



Avoiding UST Enforcement

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Our Goal

- The purpose of the UST Program is to protect public health and safety and the environment from releases of petroleum and other hazardous substances from tanks.
- Protect the waters of the state
- No we're not just looking for excuses to collect fees...



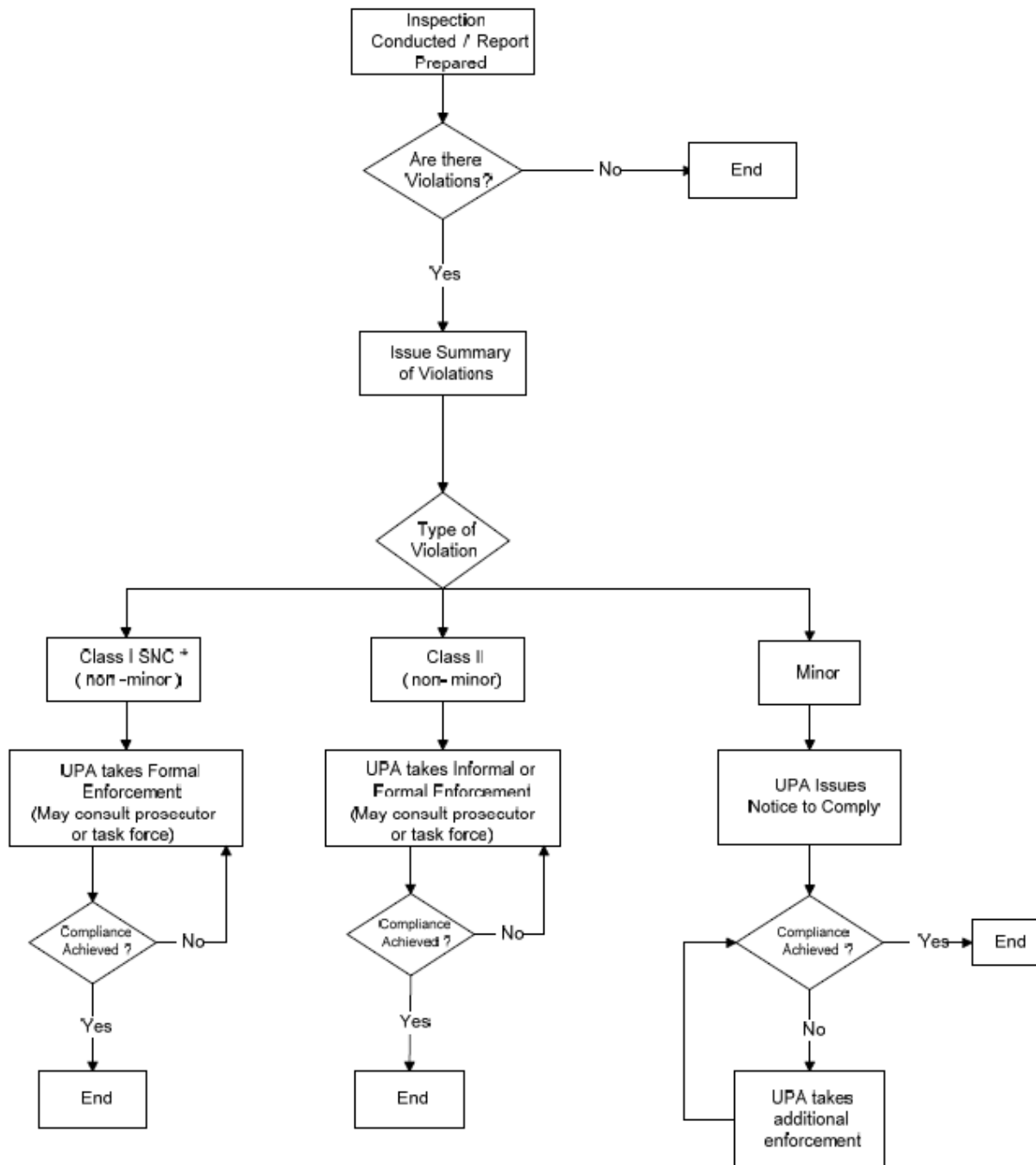
Meeting our Goal

- To help us meet our goal we implement and enforce laws and regulations primarily found in:
 - CCR, Title 23, Division 3, Chapter 16
 - Health & Safety Code, Chapter 6.7
- We issue violations when businesses fail to comply with these statutes and regulations
- When violations are egregious, repeated, or ignored we turn to enforcement



Purpose of Enforcement

- Obtain compliance
- Fairness
- Protection
- Deterrence



Types of Enforcement

- Formal
 - Administrative Enforcement Order
 - Civil
 - Criminal
- Informal
 - Notice to Comply/Notice of Violation
 - Written warnings
 - Office Hearing
 - Reinspection

Formal Enforcement

Administrative Enforcement Order (AEO)

- Pursued by the enforcement agency
- AEO action can include
 - Administrative order (for action, i.e., clean up, Supplemental Environmental Projects)
 - Monetary penalties
 - Suspension/revocation of permit(s)

Formal Enforcement

Civil

- Fielded through court system
- Civil action can include
 - Monetary Penalties
 - Injunction

Formal Enforcement

Criminal

- Also goes through court system
- Trial by jury, sentencing by judge
- Sentencing involves
 - Fines
 - Probation
 - Imprisonment
 - Combination
- Dependent on
 - Knowing=intentional=willful
 - Negligence

Avoiding Enforcement

Easiest way to avoid enforcement is maintain compliance

- Understand UST laws, regulations, requirements
- Complete routine testing
- Maintain paperwork
- Maintain UST monitoring equipment
- Practice due diligence
- Hire a good designated operator (DO) and third party contractors

Non-Compliance="Unleveled Playing Field"=Economic Advantage

- Operating without a permit or not pulling a plancheck permit, not paying permit fees
- Not completing SCT, ELD, AMC, etc. on time
- Tampering with the UST monitoring system
- Short term you save money, but long term you spend \$\$\$ when damage occurs or you get caught and have to pay penalty fees

General Violations that will Result in Enforcement Action

- Tampering
- Falsification of results
- Certain repeat violations
(unaddressed alarms, no CFRs, incomplete reports, failure to conduct required periodic testing, etc.)

Violations Likely to result in Enforcement

- Operating without valid permits
- Missing/Incomplete paperwork
- DO/Contractors/Technicians not certified
- Inaccurate information on monitoring certifications
 - i.e., wrong sensor model numbers, new inspector might think no permit pulled for change of sensor and charge double plan check permit fees
- Wrong dates (i.e., wrong SCT date)
 - May result in more frequent SCT testing \$\$\$ or less frequent testing \$\$\$ advantage over others and inaccurate gage of condition of the system
- Certification of different or non existent equipment
 - i.e., passing results for wet annulars on a SCT result form or certification of mechanical LLD if site only has electronic LLD
 - Use of templates

Violations Likely to result in Enforcement (continued)

- Sensor not at lowest point
- Conducting work without a permit and the work is not acceptable
- Non functional monitoring equipment
- Failed testing results
- Failure to make necessary repairs
- Failure to address alarms

Conclusion

- Several attempts are made before a site ends up in enforcement
- When we cannot obtain compliance, we turn to enforcement
- Generally, enforcement costs a lot of money
- Avoid enforcement by keeping up with the laws/regulations
- Contact your area inspector for assistance



Thank you!

Questions???