



VIOLATION CLASSIFICATION

-Focus on Hazardous Waste

March 23, 2022

E-3/23, April Ranney & Ryan Miya



**24th California Unified Program
Annual Training Conference
March 22, 23, 24, 29, 30, 31 - 2022**

Announcement - Slido for Q&A & Polls

- Each Live Session will have embedded in the PowerPoint the actual unique QR Code and Slido Meeting Code on this slide for the Moderator to review with the Attendees to connect with Polls (if applicable) and Q&A.



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Announcement – Post Session Zoom Room

- Sometimes, if there are still more questions/conversation happening when the Session needs to conclude, a Zoom Room meeting link will be provided in the Slido Q&A area for continuation of the Session with the Presenter.
- If you would like to ask additional questions or have further discussion with the presenter/moderator on this subject, we encourage you to join us there.
- If given a choice, please select the breakout room for this session when you arrive in the Post Session ‘Zoom Room’.



Announcement – How to earn CEUs

➤ Remember, to earn CEUs, you must

- Arrive in the Session within the first 10 minutes of the Live Session
- Click on the “Are you still watching?” pop up (say YES) to show you are engaged
- Attend 90-100% of the actual Session minutes
- Complete your Session Evaluation (after EVERY Session)
- Click on the “Leave Session” button on top left of Session to exit the Session/Close Session
- Complete the overall Conference Survey (1 time) – **Conference Survey to be released on 03-29-2022** at <https://calcupa.org/conference-survey/index.html>
- Check your Course History for CEUs-<https://calcupa.org/course-history/index.html>



KEY UPDATES/REMINDERS

Did you know that...

- If you missed a Session you are interested in (or need more Minutes for CEU credit), you can go back to MOST Sessions and watch them in an OnDemand style of viewing?
- On the Agenda, find the Session and click “WATCH NOW”
- Make sure to click on the “Are you still watching” during the video



 A screenshot of the CUPA Forum agenda interface. On the left is a dark green sidebar menu with white text listing various session categories like "Primary Sessions", "Regulators", "Agenda - PDF", "Post Session Zoom Room Link", "Session Evaluation", "Session Evaluation", "Feedback Survey", "Webinars/CEUs", "Events", and "Watch Now". The main content area shows two session cards. Each card includes a clock icon, time range, "PDT", date, "Add to Calendar" button, a "More" dropdown, a "WATCH NOW" button, and a "Add to My Agenda" toggle. Two large blue arrows point from the "WATCH NOW" buttons to the right.

Time	Session Title	Tracks	Action
8:00 a.m. - 3:00 p.m.	(C-2/16) BEGINNER	C, UST	WATCH NOW
10:00 a.m. - 11:00 a.m.	(A-2/16) LESSONS L	A, CalARP	WATCH NOW

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What is Violation Classification?

- Three-tiered system based on severity of threat to the public and environment
 - Class I – most severe
 - Class II
 - Minor – least severe
- Provides framework for informal vs formal enforcement



Poll Introduction

How do you feel about violation classification?



Trainer Introductions

1. April Ranney, Ph.D.

- DTSC Environmental Program Manager I (aka Branch Chief) for CUPA Evaluator Unit in the Berkeley Office
- Approximately 6 years

2. Ryan Miya, Ph.D.

- DTSC Senior Environmental Scientist (Specialist)
- Approximately 10 years



Background of Audience

I work for...



24th California Unified Program
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Background of Audience

I work for...

- A. The State
- B. CUPA/PA
- C. Federal Government
- D. Industry
- E. Other



Background of Audience

How many years of experience do you have classifying violations?



Background of Audience

Your years of experience classifying violations...

- A. Less than 1 year
- B. 1-2 years
- C. 3-5 years
- D. 6-10 years
- E. 11-20 years
- F. More than 20 years



Training Intentions

- **What it is:**

- Focused on Hazardous Waste Generation
- Collaborative Discussion on Violation Classification
- Regulator Discussion

- **What it isn't**

- Violation Classification for all Unified Programs
- Definitive Statements on Violation Classification
- Recorded for Later



Participation

- **ID yourself prior to speaking**
 - Unmute and Talk
 - Ask questions
 - Explain your Perspective
- **Use the Chat/Q&A Function**
- **Poll participation**
 - Critical to get a feel for people's perspectives.



Poll Question:

- What year was the CalEPA Violation Guidance for Unified Program Agencies updated?
 - A. 2007
 - B. 2015
 - C. 2020
 - D. 2021



Training Table of Contents

- Violation Guidance for Unified Program Agencies
- Violation Definitions
- Commonly Misclassified Violations
- Violation Examples



Acronyms:

- Health and Safety Code (HSC)
- California Code of Regulations, Title 22 (22 CCR)
- Certified Unified Program Agency (CUPA)
- Unified Program (UP)
- Department of Toxic Substances Control (DTSC)
- Violation Guidance for Unified Program Agencies (VGUPA)
- Hazardous Waste (HW)
- Hazardous Waste Tracking System (HWTS)



Violation Guidance for Unified Program Agencies

- Updated in 2020
- Located on CalEPA website:
<https://calepa.ca.gov/cupa/resources/>



Violation Guidance for Unified Program Agencies



UNIFIED PROGRAM
ADMINISTRATION AND
ADVISORY GROUP (UPAAG)
ENFORCEMENT STEERING
COMMITTEE
ENFORCEMENT TECHNICAL
ADVISORY GROUP

VIOLATION CLASSIFICATION

GUIDANCE FOR

UNIFIED PROGRAM AGENCIES

Revised 03/06/2020



24th California Unified Program
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Violation Definitions – Class 1

HSC §25110.8.5 & 22 CCR 66260.10

(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**.



Violation Definitions – Class 1 (cont.)

HSC §25110.8.5(a) & 22 CCR 66260.10

(a)(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.

Violation Definitions – Class 1 (cont.)

HSC §25110.8.5(a) & 22 CCR 66260.10

(a)(2) The deviation is significant enough that it could **result in a failure to accomplish** any of the following:

(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.

Violation Definitions – Class 1

HSC §25110.8.5 & 22 CCR 66260.10

(b) The deviation is a Class II violation which is a chronic violation or committed by a recalcitrant violator.



Violation Definitions – Class 2

- HSC §25117.6
- 22 CCR §66260.10:

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.**

Violation Definitions – Minor

HSC §25404 & §25117.6

“Minor violation” means the failure of a person to comply with a requirement or condition of an applicable law... 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, ... evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to applicable regulatory requirements.

Violation Definitions – Minor (cont.)

HSC §25404 & §25117.6

“Minor violation” means the failure of a person to comply with a requirement or condition of an applicable law... and that does not otherwise include any of the following:

- (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 1 violation
- (G) 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.

VGUPA– 3 Steps for Classification

1. Confirm or eliminate the facts and circumstances to classify as Class 1
2. Confirm or eliminate the facts and circumstances to classify as Minor
3. Classify as a Class 2



VGUPA– What Needs to be Considered

- **Volume of Hazardous Waste**
 - Does volume of HW pose a significant threat to human health or the environment?



VGUPA– What Needs to be Considered

- **Proximity of Population at Risk**
 - Does the proximity of the population to the violation or the results of the violation pose a significant threat to the public or the environment?



VGUPA– What Needs to be Considered

- **Knowing, Willful, or Intentional Violations**
 - Knowing disregard for regulatory requirements are generally considered to be more serious and should NOT be considered a minor.



VGUPA– What Needs to be Considered

- **Compliance History**
 - A violation of same requirement cited on more than one occasion can be considered as recalcitrant.
 - If violations are chronic, the violation should be elevated and not a minor.



VGUPA– What Needs to be Considered

- **Economic Benefit**
 - Any violation that allows violator to gain economic benefit should not be a minor violation.



VGUPA– What NOT to Considered

- Size or fiscal health of business
- Potential outcome of future enforcement
- Demeanor of facility



Commonly Misclassified Violations

What do you think are some of the commonly misclassified violations?



Commonly Misclassified Violations

- Exceedance of authorized accumulation time
- Failure to provide or conduct training
- Failure to obtain a written tank assessment certified by a professional engineer
- Failure to make a hazardous waste determination



Violation Classification Examples

- 30 Examples
 - Participation by all is required
- Process
 - Example Information
 - Poll
 - Example Discussion



Example 1



Inspectors observed three (3) 55-gallon drums stored on a wood pallet within a concrete-bermed secondary containment area with illegible hazardous waste labels affixed to each drum. A total of approximately 165 gallons of used oil (California Waste Code 221) was cited in violation.

Violation: Failure to properly label hazardous wastes (22 CCR 66262.34(f)).



Example 1 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 1 Discussion

Three (3) 55-gallon drums stored on a wood pallet within a concrete-bermed secondary containment area with illegible hazardous waste labels affixed to each drum.



Class 2 Definition:

- Not a Class 1 and not a minor



Example 2



Inspectors observed approximately sixty-five (65) 55-gallon drums stored on wood pallets and twenty (20) 250-gallon plastic totes stored without hazardous waste labels in a concrete-paved storage area. A total of approximately 8,500 gallons of various hazardous wastes including asbestos, used oil, and petroleum-impacted soil were cited in violation.

Violation: Failure to properly label hazardous wastes (22 CCR 66262.34(f)).

Example 2 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 2 Discussion



Approximately sixty-five (65) 55-gallon drums stored on wood pallets and twenty (20) 250-gallon plastic totes stored without hazardous waste labels in a concrete-paved storage area.

Class 2 Definition:

- Not a Class 1 and not a minor

Example 3

During an inspection of a SQG on July 1, 2015, one hazardous waste label on one 55-gallon drum containing used oil is observed with an accumulation start date of December 23, 2014. The operator states that the facility was closed for maintenance the week after Christmas, and that the pick-up was scheduled for June 30, but the transporter called and asked to delay pick up for 2 days. The facility has a manifest history of shipping its wastes every 170-180 days.

Violation: Storage without a permit beyond the allowable timeframes (HSC 25201 & 22 CCR 66262.34).



Example 3 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 3 Discussion

During an inspection of a SQG on July 1, 2015, one hazardous waste label on one 55-gallon drum containing used oil is observed with an accumulation start date of December 23, 2014. The operator states that the facility was closed for maintenance the week after Christmas, and that the pick-up was scheduled for June 30, but the transporter called and asked to delay pick up for 2 days. The facility has a manifest history of shipping its wastes every 170-180 days.

Class 2 Definition:

- Not a Class 1 and not a minor



Example 4

- Small Quantity Generator
- Ten 55-gallon drums of reactive HW cited in violation.
- Accumulation start date that was 300 days ago.
- Operator indicates that the facility only really generates that waste in the fall, “business is always in slow during winter months”, and that it takes longer to actually fill the drum and it costs too much to ship drums that aren’t full. Manifests show that very little waste is shipped from the facility in intervals under 180 days.

Violation: Illegal storage of HW without a permit (HSC 25201 & 22 CCR 66262.34).



Example 4 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 4 Discussion

- SQG;
- Accumulation start date was 300 days ago;
- Operator indicates that the facility only really generates that waste in the fall, “business is always in slow during winter months”, and that it takes longer to fill the drum and it costs too much to ship drums that aren’t full.
- Manifests show that very little waste is shipped from the facility in intervals under 180 days.

Class 2 Definition:

- Not a Class 1 and not a minor



Example 5



Inspectors observed approximately 80 containers of expired pesticides in a dumpster in the yard. The inspector noted that each of the containers was $\frac{1}{4}$ to $\frac{1}{2}$ full. Five of the containers contain P listed waste, including P105 and P059. 50 of the containers have SDS's that list the waste as toxic. The facility manager did not know if the pesticide containers were hazardous but did acknowledge that they through the containers away when they are done with them.

Violation: Failure to make a hazardous waste determination (22 CCR 66262.11).

Example 5 – Poll Question

- What is the Violation Classification?
 - Class 1
 - Class 2
 - Minor
 - No Violation



Example 5 Discussion

Inspectors observed approximately 80 containers of expired pesticides in a dumpster in the yard.



Class 2 Definition:

- Not a Class 1 and not a minor

Example 6

During an inspection of an LQG, the inspector noted several containers of hazardous waste stored next to each other with no physical separation.



Violation: Incompatible wastes stored or accumulated adjacent to each other with no physical barrier for separation (22 66265.177(c)).

Example 6 – Poll Question

- What is the Violation Classification?
 - Class 1
 - Class 2
 - Minor
 - No Violation



Example 6 Discussion



Incompatible wastes stored or accumulated adjacent to each other with no physical barrier for separation.

Class 2 Definition:

- Not a Class 1 and not a minor

Example 7

During an LQG inspection, the inspector noted several containers of liquid hazardous waste stored next to each other with no barrier for separation.

Violation: Incompatible wastes stored or accumulated adjacent to each other with no physical barrier for separation (22 66265.177(c)).



Example 7 – Poll Question

- What is the Violation Classification?
 - Class 1
 - Class 2
 - Minor
 - No Violation



Example 7 Discussion



Incompatible wastes stored or accumulated adjacent to each other with no physical barrier for separation.

Class 2 Definition:

- Not a Class 1 and not a minor



BREAK TIME!



Example 8

A facility's Training Plan does not include any description of training on emergency response and marking or labeling containers. During their most recent inspection, all HW containers were observed as being properly labeled, and the Training Plan does include a 3-month OJT supervision requirement by senior Scientists.

Violation: Failure to prepare an adequate training plan (22 CCR 66265.16).



Example 8 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 8 Discussion

Training Plan does not include any description of training on emergency response and marking or labeling containers. All HW containers were observed as being properly labeled, and the Training Plan does include a 3-month OTJ supervision requirement by senior Scientists.

Class 2 Definition:

- Not a Class 1 and not a minor



Example 9

A used oil container with a faded HW label was left open during storage.

Violation: Failed to close a container holding HW during transfer and storage, except when necessary to add or remove waste (22 CCR 66265.173(a)).



Example 9 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 9 Discussion



A used oil container with a faded HW label was left open during storage.

Class 2 Definition:

- Not a Class 1 and not a minor

Example 10



During an inspection, a leaking metal 30 cubic-yard roll off bin was observed. The liquid was observed to have been red/orange in color. The liquid was leaking from the bottom of a roll off bin that was labeled “scrap metal”. The leak was observed to be dripping at a steady rate for about one minute and did not show any signs of slowing down.

Violation: Failure to maintain and operate their facility in a manner in which minimizes the possibility of the release of hazardous waste constituents to the environment (22 CCR 66265.31).

Example 10 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 10

During an inspection, a leaking metal 30 cubic yard roll off bin was observed. The liquid was observed to have been red/orange in color. The liquid was leaking from the bottom of a roll off bin



that was labeled “scrap metal”. The leak was observed to be dripping at a steady rate for about one minute and did not show any signs of slowing down.

Class 2 Definition:

- Not a Class 1 and not a minor

Example 10 (redo)



During an inspection, a leaking metal 30 cubic-yard roll off bin was observed. The facility took samples of the leaking liquid material. The STLC regulatory threshold for nickel is 20 mg/L and the sample analysis yielded a nickel concentration of 34 mg/L. Approximately 24 gallons of liquid and 15 cubic yards of soil were generated from the cleanup of the area and sent for disposal.

Violation: Failure to maintain and operate their facility in a manner in which minimizes the possibility of the release of hazardous waste constituents to the environment (22 CCR 66265.31).



Example 10 (redo) – Poll Question

- What is the Violation Classification?
 - Class 1
 - Class 2
 - Minor
 - No Violation



Example 10 (redo) Discussion

During an inspection, a leaking metal 30 cubic yard roll off bin was observed. The STLC regulatory threshold for nickel is 20 mg/L and the sample analysis yielded a nickel concentration of 34 mg/L. Approximately 24 gallons of liquid and 15 cubic yards of soil were generated from the cleanup of the area and sent for disposal.



Class 2 Definition:

- Not a Class 1 and not a minor

Example 11



The inspector observed 11 cardboard boxes storing fluorescent lamps. The cardboard boxes observed at the time of the inspection did not have lids or universal waste labels.

Violation: Failure to label fluorescent lamps (22 CCR 66273.34(c)).

Example 11 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 11 Discussion

The inspector observed 11 cardboard boxes storing fluorescent lamps. The cardboard boxes observed at the time of the inspection did not have lids or universal waste labels.



Class 2 Definition:

- Not a Class 1 and not a minor

Example 12



The inspector observed 11 cardboard boxes storing fluorescent lamps. Upon closer inspection, the inspector noted that three out of 11 cardboard boxes were storing lamps that exceeded the length of the box.

Violation: Failure to meet the requirement to store universal waste in a container that is adequate to prevent breakage (22 CCR 66273.33(b)(1)).

Example 12 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 12 Discussion

The inspector observed 11 cardboard boxes storing fluorescent lamps. Upon closer inspection, the inspector noted that three out of 11 cardboard boxes were storing lamps that exceeded the length of the box.



Class 2 Definition:

- Not a Class 1 and not a minor

Example 13



After completing the inspection of the Universal Waste Area, an inspector noted that there was a shed located directly east of the gate house that was marker “Waste Oil Recycling”. The shed is where the local residents would come to drop off their used oil, antifreeze, and/or filters into the designated containers. Upon entering the shed, I noticed oil stains and absorbent spread out throughout the shed floor.

Violation: Failure to maintain and operate their facility in a manner in which minimizes the possibility of the release of hazardous waste constituents to the environment (22 CCR 66265.31).

Example 13 – Poll Question

- What is the Violation Classification?
 - Class 1
 - Class 2
 - Minor
 - No Violation



Example 13 Discussion



The shed is where the local residents would come to drop off their used oil, antifreeze,

and/or filters into the designated containers. Upon entering the shed, I noticed oil stains and absorbent spread out throughout the shed floor.

Class 2 Definition:

- Not a Class 1 and not a minor

Example 14



A household hazardous waste (HHW) facility was collecting used oil from the community into a used oil tank. On the inspection, it was noted the tank appeared to be in good condition. The secondary containment consisted of a concrete base and 3 berms approx. 5 inches high. The secondary containment was filled with sediment, dead plant matter, and other types of debris.

Violation: Failure to have the secondary containment that is capable of containing releases and accumulated liquids until the material is removed (22 CCR 66262.193(b)).

Example 14 – Poll Question

- What is the Violation Classification?
 - Class 1
 - Class 2
 - Minor
 - No Violation



Example 14 Discussion



A HHW facility was collecting used oil from the community into a used oil tank.

On the inspection, it

was noted the tank appeared to be in good condition. The secondary containment was filled with sediment, dead plant matter, and other types of debris.

Class 2 Definition:

- Not a Class 1 and not a minor

Example 15



Example 15



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Example 15



During the inspection, the inspector noticed that the base on the outer wall of the shed was stained with used oil. The Used Oil Tank was directly connected to two grates in the shed by a single metal pipe. Used oil filters were punctured and drained through the grates to the tank.

Violation: Failure to maintain and operate their facility in a manner in which minimizes the possibility of the release of hazardous waste constituents to the environment (22 CCR 66265.31).

Example 15 – Poll Question

- What is the Violation Classification?
 - Class 1
 - Class 2
 - Minor
 - No Violation



Example 15 Discussion



The base on the outer wall of the shed was stained with used oil.

Class 2 Definition:

- Not a Class 1 and not a minor

Example 16



The facility was unable to provide evidence that the 500-gallon used oil tank had undergone a tank assessment. The tank was installed in 1996. On the inspection, it was noted the tank appeared to be in good condition.

Violation: Failure to acquire a tank assessment certification for a used oil tank (22 CCR 66265.192).

Example 16 – Poll Question

- What is the Violation Classification?
 - Class 1
 - Class 2
 - Minor
 - No Violation



Example 16 Discussion



The facility was unable to provide evidence that the 500-gallon used oil tank had undergone a tank assessment. The tank was installed in 1996.

Class 2 Definition:

- Not a Class 1 and not a minor

Example 17

Facility X violated 22 CCR sections 66262.34(a)(1)(A) and 66265.174 in that the facility failed to conduct required weekly inspections of hazardous waste container storage areas on 30 instances between January 2020 and January 2021.

Hazardous waste streams managed in this container storage area included petroleum-impacted soil (CA waste Code 223), asbestos (151), and used oil (221).



Example 17 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 17 Discussion

Failure to conduct required weekly inspections of hazardous waste container storage areas on 30 instances between January 2020 and January 2021.

Class 2 Definition:

- Not a Class 1 and not a minor



Example 18



Inspectors observed a treatment tank did not have adequate secondary containment at an LQG. A small plastic liner was placed around the base of the tank, but the liner was not sufficient to contain the volume of the contents in the tank (approximately 21,000 gallons). The tank was “temporary” and single-walled. The contents were paint-related wastes with Chromium (D007).

Violation: Failure to maintain adequate secondary containment for a hazardous waste treatment tank (22 CCR 66265.193(a)).

Example 18 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 18 Discussion

Insufficient secondary containment for HW treatment tank at an LQG.



Class 2 Definition:

- Not a Class 1 and not a minor

Example 19

Bills of Lading provided by Facility X from July through September 2020 document approximately 427 tons of hazardous waste was shipped offsite to XX Cement Manufacturing company. The Bills of Lading were provided in response to the list of documents in which we requested “Hazardous Waste Manifests for outgoing material / entities receiving material from hazardous waste storage tank Y with associated volume(s) and date(s).” No Hazardous Waste Manifest(s) were provided by the facility in response to this request.

Violation: Failure to prepare a manifest according to the instructions before transporting, or offering for transport, hazardous waste for off-site transfer, treatment, storage, or disposal (22 CCR 66262.20(a)).



Example 19 – Poll Question

- What is the Violation Classification?
 - Class 1
 - Class 2
 - Minor
 - No Violation



Example 19 Discussion

Failure to prepare a manifest according to the instructions before transporting, or offering for transport, hazardous waste for off-site transfer, treatment, storage, or disposal.

Class 2 Definition:

- Not a Class 1 and not a minor



Example 20

A facility is generating HW, using a manifest, and a registered transporter to ship HW to a TSDf in California. When asked, the facility representative stated that they have not been submitting the generator copy of manifests to DTSC. According to HWTS, the facility generated HW on 5 manifests without submitting a generator copy to DTSC.

Violation: Failure to mail a copy of each manifest to DTSC (22 CCR 66261.21(f)).



Example 20 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 20 Discussion

A facility representative stated that the facility has not been submitting the generator copy of manifests to DTSC. According to HWTS, the facility generated HW on 5 manifests without submitting a generator copy to DTSC.

Class 2 Definition:

- Not a Class 1 and not a minor



Example 21

A facility is generating HW, using a manifest, and a registered transporter to ship HW to a TSDF in California. When asked, the facility representative stated that they have not been submitting the generator copy of manifests to DTSC. According to HWTS, the facility generated HW on **305** manifests without submitting a generator copy to DTSC.

Violation: Failure to mail a copy of each manifest to DTSC (22 CCR 66261.21(f)).



Example 21 – Poll Question

- What is the Violation Classification?
 - Class 1
 - Class 2
 - Minor
 - No Violation



Example 21 Discussion

A facility is generating HW, using a manifest, and a registered transporter to ship HW to a TSD in California. When asked, the facility representative stated that they have not been submitting the generator copy of manifests to DTSC. According to HWTS, the facility generated HW on **305** manifests without submitting a generator copy to DTSC.

Class 2 Definition:

- Not a Class 1 and not a minor



Example 22

Inspectors observed a drum crushing unit while inspecting a HW storage area. When asked, the facility representative stated that the unit was not permitted. The inspectors confirmed that the drum crushing unit had been in use by reviewing logs of treatment activity and observed crushed drums onsite.

Violation: Unauthorized treatment of HW (HSC 25201).



Example 22 – Poll Question

- What is the Violation Classification?
 - Class 1
 - Class 2
 - Minor
 - No Violation



Example 22 Discussion

Inspectors observed a drum crushing unit while inspecting a HW storage area. When asked, the facility representative stated that the unit was not permitted.



Class 2 Definition:

- Not a Class 1 and not a minor

Example 23



While inspecting a generator 90-day storage area, inspectors observed that the area did not have a fire extinguisher or eye-wash station to decontaminate in case of spill. The facility generated and stored corrosive and ignitable waste onsite.

Violation: Failure to equip the facility with a portable fire extinguisher or decontamination equipment (22 CCR 66265.32(c)).

Example 23 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 23 Discussion

While inspecting generator 90-day storage area, inspectors observed the area did not have a Fire extinguisher or eye-wash station to decontaminate in case of spill. The facility generated and corrosive and ignitable waste onsite.



Class 2 Definition:

- Not a Class 1 and not a minor

Example 24

A tote containing HW polymer was observed with a crack and exposed top containing spent gas oil.

Violation: Failure to transfer HW from a container not in good condition (e.g. apparent structural defects) to a container in good condition (22 CCR 66265.171).



Example 24 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 24 Discussion



A polymer tote was observed with a crack and exposed top containing spent gas oil.

Class 2 Definition:

- Not a Class 1 and not a minor

Example 25

During the document review, inspectors noted that the locations and physical descriptions for some of the emergency equipment were missing from the Contingency Plan.

Violation: Failure to include a list of all emergency equipment, the location, and a physical description of each item on the list at the facility in the Contingency Plan (22 CCR 66265.52(e)).

Location and Type of Emergency Response Equipment:

1. Fire Extinguishers

Fire extinguishers are located throughout the facility as shown in the safety plot plan in the employee safety handbook. All facility personnel receive periodic classroom and hands-on training. Equipment includes:

90+ handheld 30 lb ABC extinguishers

6 wheeled 200 lb ABC extinguishers located at tank 502, Unit 4 control room, maintenance lunch room, MP motor control center, south of warehouse, and HDA reactors.

2. Two firewater tanks on west side of Standard Street. Firewater pump is operated and tested weekly.
3. City fire hydrants are located along Standard Street and on the East side of the refinery.
4. Firewater monitors are located throughout the refinery.
5. Ten SCBA units: 3 in the Unit 4 control room, 2 in the HDA/HDS control room, 1 at the HDA cooling tower, 1 at the HDA adsorber, 1 at the HDA motor control center, 1 at the HDA doghouse, 1 at the second level of the sulfur recovery unit. Approximately 40 employees have been trained to use them and are physically qualified. Each unit is the Omega model from Survivair and provides approximately 30 minutes of use per cylinder.
6. A tripod is located at the railcar loading racks with cable, pulleys, and harnesses for rescue/retrieval from confined spaces. Maintenance employees are assigned their own harness and lanyard.



Example 25 – Poll Question

- What is the Violation Classification?
 - Class 1
 - Class 2
 - Minor
 - No Violation



Example 25 Discussion

Location and Type of Emergency Response Equipment:

1. Fire Extinguishers

Fire extinguishers are located throughout the facility as shown in the safety plot plan in the employee safety handbook. All facility personnel receive periodic classroom and hands-on training. Equipment includes:

90+ handheld 30 lb ABC extinguishers

6 wheeled 200 lb ABC extinguishers located at tank 502, Unit 4 control room, maintenance lunch room, MP motor control center, south of warehouse, and HDA reactors.

2. Two firewater tanks on west side of Standard Street. Firewater pump is operated and tested weekly.
3. City fire hydrants are located along Standard Street and on the East side of the refinery.
4. Firewater monitors are located throughout the refinery.
5. Ten SCBA units: 3 in the Unit 4 control room, 2 in the HDA/HDS control room, 1 at the HDA cooling tower, 1 at the HDA adsorber, 1 at the HDA motor control center, 1 at the HDA doghouse, 1 at the second level of the sulfur recovery unit. Approximately 40 employees have been trained to use them and are physically qualified. Each unit is the Omega model from Survivair and provides approximately 30 minutes of use per cylinder.
6. A tripod is located at the railcar loading racks with cable, pulleys, and harnesses for rescue/retrieval from confined spaces. Maintenance employees are assigned their own harness and lanyard.

During the document review, inspectors noted that the locations and physical descriptions for some of the emergency equipment were missing from the Contingency Plan.

Class 2 Definition:

- Not a Class 1 and not a minor



Example 26

The facility collected and stored batteries generated onsite prior to disposal. The batteries were leaking corrosive waste and not labeled.

Violation: Failed to contain Universal Waste batteries that show evidence of leakage, spillage or damage in a closed, structurally sound, compatible container (22 CCR 66273.33(a)(1)).



Example 26 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 26 Discussion

The facility collected and stored batteries generated onsite prior to disposal. The batteries were leaking corrosive waste and not labeled.



Class 2 Definition:

- Not a Class 1 and not a minor

Example 27

During a review of HWTS, the inspector notes that the facility EPA ID is inactive. At the inspection, the facility operator confirms that the facility had not completed the Electronic Verification Questionnaire (eVQ) in 2020.

The screenshot shows the eVQ website interface. At the top, there is a navigation bar with the eVQ logo and the text 'Electronic Verification Questionnaire'. Below this are four main buttons: 'Log In', 'Forgot Password?', 'Register', and 'ID Number Status'. A banner below the buttons states 'The 2021 Verification Questionnaire report cycle is open.' The main content area is divided into two columns. The left column contains a link to 'EVQ Training Video | Watch Now', a section titled 'ID Number Inactive?' with instructions on how to reactivate an ID number, and a section titled 'Pay Fees by Credit Card' with instructions on how to pay fees. The right column contains a section titled 'What is the purpose of the Annual EPA ID Number Verification Questionnaire?' with explanatory text.

Violation: Failure to verify the identification number to DTSC through the eVQ (HSC 25205.16(b)).



Example 27 – Poll Question

- What is the Violation Classification?

Class 1

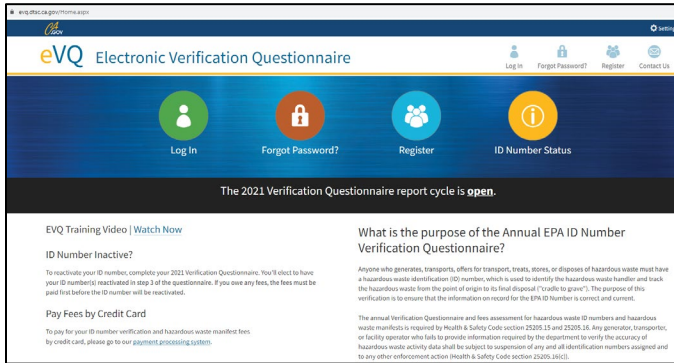
Class 2

Minor

No Violation



Example 27 Discussion



During a review of HWTS, the inspector notes that the facility EPA ID is inactive. At the inspection, the facility operator confirms that the facility had not completed the eVQ in 2020.

Class 2 Definition:

- Not a Class 1 and not a minor



Example 28

During an inspection, the inspector sees a drum of F002 HW. The drum is in good condition, with a label, and within secondary containment. While reviewing manifests, the inspector notes that the facilities EPA ID number is a state EPA ID number, starting with CAL, and has shipped F002 offsite on 23 manifests in the past.

Violation: Failure to use a RCRA EPA ID number when generating and offering RCRA waste for transport (22 CCR 66262.12(b)).



Example 28 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 28 Discussion

While reviewing manifests, the inspector notes that the facilities EPA ID number is a state EPA ID number, starting with CAL, and has shipped F002 offsite on 23 manifests in the past.

Violation: Failure to use a RCRA EPA ID number when generating and offering RCRA HW for transport.

Class 2 Definition:

- Not a Class 1 and not a minor



Example 29

Prior to the inspection, the inspector reviews HWTS and notes that the EPA ID number that the facility address is associated with is assigned to a different facility. During the inspection, the facility explains that they didn't know they needed to apply for a new EPA ID as they had taken over another business at that same location. The EPA ID number was used 75 times on manifests with non-RCRA.

Violation: Failure to obtain an EPA ID prior to generating and offering hazardous waste for transport (22 CCR 66262.12(a)).



Example 29 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 29 Discussion

Prior to the inspection, the inspector reviews HWTS and notes that the EPA ID number that the facility address is associated with is assigned to a different facility. The facility explains that they didn't know they needed to apply for a new EPA ID, as they had taken over another business at that same location. The EPA ID number was used 75 times on manifests with non-RCRA.

Class 2 Definition:

- Not a Class 1 and not a minor



Example 30

Used oil from 3 pumps were drained into a 5-gallon bucket through hoses. The container was continuously open as there was a hole for the hoses to enter the container.

Violation: Failed to close a container holding hazardous waste during transfer and storage, except when necessary to add or remove waste (22 CCR 66265.173(a)).



Example 30 – Poll Question

- What is the Violation Classification?

Class 1

Class 2

Minor

No Violation



Example 30 Discussion



Used oil from 3 pumps were drained into a 5-gallon bucket through hoses. The container was continuously open as there was a hole for the hoses to enter the container.

Class 2 Definition:

- Not a Class 1 and not a minor



Any Questions?

Contact for any Questions:

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Class I

22 CCR 66260.10:

“Class I Violation” means:

(a) 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 represents a significant threat to human health or safety or the environment, because of **(1) the volume of the waste; (2) the relative hazard of the waste; or (3) the proximity of the population at risk**, or that is **significant enough that it could result in a failure** to accomplish the following:

- (A) Assure that hazardous wastes are 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 post closure period of facility operation;
 - (C) Assure early detection of such releases;
 - (D) Assure adequate financial resources in the case of releases; or
 - (E) Assure adequate financial resources to pay for facility closure;
 - (F) Perform emergency clean-up operation or other corrective action for releases;
- or

(b) The deviation is a Class II violation which is a chronic violation or committed by a recalcitrant violator.

“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.

HSC 25110.8.5:

“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.

(b) The deviation is a Class II violation which is a chronic violation or committed by a recalcitrant violator.

Class II

22 CCR 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.

HSC 25117.6:

“Class II Violation” has the same meaning as defined in Section 66260.10 of Title 22 of the California Code of Regulations.

Minor

HSC 25117.6:

(a) “Minor violation” means 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 not a class I violation.

(b)

(1) A minor violation does not include any of the following:

- (A) Any knowing, willful, or intentional violation of this chapter.

(B) Any violation of this chapter that enables the violator to benefit economically from noncompliance, either by reduced costs or competitive advantage.

(C) Any class II violation that is a chronic violation or that is committed by a recalcitrant violator.

(2) In determining whether a violation is chronic or a violator is recalcitrant, for purposes of subparagraph (C) of paragraph (1), the department, or the local officer or agency authorized to enforce this chapter pursuant to [subdivision \(a\) of Section 25180](#), shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to the requirements of this chapter.

HSC 25404:

“Minor violation” means the failure of a person to comply with a requirement or condition of an 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 25110.8.5.
- (G) 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.