

ATTACHMENT A-2

Industrial and Hazardous Waste

The following violations are SNC violations for which TCEQ has agreed with EPA to take formal enforcement action upon discovery of the violation (Category A8).

b. Industrial and Hazardous Waste

SNCs are those violators* that have caused actual exposure or a substantial likelihood of exposure to hazardous waste or hazardous waste constituents; are chronic or recalcitrant violators; or deviate substantially from the terms of a permit, order, agreement or from RCRA statutory or regulatory requirements. In evaluating whether there has been actual or likely exposure to hazardous waste or hazardous waste constituents, one should consider both environmental and human health concerns. Environmental impact or a substantial likelihood of impact alone is sufficient to cause a violator to be a SNC, particularly when the environmental media affected requires special protection (e.g., wetlands or underground sources of drinking water). Additionally, when deciding whether a violator meets this criterion, one should consider the potential exposure of workers to hazardous waste or hazardous waste constituents.

*Violators are "persons" within the meaning of RCRA §1004(15).

Additional guidance on SNCs may be found in the EPA's "Hazardous Waste Civil Enforcement Response Policy".

Note: Chronic or recalcitrant violators and substantial deviations are addressed by the application of the criteria in this document. If a facility is found to be in violation but is not designated a SNC, then it is designated a secondary violator (SV). An informal enforcement response is the minimally appropriate enforcement response for all SVs but the implementing agency can choose to take a formal enforcement response as it deems appropriate. An informal enforcement response is a non-formal action that notifies the violator of its violations (NOV). If the violator does not come into compliance within 240 days of Day Zero (investigation date), then the implementing agency should re-classify the facility as a SNC, if appropriate (based on management concurrence), in accordance with EPA's Response Time Guidelines.