

# HUMOR

- **Random Joke of the Day:** What do you call a mistake on a Tombstone?  
*A grave mistake!*
- **Dad Joke of the Day:** I stand corrected!" said the man in the orthopedic shoes.
- **Dry Joke of the Day:** What is the leading cause of dry skin?  
*Towels.*

# CUPA Violations

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**Stanislaus County DER Hazardous Materials Division**

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**DISCLAIMER:** Any Similarities between what I say and what I mean are purely coincidental



This presentation is for educational purpose only.  
No endorsement of ideas or products is intended

## AREAS TO BE COVERED

- What is the CUPA?
- The CUPA programs
- Common Violations Under Each Program
- Return to Compliance Process

# What is the CUPA?

## Certified Unified Program Agency (CUPA)

- 1994: SB 1082 put into law
- Agency responsible for the implementation and regulation of the Unified Program

### Determine compliance with

- California Health and Safety Code (CA HSC) Chapters 6.5, 6.67, 6.7, and 6.95
- California Code of Regulation (CCR) Titles 19, 22, and 23





# What is the CUPA?

- The CUPA enforces 5 programs:**
- **HMBP** (Hazardous Materials Business Plan)
  - **Hazardous Waste**
  - **UST** (Underground Storage Tanks)
  - **APSA** (Aboveground Petroleum Storage Act)
  - **CalARP** (California Accidental Release Prevention)

## Today's Focus:

Each program excluding UST

## How often does the CUPA inspect?

For most programs the CUPA conducts inspections triennially (once every 3 years).

# Aboveground Storage Tank Program



# Aboveground Storage Tank Program (APSA)

Lead state agency that oversees implementation of the APSA program, Cal Fire-Office of the State Fire Marshal

- APSA – HSC Division 20, Chapter 6.67
- SPCC – 40 CFR § 112



# Aboveground Storage Tank Program (APSA)

## Purpose of APSA

APSA (state law) and SPCC (federal rule) were enacted to prevent release of oil to waters of the United States

While response is a major component of the SPCC rule, the greater emphasis is on PREVENTION

APSA requires owners/operators of tank facilities to prepare & implement an SPCC (Spill, Prevention, Control, Countermeasure) Plan according to 40 CFR § 112

# Aboveground Storage Tank Program (APSA)

## Applicable Businesses

In general, a business that has  $\geq 1,320$  gallons petroleum product aboveground storage tank capacity or a TIUGA (Tank in an Underground Area)



# Common APSA Violations



# APSA Violations

## Violation: Prepare a SPCC Plan

Owner/operator of a storage tank facility shall prepare a SPCC plan applying good engineering practices to prevent petroleum releases using the same format required by Part 112, including owners/operators of tank facilities not subject to the general provisions in 112.1 [25270.4.5]

### Applicable Facilities

**Facilities with TIUGAs:** Tanks in Underground Areas (TIUGA)

**Tier 1 QF:** aggregate oil storage capacity  $\leq 10,000$  gallons, no individual container with h capacity  $> 5,000$  gallons; meets discharge criteria in 112.3(g)(2)

**Tier 2 QF:** aggregate oil storage capacity  $\leq 10,000$  gallons; meets discharge criteria in 112.3(g)(2)

**Tier 3 Non-QF:** aggregate oil storage capacity  $\geq 10,000$  gallons, SPCC must be PE certified

# APSA Violations

## Violation: Training

Owner/Operator shall fully comply with latest version of the regulations contained in Part 112 [25270.4.5(a)]

- Train oil-handling personnel in operation and maintenance of equipment to prevent discharges; discharge procedure protocols; applicable pollution control rules; general facility operations; and the contents of the facility SPCC Plan [112.7(f)(1)]



# APSA Violations

## Violation: Annual SPCC Plan Spill Briefing

Owner/Operator shall fully comply with latest version of the regulations contained in Part 112 [25270.4.5(a)]

- Provide annual SPCC Plan spill briefing for oil-handling personnel [112.7(f)(3)]
- Describe any known discharges, failures, or component malfunctions
- Discuss any recently developed measures

# **Hazardous Material Business Plan Program**

# Hazardous Material Business Plan Program

## HMBP Program Purpose

- Provide basic information necessary for use by first responders in order to prevent or mitigate damage to public Health and safety and to the environment from a release or threatened release of a hazardous material
- Satisfy federal and state community Right-to-Know laws

## Regulatory Authority

- HSC Division 20, Chapter 6.95, Article 1, 42 USC § 11022, 40 CFR § 370, 19 CCR Division 2, Chapter 4

# Hazardous Material Business Plan Program

## Applicable Businesses

In general, a business that handles any of the following amounts of hazardous materials at any one time during the reporting year:

- 55 gallons for liquids
- 500 pounds for solids
- 200 cubic feet for compressed gases

# Common HMBP Violations

# HMBP Violations

## Violation: Failure to submit plan initially or annually

HSC 6.95 25505(a)(1), 25508(a)(3)

### When is an HMBP submitted?

#### Initial

- When facility is applicable

#### Annually

- A complete HMBP must be submitted/certified on or before the due date
  - All sections even if information is still the same
  - If due date is not establishing the HMBP must be submitted no later than March 1<sup>st</sup>



# HMBP Violations

## Violation: Failure to update plan within 30 days of applicable information changes HSC 6.95 25508.1(a-f)

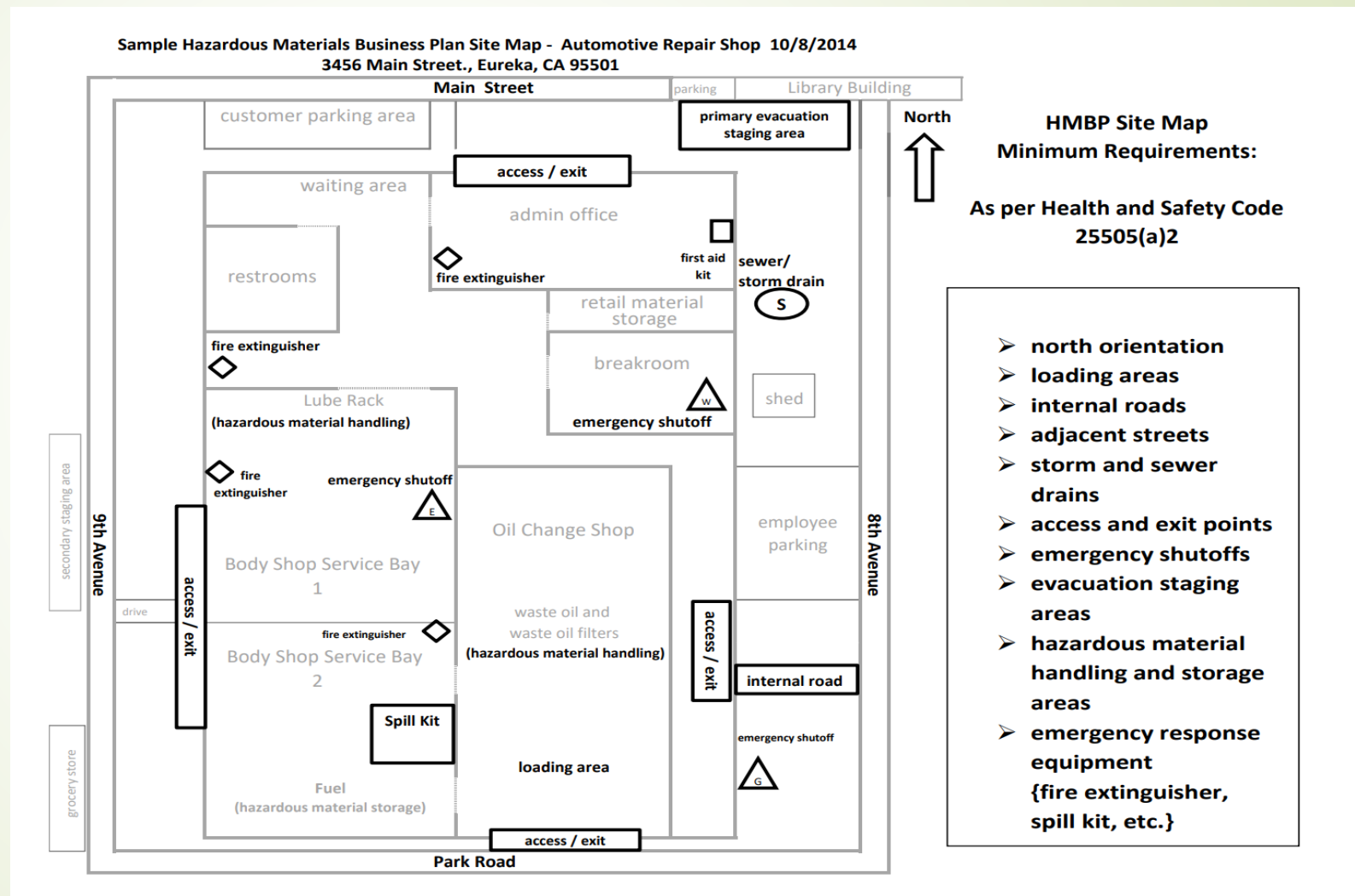
### Changes to an HMBP

Applicable HMBP sections must be submitted within 30 days of the following changes

- 100% increase in quantity for a previously disclosed hazardous material
- Handling of any previously undisclosed hazardous material that equals or exceeds reporting thresholds
- Change of business or facility address
- Change of business ownership
- Change of business name
- Any substantial change in the handler's operations

# HMBP Violations

**Violation: Failure  
to submit a  
complete site map**  
**HSC 6.95 25505  
(a)(2), 25508(a)(3)**



# HMBP Violations

**Violation: Failed to provide initial and annual training and maintain training records for a minimum of three years**

**HSC 6.95 25505 (a)(2), 25508(a)(3)**

**HMBP training must include, but is not limited to, the following:**

- ☐ Methods for safe handling of hazardous materials;
- ☐ Identification of areas of the facility and mechanical or other systems that require immediate inspection or isolation because of their vulnerability to earthquake related ground motion;
- ☐ Evacuation plans and procedures, including immediate notification, for the facility;
- ☐ Identification of local emergency medical assistance appropriate for potential accident scenarios;
- ☐ Notification of local emergency response personnel, the Unified Program Agency, the California Emergency Management Agency, and persons within the facility who are necessary to respond to an incident;
- ☐ Emergency response and safety procedures for the mitigation, prevention, and abatement of a release or threatened release to minimize harm or damage to persons, property, or the environment;
- ☐ Use of the facility's emergency response equipment and supplies;
- ☐ Procedures for coordination with local emergency response organizations.

# Hazardous Waste Program

# Hazardous Waste Program

Lead state agency that oversees implementation of the Hazardous Waste Generator program, Department of Toxic Substances Control (DTSC)

## **Statute & Regulations**

- ➡ HSC Division 20, Chapter 6.5 – Hazardous Waste Control
- ➡ 22 CCR Division 4.5

## **Federally**

- ➡ 40 CFR §§ 261-265, 268 & 273



# Purpose of Hazardous Waste Regulations

To ensure safe storage and proper disposal of hazardous waste and to prevent releases of hazardous waste to the environment.

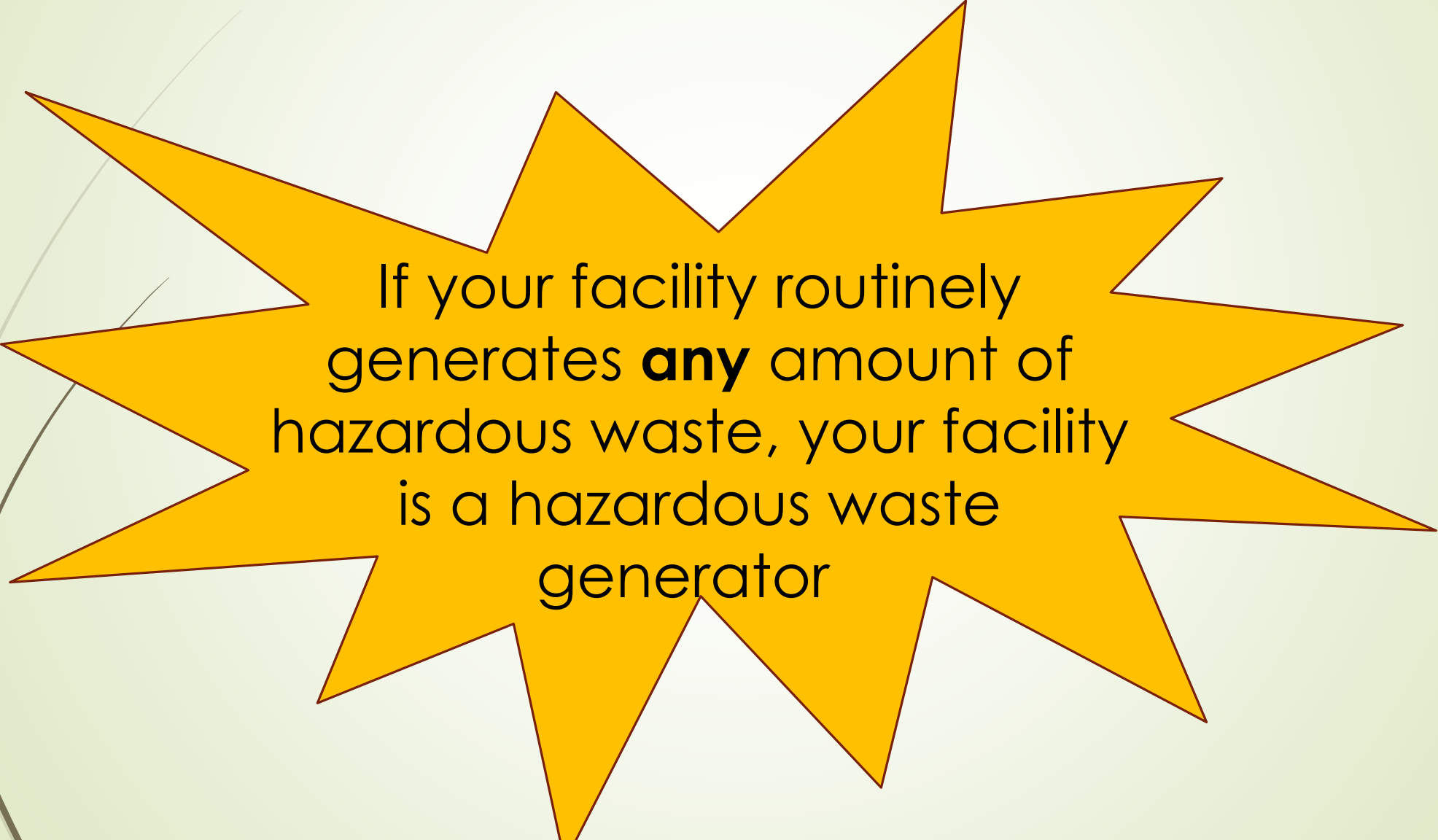
Love Canal, 1978 Niagara Falls, NY – The first Federal Superfund site

Hundreds of families experienced health complications and illness and were forced to evacuate their homes





# Hazardous Waste Program



If your facility routinely generates **any** amount of hazardous waste, your facility is a hazardous waste generator

# Common Hazardous Waste Violations

# Generator failed to properly label all containers or tanks containing hazardous waste as required 22 CCR § 66262.34

- Label must contain:
  - **“Hazardous Waste”**
  - Name & address of business
  - Physical state & hazardous properties of waste
  - Composition / Contents
  - Accumulation start date



# Failure of the HWG to have an active EPA ID number 22 CCR § 66262.12(a)

- An EPA ID number is necessary for all generators of HW (except for HWG <100 kg/month of "silver-only" hazardous waste)
- Federal EPA ID Numbers:
  - >1 kg of RCRA acutely HW/month,
  - >1 kg of other RCRA HW/month
- CA EPA ID Numbers:
  - <100 kg of RCRA HW/month, and/or
  - <1 kg of RCRA acutely HW/month, and
  - Any amount of non-RCRA HW
- **CA HWGs are required to annually verify EPA ID numbers to avoid deactivation**





# Owner/Operator failed to maintain previous 3 years required disposal documentation 22 CCR § 66262.20, 66266.81, HSC § 25250.19

- Copies of signed Uniform Hazardous Waste Manifests
- Copies of Manifests or bill of lading for spent lead acid batteries
- Disposal documentation for used oil

A blank, white Uniform Hazardous Waste Manifest form. The form is divided into several sections with headings and sub-headings, including fields for 'Generator', 'Transporter', 'Receiver', and 'Disposal Facility'. It contains numerous lines for data entry and checkboxes for various regulatory requirements.A photograph of a yellowed, aged, and illegible Uniform Hazardous Waste Manifest form. The text is faded and difficult to read, but the general layout of the form is visible, showing the same sections as the blank form in the adjacent image.

# Failure to send HW offsite for treatment, storage, or disposal within 180/90 days of accumulation

## CESQG

- 180 days from the date 100 kg (220 lbs.) limit is reached

## SQG

- $\leq 180$  days or
- $\leq 270$  days – if generator transports their waste, or offers their waste for transportation,  $\geq 200$  miles for offsite treatment, storage, or disposal 22 CCR Section 66262.34(d)(2) and (3)

## LQG

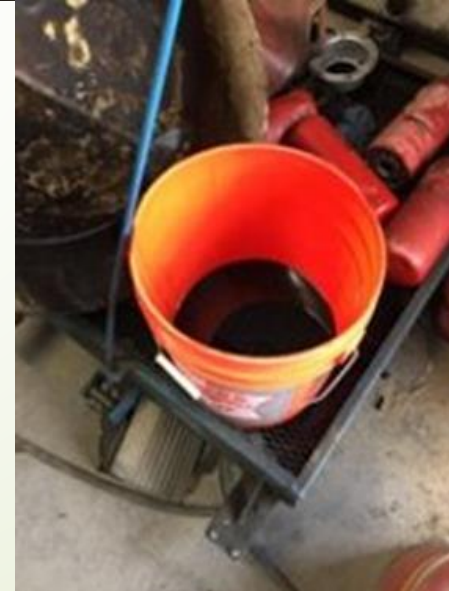
- $\leq 90$  days 22 CCR Section 66262.34(a)



# Failure to close containers of HW except when adding or removing waste

22 CCR § 66262.34

- ▶ A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
- ▶ A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.



# Failure of the HWG to determine whether a waste is a HW and retain waste analysis for 3 years 22 CCR § 66262.11

- Is it a waste?
  - *Is it a hazardous waste?*
- A person who generates a waste shall determine if that waste is a hazardous waste by:
  - Testing the waste via approved methods (This analysis must be retained for 3 years)
  - Applying generator knowledge of the hazard characteristic of the waste in light of the materials or processes used and the characteristics of the waste

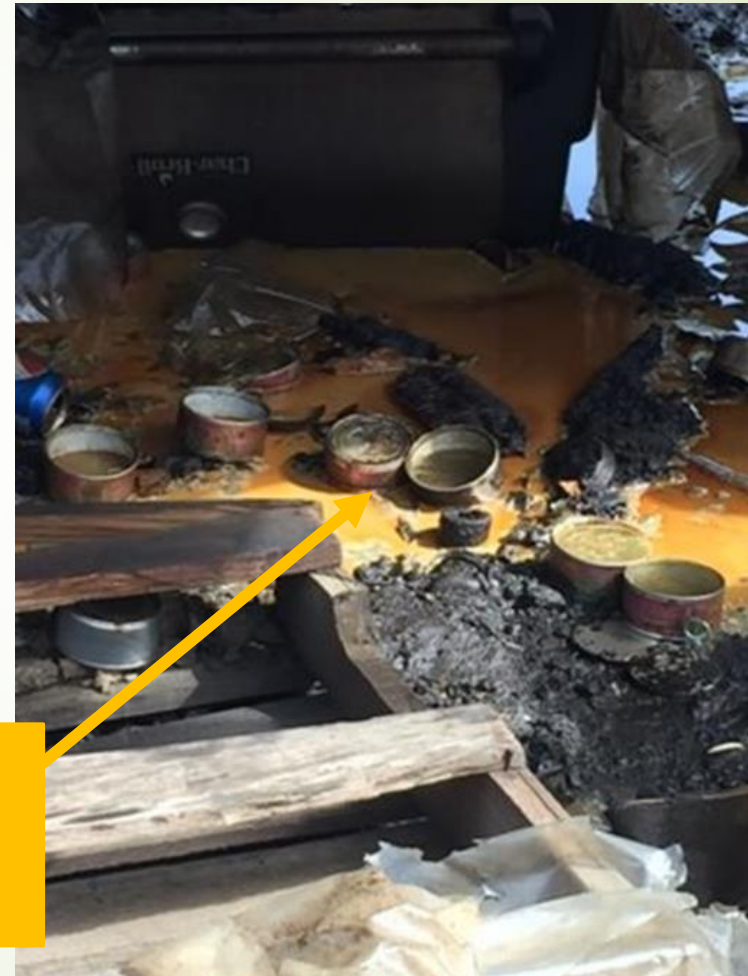




# IMPORTANCE OF HW DETERMINATION



**Hazardous  
Waste?**



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# CalARP Program

# CalARP Program

- A business handling quantities of a regulated substance listed in the regulations at or above established thresholds must develop a Risk Management Plan (RMP)
- An RMP is a detailed engineering analysis of the potential accident factors present at a business and the mitigation measures that can be implemented to reduce this accident potential





# CalARP Program

CalARP is the Federal Risk Management Plan Program with additional state requirements, including an additional list of regulated substances and thresholds

## Statute

- California Health & Safety Code (HSC) Division 20, Chapter 6.95, Article 2 (authorize the program)

## Regulation

- California Code of Regulations, Title 19 (19 CCR or “Title 19”) Division 2, Chapter 4.5 (contain the regulations for the program)

# Common CalARP Violations

# CalARP Violations

## **Violation: Failure to Perform Required Inspections and Tests**

### **19 CCR 4.5 2755.5(d) & 19 CCR 4.5 2760.5(d)**

The owner or operator shall perform or cause to be performed inspections and tests on process equipment. Inspection and testing procedures shall follow recognized and generally accepted good engineering practices. The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturer's recommendations, industry standards or codes, good engineering practices, and prior operating experience.

- 19 CCR 4.5 2755.5(d): Program 2
- 19 CCR 4.5 2760.5 (d): Program 3
- Programs are defined by the complexity, accident history, and potential impact of releases of regulated substances.

# CalARP Violations

## Violation: Failure to Perform and Respond to Compliance Audit **19 CCR 2755.2(e) & 19 CCR 2755.6(d)**

a) The owner or operator shall certify they have evaluated compliance with the provisions of this article at least every 3 years to verify that procedures and practices developed under this chapter are adequate and are being followed.

a) The owner or operator shall promptly determine and document an appropriate response to each of the findings.

- This is an internal audit developed by the owner/operator and performed by a knowledgeable person
- Just because the audit is complete doesn't mean the work is done
- Issues must be resolved no later than 1.5 years after the audit was performed
  - Time may vary depending on item turnaround and CUPA involvement
- Actual completion date must be documented
- Maintain the 2 most recent audits

# Return to Compliance



# Return to Compliance Process

- **Violations must be corrected within 30 days of receipt** (unless specified otherwise)
- Compliance can be confirmed through a follow-up inspection or through the provision of required documentation
- Once all cited violations have been corrected, an inspector will issue a Summary of Return to Compliance form



The form is titled "SUMMARY OF RETURN TO COMPLIANCE REPORT" and "OFFICIAL NOTICE". It is from the Stanislaus County Department of Environmental Resources, located at 3000 Cornucopia Way, Suite C, Modesto, CA 95358. The form includes fields for Owner, Operator, Facility, Address, Phone Number, EPA#, Date, and Program (with options for APSA, CalARP, HMSP, HW Generator, UST, and Other). A large blue rectangular area is provided for the inspector's report. At the bottom, there is a disclaimer about the 30-day correction period and a charge of \$123 per re-inspection if violations are not corrected. The form also has fields for the Inspector's and Receiver's signatures.

STANISLAUS COUNTY  
DEPARTMENT OF ENVIRONMENTAL RESOURCES  
3000 Cornucopia Way, Suite C, Modesto, CA 95358  
Phone: (209) 525-6700 Fax: (209) 525-6774

SUMMARY OF RETURN TO COMPLIANCE REPORT  
OFFICIAL NOTICE

Owner: \_\_\_\_\_ Operator: \_\_\_\_\_  
Facility: \_\_\_\_\_ Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ EPA#: \_\_\_\_\_ Date: \_\_\_\_\_  
Program: ☐ APSA ☐ CalARP ☐ HMSP ☐ HW Generator ☐ UST ☐ Other

CONSENT TO ENTER GIVEN BY: \_\_\_\_\_

This facility \_\_\_\_\_ is not in compliance with all regulatory and statutory requirements. Deficiencies listed must be corrected within \_\_\_\_\_ days. Stanislaus County Ordinance requires a charge of \$123 per re-inspection of your facility if violations are not corrected by the noted date.

INSPECTOR: \_\_\_\_\_ RECEIVED BY: \_\_\_\_\_  
(Print) (Signature)

# Questions?¿?¿

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Direct: (209) 525-6772

*Thank you!*