

Class I Violation-Require FORMAL enforcement (AEO/DA)

Class II Violation-Chronic or Repeat Violations May use FORMAL or INFORMAL enforcement

Minor Violation-Requires INFORMAL enforcement (NTC,/CIR, reinspection, official notice, No RTC letter, etc.)

Minor (Unified Program) *Health and Safety Code, Section 25404(a)* For purposes of this chapter, the following terms shall have the following meanings: (Also reference- *Health and Safety Code, Section 25404.1.2*)

(3) "Minor violation" means the failure of a person to comply with any requirement or condition of any applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive, of the unified program that the UPA is authorized to implement or enforce pursuant to this chapter, and that **does not** otherwise include any of the following: **(A)** A violation that results in injury to persons or property, or that presents a significant threat to human health or the environment. **(B)** A knowing willful or intentional violation. **(C)** A violation that is a chronic violation, or that is committed by a recalcitrant violator. In determining whether a violation is chronic or a violator is recalcitrant, the UPA shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to applicable regulatory requirements. **(D)** A violation that results in an emergency response from a public safety agency. **(E)** A violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage. **(F)** A class I violation as provided in Section 25117.6. **(G)** A class II violation committed by a chronic or a recalcitrant violator, as provided in Section 25117.6. **(H)** A violation that hinders the ability of the UPA to determine compliance with any other applicable local, state, or federal rule, regulation, information request, order, variance, permit, or other requirement.

Class II (Hazardous Waste) *California Code of Regulations, Title 22, Section 66260.10*

"Class II Violation" means a deviation from the requirements specified in Chapter 6.5 of Division 20 of the Health and Safety Code, or regulations, permit or interim status document conditions standards, or requirements adopted pursuant to that chapter, that is not a Class I violation.

Class I (Hazardous Waste) *Health and Safety Code, Section 25110.8.5. & Title 22, Section 66260.10.*

"Class I violation" means any of the following:

(a) A deviation from the requirements of this chapter, or any regulation, standard, requirement, or permit or interim status document condition adopted pursuant to this chapter that is any of the following:

(1) The deviation represents a significant threat to human health or safety or the environment because of one or more of the following: (A) The volume of the waste. (B) The relative hazardousness of the waste. (C) The proximity of the population at risk.

(2) The deviation is significant enough that it could result in a failure to accomplish any of the following: (A) Ensure that hazardous waste is destined for, and delivered to, an authorized hazardous waste facility. (B) Prevent releases of hazardous waste or constituents to the environment during the active or postclosure period of facility operation. (C) Ensure early detection of releases of hazardous waste or constituents. (D) Ensure adequate financial resources in the case of releases of hazardous waste or constituents. (E) Ensure adequate financial resources to pay for facility closure. (F) Perform emergency cleanup operations of, or other corrective actions for, releases.

Class II (all Unified Programs- except hazardous waste specifically defined in CCR 66260.10 (see above)).

"Class II" violations are those violations that do not meet the criteria for Class I, but are also not minor. Failure to correct or certify correction of a minor violation within the prescribed timeframe is a Class II violation.

Class I (all Unified Programs- except hazardous waste specifically defined in CCR 66260.10 and HSC 25110.8.5 (see above)).

The most egregious type of violation should be classified as a "Class I". For other (non-hazardous waste) Unified Program elements, Class I violations are those violations that are willful, intentional, negligent, knowing or should have known, include false documents, violations that pose a significant threat of harm to the environment or human life. Chronic violations may be considered Class I. Violations committed by a recalcitrant violator may also be considered Class I.

Classifying Violations

There are always variations in the specific details and circumstances surrounding each identified violation. Careful consideration of the nature, circumstances, and evidence must be applied by inspectors in almost all cases when classifying violations. Inspectors should try to determine if the circumstances surrounding the violation would reasonably meet the criteria of each violation class. The most appropriate way to determine the proper classification of a violation is to follow the following three steps:

1. Confirm or eliminate the criteria that would classify the violation as a Class I.
2. Confirm or eliminate the criteria that would classify the violation as a Minor violation.
3. Classify the violation as a Class II if it does not meet the guidelines for Class I or minor violations.

Things to consider when classifying violations: extent of deviation from regulatory requirements; number of violations; pattern of neglect or disregard; volume of hazardous material/waste; relative hazard of material/waste; proximity of population at risk; intent; regulatory history of facility.

Things to NOT consider when classifying violations: size or fiscal health of the business; potential outcomes of future enforcement (e.g. your workload, level of attorney support, etc.); subjectivity (e.g. unpleasant people should not be penalized more and conversely, pleasant/cooperative people should not be penalized less)