compliance tier based on its Facility VSP Score.

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Department shall issue a provisional inspection violation score, including all Class I violation scores on which the provisional inspection violation score is based, to the owner or operator concurrently with the inspection report provided to the owner or operator pursuant to section 66272.1(c).

(2)

For compliance inspections that occurred before the effective date of this article, the Department shall issue provisional inspection violation scores, including all Class I violation scores on which the provisional inspection violation scores are based, to the owner or operator when the Department provides the owner or operator with written notice, in accordance with section 66271.54(c), of the facility's assignment to a compliance tier based on its Facility VSP Score.

(c)

Dispute of Provisional Inspection Violation Scores.(1) An owner or operator who seeks to dispute a provisional inspection violation score may do so by filing a Provisional Inspection Violation Score Dispute Document ("Dispute Document") with the Department within sixty (60) days of the Department sending the provisional inspection violation score pursuant to subsection (b). (2) The Dispute Document must contain all of the following: (A) A statement that describes in detail the factual and legal basis of the dispute and the relief sought; (B) Any claimed erroneous facts, assumptions, approaches, or conclusions of law made by the Department; (C) A statement describing in detail any efforts already made by the owner or operator to resolve the dispute with the Department; and (D) Any photographs, documents, or any other material that supports the owner's or operator's position regarding the disputed provisional inspection violation score. (3) Dispute Document Extension Requests. (A) An owner or operator may request, and the Department may grant, a one-time extension of up to sixty (60)

days for the owner or operator to submit a Dispute Document to the Department. The extension request must be based on circumstances that an owner or operator could not reasonably anticipate or prevent. The extension request must be received by the Department at least thirty (30) days before the Dispute Document is due. (B) The extension request must include: 1. Information describing the type and date of the compliance inspection and a brief summary of the violations; 2. The due date for the Dispute Document; 3. The amount of additional time requested; and 4. The reason the extension is needed, including a detailed explanation of why the owner or operator could not have reasonably anticipated or controlled the circumstances necessitating the extension. (C) The Department shall approve or deny the extension request, in whole or in part, and provide notice to the owner or operator within ten (10) working days of receipt of the extension request. (4) Dispute Resolution Official and Decision. The Director or Director's designee shall serve as the dispute resolution official. Within ninety (90) days after receipt of a Dispute Document, the dispute resolution official shall issue a written decision granting or denying, in whole or in part, the relief sought by the owner or operator. If the relief is denied, in whole or in part, the dispute resolution official shall include in his or her decision a short and plain description of the basis for the denial. Failure of the dispute resolution official to issue a written decision within ninety (90) days of receipt of the Dispute Document does not constitute a partial or complete granting of the relief sought. The written decision of the dispute resolution official is the Department's final decision and is not subject to additional administrative dispute resolution.

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Dispute Document Extension Requests. (A) An owner or operator may request, and the Department may grant, a one-time extension of up to sixty (60) days for the owner or operator to submit a Dispute Document to the Department. The extension request

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The Department shall approve or deny the extension request, in whole or in part, and provide notice to the owner or operator within ten (10) working days of receipt of the extension request.

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Dispute Resolution Official and Decision. The Director or Director's designee shall serve as the dispute resolution official. Within ninety (90) days after receipt of a Dispute Document, the dispute resolution official shall issue a written decision granting or denying, in whole or in part, the relief sought by the owner or operator. If the relief is denied, in whole or in part, the dispute resolution official shall include in his or her decision a short and plain description of the basis for the denial. Failure of the dispute resolution official to issue a written decision within ninety (90) days of receipt of the Dispute Document does not constitute a partial or complete granting of the relief sought. The written decision of the dispute resolution official is the Department's final decision and is not subject to additional administrative dispute resolution.

(d)

Final Inspection Violation Score. (1) For all compliance inspections, the provisional inspection violation score becomes the final inspection violation score if the owner or operator does not file a Dispute Document with the Department

within the time specified in subsection (c). (2) For a provisional inspection violation score for which a Dispute Document was filed within the time specified in subsection (c), the provisional inspection violation score will become the final inspection score consistent with the dispute resolution official's written decision. (3) Failure of the owner or operator to follow the dispute procedures or time frames specified in this section is a waiver of the right to further contest the provisional inspection violation score and shall constitute a failure to exhaust administrative remedies.

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