



General Violation Codes Return to Compliance Formal Enforcement Training February 11, 2021



23rd California Unified Program Annual
Training Conference
February 2 – March 18, 2021

Course Objective

- Upon completion of this class, students will
 - Understand how and when to use General Violation Codes
 - Return To Compliance Requirements
 - Formal Enforcement options.

Unified Program Violation Library

- A repository of standard violation descriptions
 - Must be used when reporting to the California Environmental Reporting System (CERS)
 - Currently 800+ active violations in the library
 - Not a legal document
 - Updated annually on July 1.
 - <https://cersbusiness.calepa.ca.gov/public/violations/>

General Violation Codes

Program Element	Violation Category
10 HMBP	10/15 Administration/Documentation
20 UST	20/25 Training*
30 Hazardous Waste	30/35 Operations/Maintenance*
31 RCRA Large Quantity Generator	40/45 Releases/Leaks/Spills*
32 Tiered Permitting	50/55 Abandonment/Illegal Disposal/Unauthorized Treatment*
33 Household Hazardous Waste	
40 APSA	* There are no local ordinance provisions for these UST violation categories.
50 CALARP	

General Violation Codes

- Violation codes ending in zero
 - Violation found in HSC or Regulations
 - General Violation 1010 – Business Plan Administration/ Documentation HSC/Regulation violation
- Violation codes ending in 5
 - Violation is a local ordinance
 - General Violation 1015 – Business Plan Administration/ Documentation Local Ordinance violation

General Violation Codes

- Calendar Year 2019
 - 378 General Violations issued covering all program elements
 - 63 (16.7%) general violations issued were documented correctly
- A correctly used General Violation Code must:
 - Identify statute/regulation/local ordinance in violation
 - Provide a description of the violation
 - Provide return to compliance requirements

Most Common Errors

- Specific violation in the violation library (153 instances)
 - Example:
 - General Violation 1010. “Welding gases not on Chemical Inventory. Add welding gases to Chemical Inventory in CERS”
 - Correct violation 1010004
 - Failure to electronically submit complete and accurate hazardous material inventory information for all hazardous materials on site at or above reportable quantities.

Most Common Errors (continued)

- Not identifying statute, regulation, or local ordinance (78 instances)
 - Example:
 - General violation 4040. “Provide a spill kit that is accessible and near the AST to protect storms drains in case of a spill ”

Most Common Errors (continued)

- No violation comments (42 instances)
 - If there are no comments, how can there be a violation?
- Providing a comment instead of a violation (8 instances)
 - General Violation 3120. “Inspector is requesting files be consolidated and for every annual training the training sign-in log be also included in the file”

Most Common Errors (continued)

- Citing a different program element violation (31 instances)
 - General Violation 2010. "OBSERVATION: Failure to submit all 4 sections of the business plan and tank forms on CERS annually between Jan 1st and March 1st. CORRECTIVE ACTION: Submit the hazardous material business plan and all required tank forms on CERS within 30 days and going forward annually between Jan 1st and Mar 1st".

Most Common Errors (continued)

- Business Plan violation
 - 1010008 – Failure to annually review and electronically certify that the business plan is complete and accurate on or before the due date.
- UST forms not completed, but does not identify which one(s).
 - Possible UST violations include:

Most Common Errors (continued)

- 2010003 – Failure to submit the “Designated Underground Storage Tank Operator Identification Form” within 30 days of installing a UST system or within 30 days of a change in DO.
- 2010007 – Failure to submit and maintain complete and current Certification of Financial Responsibility or other mechanism of financial assurance

Most Common Errors (continued)

- 2010010 – Failure to submit a complete and accurate application for a permit to operate a UST, or for renewal of the permit
- 2010013 – Failure to have an approved UST Monitoring plan
- 2010014 – Failure to have an approved UST Response Plan
- 2030037 – Failure to implement or maintain a written agreement between the UST owner and operator.

Most Common Errors (continued)

- Citing Fire Code violations outside of UPA authorization (3 instances)
 - General Violation 5030. “Observation: Owner/operator failed to provide labels to identify the piping of the ammonia system by the ammonia tank. Corrective Action: Provide identification markers/labels to identify the piping of the entire ammonia system. (2016 CFC 5003.2)”

Return to Compliance

- Return to Compliance
 - A method by which a regulated business shows that violations identified during an inspection have been corrected.
- Two ways to show compliance
 - Documentation
 - Observation

Return to Compliance

- Not resolvable
 - Some violations cannot be resolved by a business
 - Weekly/monthly inspections not conducted and/or documented
 - Facility is no longer in business

- Follow-up Inspections
 - Not required.
 - Should be considered when certain conditions exist

Return to Compliance (RTC) Timelines

- Minor violations
 - All program elements
 - 30 days (Health and Safety Code section 25404.1.2(c)(1))
- Non-minor violations
 - HMBP and HMRRP
 - Within reasonable notice for initially submitting a HMBP.
 - HSC 25508(a)(4)
 - Within 30 days of a HMBP being deemed insufficient
 - HSC 25508(a)(3)

RTC Timelines (Continued)

- UST
 - Within 30 days of receiving an inspection report.
 - 23 CCR 2712(f)
- UST Red Tags
 - Imminent Threat – Red Tag and compliance within 48 hours
 - HSC 25292.3(a)(1)
 - Non-Imminent Threat – Compliance within seven days of notification or a Red Tag is issued
 - HSC 25292.3(b)

RTC Timelines (Continued)

- Hazardous Waste
 - Within 60 days of receipt of the inspection report, or sooner if the regulator requires faster compliance
 - HSC 25185(c)(3)
- CALARP
 - Within 60 days of a Notification of a Deficient Risk Management Plan
 - 19 CCR 25535(a)

RTC Timelines (Continued)

- APSA
 - No specific RTC requirement for most violations
 - Prepare a SPCC plan within six months of notification of requirement
 - HSC 25270.4.5(a) Reference 40 CFR 112.1(f)(4)
 - Amend a SPCC plan within six months of notification of requirement
 - HSC 25270.4.5(a) Reference 40 CFR 112.4(e)

Failure to RTC Options

- Graduated Series of Enforcement
 - Informal Enforcement
 - 27 CCR 15110(e)(2)
 - Letters
 - Notice to Comply
 - Notice of Violation
 - Does not impose sanctions

Failure to RTC Options (Continued)

- Formal Enforcement
- 27 CCR 15110(e)(1)
 - Administrative
 - Civil
 - Criminal
- Mandates compliance
- Imposes sanctions
- Enforceable agreement or Order

RTC Statistics Calendar Year 2019

	Total Violations	Total RTC	RTC on or before due date	% RTC on or before due date	No RTC	% No RTC
Class I	2,944	2,035	910	30.91	909	30.87
Class II	49,582	36,125	17,776	35.85	13,457	27.14
Minor	97,107	66,042	33,236	34.23	31,065	31.99

Formal Enforcement

- Formal Enforcement
- 27 CCR 15110(e)(1)
 - Mandates compliance
 - Imposes sanctions
 - Enforceable agreement or Order
 - Gives notice to regulated community that violations must be taken seriously

Formal Enforcement

- Types of Formal Enforcement
 - Administrative
 - Civil
 - Criminal
- Secretary Blumenfeld Enforcement Memo dated 02/14/2020
 - Recommends formal enforcement
 - Formal enforcement currently not mandatory

Formal Enforcement

- Violations that should result in Enforcement
 - Class I Violations as defined in HSC 25110.8.5
 - Significant threat to human health or safety
 - Significant threat to the environment
 - Significant deviation from the requirement
 - Chronic or recalcitrant Class II violations
 - Class II violation defined in 22 CCR 66260.10

Formal Enforcement Summary Report

- Required to be submitted to CalEPA once the Enforcement Case has received a final judgement
 - CCR 15290(a)(5)
 - Enforcement Order
 - Consent Order
 - Court Judgement



FORMAL ENFORCEMENT SUMMARY



CUPA DATE SUBMITTED

I. FACILITY IDENTIFICATION

BUSINESS NAME (Same as FACILITY NAME or DBA-Doing Business As)

BUSINESS SITE ADDRESS

BUSINESS SITE CITY CA ZIP CODE

VIOLATION SUMMARY

Type of Violation (check boxes that apply)

- | | | | |
|---|----|--|-----|
| <input type="checkbox"/> HAZARDOUS MATERIALS | 4 | <input type="checkbox"/> HAZARDOUS WASTE TREATMENT | 11 |
| <input type="checkbox"/> Cal-ARP REGULATED SUBSTANCES | 4a | <input type="checkbox"/> RCRA LARGE QUANTITY GENERATOR | 14a |
| <input type="checkbox"/> UNDERGROUND STORAGE TANKS (USTs) | 5 | <input type="checkbox"/> HOUSEHOLD HAZARDOUS WASTE | 14b |
| <input type="checkbox"/> ABOVE GROUND PETROLEUM STORAGE | 8 | <input type="checkbox"/> LOCAL REQUIREMENTS | 15 |
| <input type="checkbox"/> HAZARDOUS WASTE | 9 | | |

Narrative description of the violations observed



FORMAL ENFORCEMENT ACTION

Type of Enforcement Action (Check one box)	Date of Initial Enforcement Action	Date of Final Disposition	Cash Fines/Penalties Imposed	Total Costs Recovered	Value of SEP Penalties Imposed
<input type="checkbox"/> ADMIN <input type="checkbox"/> CIVIL <input type="checkbox"/> CRIMINAL					

DESCRIPTION OF FINAL DISPOSITION

NARRATIVE FORMAT - (i.e. describe probation conditions, final sentencing conditions, consent order compliance schedule, etc)

Formal Enforcement Summary Sections

	FORMAL ENFORCEMENT SUMMARY	 3700 Chaney Ct. Carmichael, CA 95608
CUPA	DATE SUBMITTED	
I. FACILITY IDENTIFICATION		
BUSINESS NAME (Same as FACILITY NAME or DBA-Doing Business As)		
BUSINESS SITE ADDRESS		
BUSINESS SITE CITY	104	CA ZIP CODE 105



Formal Enforcement Summary Sections

VIOLATION SUMMARY			
Type of Violation (check boxes that apply)			
<input type="checkbox"/> HAZARDOUS MATERIALS	4	<input type="checkbox"/> HAZARDOUS WASTE TREATMENT	11
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Formal Enforcement Summary Sections

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<input type="checkbox"/> ADMIN <input type="checkbox"/> CIVIL <input type="checkbox"/> CRIMINAL					
DESCRIPTION OF FINAL DISPOSITION					
NARRATIVE FORMAT - (i.e. describe probation conditions, final sentencing conditions, consent order compliance schedule, etc)					

Formal Enforcement Summary Report

- CERS Nextgen will require electronic submission
- CalEPA is looking to require submission via CERS in lieu of a physical form before then

FES Common Errors

- Many errors identified on FES form
 - Memo sent to UPA Managers.
- Supplemental Environmental Project (SEP) used incorrectly
 - Used to make required repairs to UST system.
 - Greater than 50% of the total penalty
- No final disposition date entered
- Violations were not identified

Summary

- Using General Violation Codes
 - Used correctly less than 20% of the time
 - Common errors include:
 - There is a specific violation in the library
 - Not citing statute/regulation/local ordinance
 - No violation comments
 - Citing violations for a different program element
 - Citing fire code violations

Summary

➤ Return to Compliance

- RTC can be achieved through documentation or observation
- Each program element has its own unique RTC requirements
- 30% of all violations have no RTC
- Only 33.6% of all violations RTC on or before the scheduled due date.

Summary

➤ Formal Enforcement

- Highly recommended by CalEPA Secretary Blumenfeld
- Class I violations and recalcitrant Class II violations should result in formal enforcement

Summary

- Formal Enforcement Summary
 - Submitted once case is settled
 - Many errors on forms submitted
 - CERS Nextgen will require submission
 - CalEPA looking into



Any Questions?

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