



Violation Classification 101; Focus on Hazardous Waste

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Tu-H3

Tuesday February 27, 2024

1:00pm to 2:45pm



26th California Unified Program
Annual Training Conference
February 26-29, 2024

Violation Classification & Why You Should Care

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

Trainer Introductions

1. April Ranney, Ph.D.

- DTSC Environmental Program Manager I in the Berkeley Office
- Approximately 8 years

2. Ryan Miya, Ph.D.

- DTSC Supervisor of the CUPA Evaluation Unit in the Berkeley Office
- Approximately 13 years

3. Michael Palazzola

- Senior Manager of Regulated Waste & Field Operations at Disneyland Resort
- Former CUPA Manager of Orange County CUPA



Audience Background

I work for

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



Audience Background (continued)

If industry, I work for facility(ies) that have. . . .

- A. a tiered permit
- B. a full / standardized permit
- C. HW generation and storage
- D. HW transportation
- E. Other



Training Agenda

1. Violation Process
2. What happens when a violation is cited?
3. Violation Classification Statutes and Regulations
4. Top Ten Violations Cited at Generator Inspections
5. Violation Classification Examples

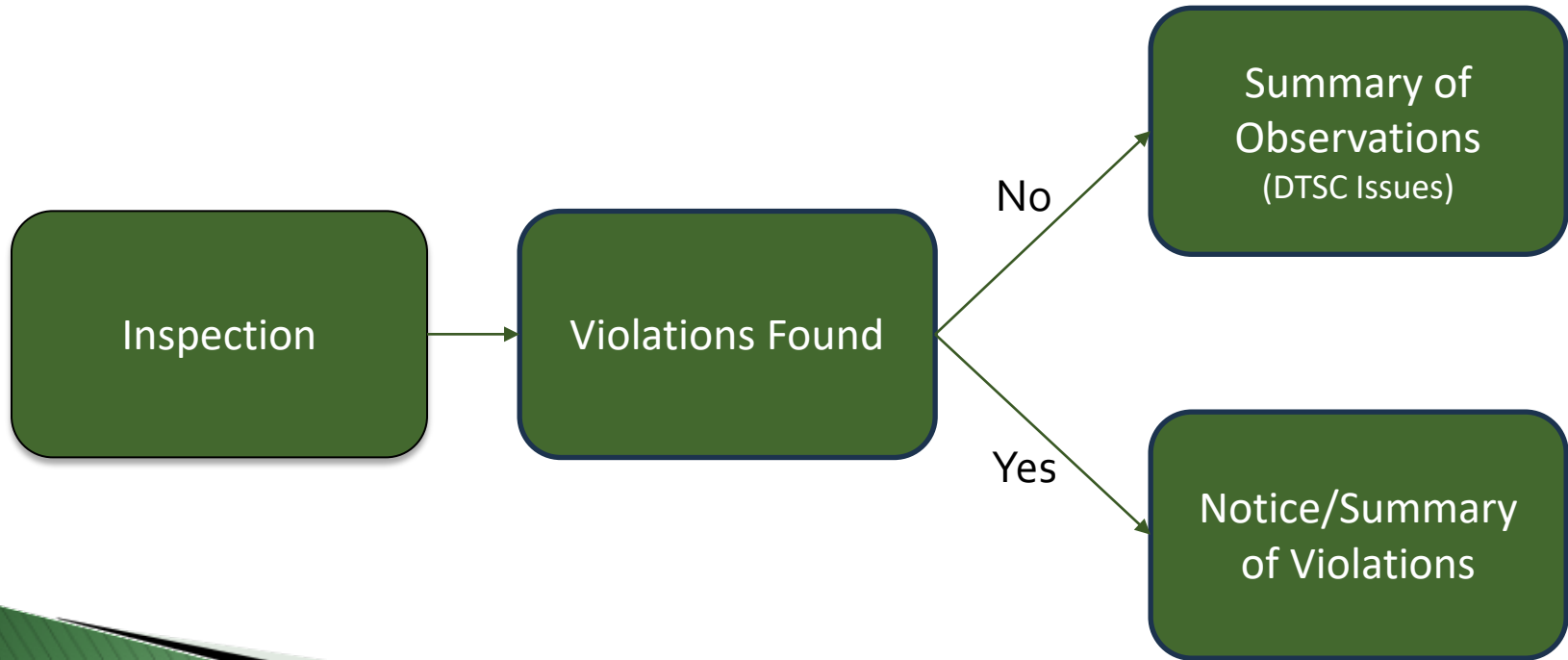


Acronyms we may use:

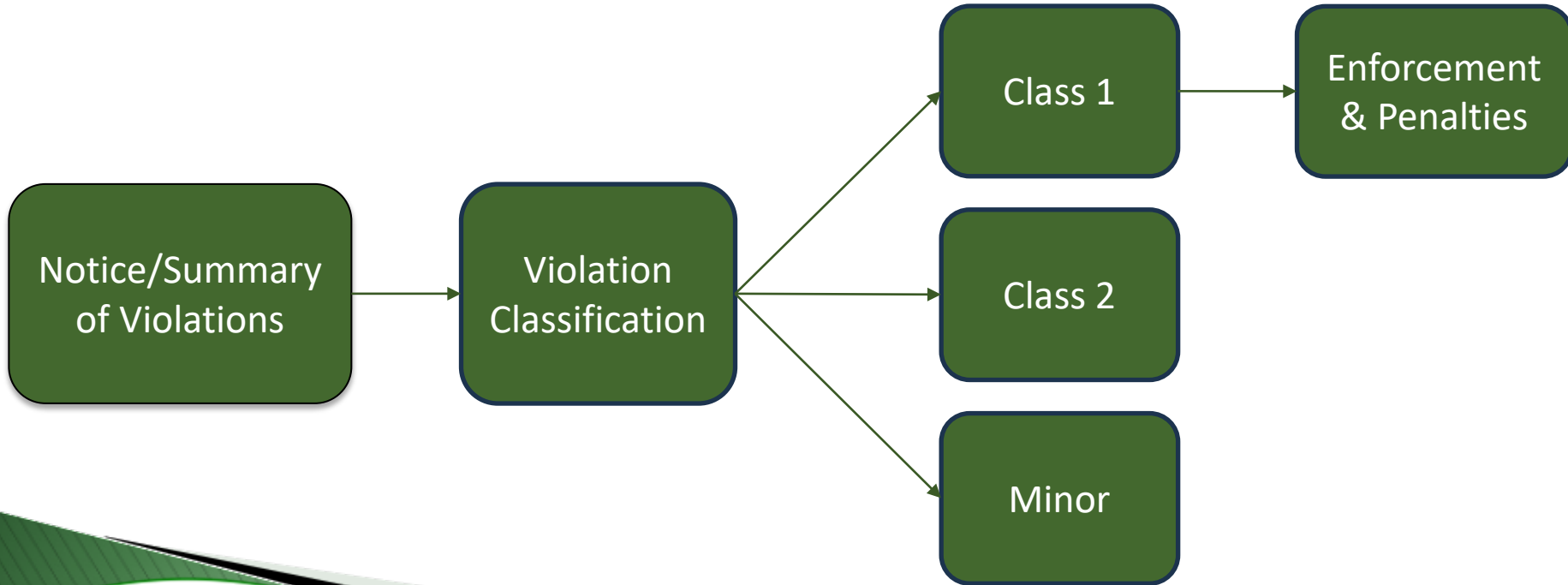
- Health and Safety Code (HSC)
- California Code of Regulations, Title 22 (22 CCR)
- Certified Unified Program Agency (CUPA)
- Unified Program (UP)
- Department of Toxic Substances Control (DTSC)
- Hazardous Waste (HW)
- Hazardous Waste Tracking System (HWTS)



Violation Process



Violation Process



Violation Classification

The process of determining the classification for each violation is based on:

- A. Relevant Statutes and Regulations
- B. Factors and Specifics of Each Violation



Violation Classification - Definitions

Regulatory definitions for:

- Class I
- Class II
- Minor



Violation Definitions – Class I

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:

Violation Definitions – Class I

HSC §25110.8.5 & 22 CCR 66260.10

(a)(1) The deviation represents a **significant threat** to human health or safety or the environment because of one or more of the following:

- (1) **The volume of the waste.**
- (2) The relative hazardousness of the waste.
- (3) The proximity of the population at risk.



Violation Definitions – Class I

HSC §25110.8.5 & 22 CCR 66260.10

(a)(1) The deviation represents a **significant threat** to human health or safety or the environment because of one or more of the following:

- (1) The **volume of the waste.**
- (2) The **relative hazardousness of the waste.**
- (3) The **proximity of the population at risk.**



Violation Definitions – Class I

HSC §25110.8.5 & 22 CCR 66260.10

(1) The deviation represents a **significant threat** to human health or safety or the environment because of one or more of the following:

- (1) The **volume of the waste**.
- (2) The **relative hazardousness of the waste**.

(3) The **proximity of the population at risk**.



Violation Definitions – Class I

HSC §25110.8.5 & 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.



Violation Definitions – Class I

HSC §25110.8.5 & 22 CCR 66260.10

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

(B) **Prevent releases** of hazardous waste or constituents to the environment during the active or postclosure period of facility operation.



Violation Definitions – Class I

HSC §25110.8.5 & 22 CCR 66260.10



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

(C) Ensure **early detection** of releases of hazardous waste or constituents.

Violation Definitions – Class I

HSC §25110.8.5 & 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.



Violation Definitions – Class I

HSC §25110.8.5 & 22 CCR 66260.10

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

(E) Ensure **adequate financial resources** to pay for facility closure.



Violation Definitions – Class I

HSC §25110.8.5 & 22 CCR 66260.10

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

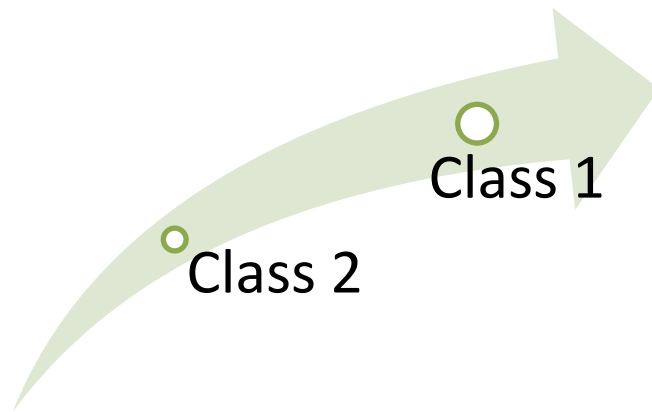
(F) Perform emergency cleanup operations of, or other corrective actions for, releases.



Violation Definitions – Class I

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 II

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)(3)(A) A violation that results in injury to persons or property, or that presents a significant threat to human health or the environment.



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:

(b)(1)(A) A knowing, willful, or intentional 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:

(b)(1)(C) A violation that is a chronic violation, or that is committed by a recalcitrant violator.

(b)(2) 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

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)(3)(D) A violation that results in an emergency response from a public safety agency.



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)(1)(B) A violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.



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)(3)(F) A class 1 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)(3)(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.

Violation Classification Procedure

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

What is not considered?

- Size or fiscal health of business
- Potential outcome of future enforcement
- Demeanor of facility representative(s)

BREAK TIME!



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Violation Classification Procedure

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

Top Ten Violations found at HW Generators from 2023

1. Failure to properly label hazardous waste accumulation containers.



hazardous waste

STATE AND FEDERAL LAW PROHIBITS IMPROPER DISPOSAL
IF FOUND, CONTACT THE NEAREST POLICE OR PUBLIC SAFETY AUTHORITY OR
THE U.S. ENVIRONMENTAL PROTECTION AGENCY OR THE CALIFORNIA
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

GENERATOR INFORMATION:
NAME _____
ADDRESS _____ STATE _____ ZIP _____
CITY _____
MANIFEST TRACKING NO. _____
EPA ID NO. _____ CA WASTE NO. _____ ACCUMULATION WASTE NO. _____ START DATE _____

PHYSICAL STATE: SOLID LIQUID HAZARDOUS PROPERTIES: CORROSIVE REACTIVITY FLAMMABLE TOXIC OTHER

D.O.T. PROPER SHIPPING NAME AND UN OR NA NO. WITH PREFIX

handle with care!

LABEL MADE IN SEASIDE, OREGON, U.S.A. THE EE GROUP FOREMAN/DEL THE EE GROUP FOREMAN/DEL THE EE GROUP FOREMAN/DEL

Violation Classification Example 1



Inspectors observed one (1) 55-gallon drum stored within a concrete-bermed secondary containment area without a hazardous waste label affixed. A total of approximately 55 gallons of waste “toxic solid” (Ca Waste Code 352 – other organic solids) was cited in violation.

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

Violation Classification Example 2

Inspectors observed approximately one hundred (100) 55-gallon drums of waste cyanide stripping solution (RCRA F007 and D007) and four (4) 275-gallon totes of used oil stored without hazardous waste labels affixed.

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



Top Ten Violations found at HW Generators from 2023

2. Failure to obtain an Identification Number prior to treating, storing, disposing of, transporting or offering for transportation any hazardous waste.
 - RCRA Generator (even a small quantity generator) = RCRA EPA ID
 - Non-RCRA Generator, obtain state ID number
 - Recommend training on Thursday from 1-245pm for California ID Number Issuance Transition to US EPA Form 8700-12 given by DTSC

Top Ten Violations found at HW Generators from 2023

- Failure to keep a copy of each properly signed manifest for at least three years.

Please print or type. Form Approved. OMB No. 2050-0039

UNIFORM HAZARDOUS WASTE MANIFEST

1. Generator ID Number
2. Page 1 of 3
3. Emergency Response Phone
4. Manifest Tracking Number

5. Generator's Name and Mailing Address
Generator's Site Address (if different than mailing address)

Generator's Phone
6. Transporter 1 Company Name U.S. EPA ID Number
7. Transporter 2 Company Name U.S. EPA ID Number
8. Designated Facility Name and Site Address U.S. EPA ID Number

Facility's Phone

9a. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group if any)	9b. Containers		9c. Total Quantity	9d. U.S. DOT Code	13. Waste Codes
	No.	Type			
1.					
2.					
3.					
4.					

14. Special handling instructions and additional information

15. GENERATOR/PROFESSIONAL CERTIFICATION: I hereby declare that the correct U.S. DOT description (including proper shipping name, and see classification, packaging, marking and labeling requirements), and are in all respects in proper condition for transport (including applicable international and national governmental regulations, if export shipment) and I am the Primary Spill/Leak Coordinator for the contents of this assignment under the authority of the attached U.S. Department of Commerce. I certify that the waste minimization statement identified in 40 CFR 261.12(c)(1) is a large quantity generator or (2) (3) if not a small quantity generator is true.

Generator/Owner's Printed Name _____ Signature _____ Month _____ Day _____ Year _____

16. International Shipments Export to U.S. Export from U.S. Port of entry: _____
Transporter signature (for exports only): _____ Date leaving U.S.: _____

17. Transporter acknowledgment of receipt of materials
Transporter 1 Printed Name _____ Signature _____ Month _____ Day _____ Year _____
Transporter 2 Printed Name _____ Signature _____ Month _____ Day _____ Year _____

18. Discrepancy
18a. Discrepancy Indication: Quantity Type Residue Partial Rejection Full Rejection

18b. Alternate Facility (or Generator) Manifest Reference Number _____ U.S. EPA ID Number _____

Facility's Phone _____
18c. Signature of Alternate Facility (or Generator) _____ Month _____ Day _____ Year _____

19. Hazardous Waste Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)

20. Designated Facility Owner or Operator. Certification of receipt of hazardous materials covered by the manifest except as noted in item 18a.
Facility's Name _____ Signature _____ Month _____ Day _____ Year _____

EPA Form 8700-02 (Rev. 12-17) Previous editions are obsolete. DESIGNATED FACILITY TO EPA's e-MANIFEST SYSTEM

Top Ten Violations found at HW Generators from 2023

4. Failure to send hazardous waste offsite for treatment, storage, or disposal within 180 days.



Violation Classification Example 3



A Small Quantity Generator stored ten 55-gallon drums of reactive hazardous waste. The accumulation start date on the label was 300 days ago. The operator states 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.

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

Top Ten Violations found at HW Generators from 2023

5. A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.



Violation Classification Example 4

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

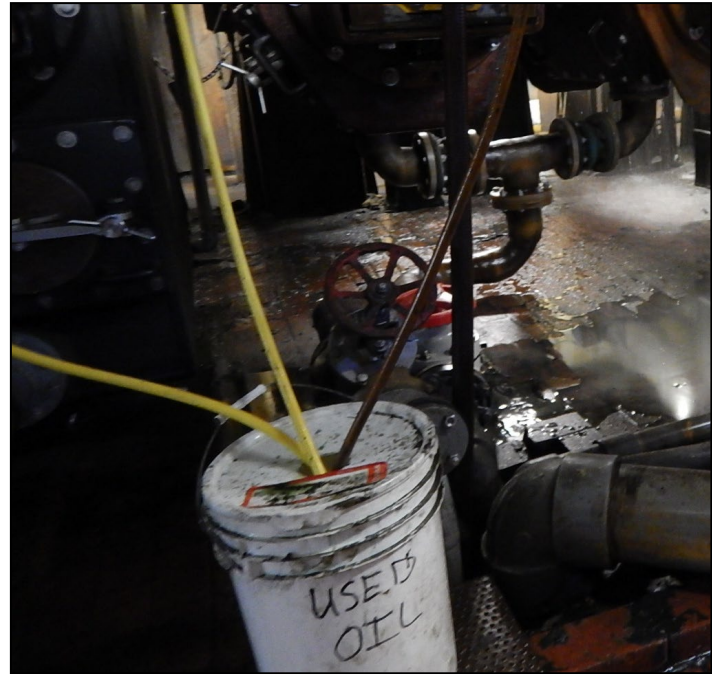
Violation: Failed to close a container holding HW during transfer and storage, except when necessary to add or remove waste (22 CCR 66265.173(a)).



Violation Classification Example 5

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)).



Top Ten Violations found at HW Generators from 2023

6. Failure to properly manage used oil filters and/or fuel filters in accordance with the requirements.



Top Ten Violations found at HW Generators from 2023

7. Failure to maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

Violation Classification Example 6



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. 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).

Top Ten Violations found at HW Generators from 2023

8. Failure to complete and/or adequately document training for all employees who manage hazardous waste.



Violation Classification Example 7

During an inspection, a facility provided training records for staff that work with hazardous waste. The facility has 30 employees that have received their initial and annual trainings by a contracted trainer. However, 5 staff members have not received any training. Each of these 5 staff members have worked at the facility for 9 months or more.

Violation: Failure to ensure facility personnel complete a training program (22 CCR 66265.16).

Top Ten Violations found at HW Generators from 2023

9. Failure to determine if wastes generated are hazardous waste by using generator knowledge or applying testing method.
10. Failure to inspect hazardous waste storage areas at least weekly and look for leaking and deteriorating containers.

Violation Classification Example 8

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. No leaking containers in secondary containment observed to be in good condition. Hazardous waste streams managed in this container storage area included petroleum-impacted soil (CA waste Code 223), asbestos (151), and used oil (221).



Questions?

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