

## Stanford gets steady flow of toxic citations

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In a pattern state investigators find troubling, Stanford University has continued to be cited for hazardous waste violations as it negotiates a fine one regulator said could reach \$1 million.

Within the past few months, authorities have cited Stanford for 11 instances of improperly handling hazardous materials. These include mixing reactive chemicals and inadequate training of employees.

The violations follow more than 50 citations dating back to 1988, for everything from keeping wastes in rusting and mislabeled containers to falsifying records.

The state's inspections came after a university-commissioned audit criticized Stanford's lax handling of hazardous substances.

Regulators call the situation one of striking seriousness.

The latest violations are "part of the overall pattern of problems at Stanford," said Allan Hirsch, a

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# State inspectors allege Stanford toxic violations are 'major, major'

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spokesman with the state Department of Toxic Substances Control, part of the Environmental Protection Agency. "We don't see it as an isolated matter."

Calling it a "major, major case," Hirsch said, "maybe once a year or once every several years we'll deal with a case of this magnitude."

He declined to speculate what Stanford's penalty might end up as but added that technically the school could be fined up to \$25,000 per day per violation. An official in the department, who asked not to be identified, estimated that the university might end up paying \$1 million.

University administrators defended the school's environmental safety record.

"We are working very hard to clarify things and solve anything (state inspectors) have raised," said John Holmes, associate director of Stanford's environmental health and safety department.

As Stanford and state lawyers hash out a settlement, an internal university memo has emerged that raises questions about Stanford's commitment to environmental safety laws.

In the 1991 memo, Stanford's manager of lab safety wrote that faced with "increasingly stringent requirements," the university has tiptoed the line between compliance and non-compliance "primarily by maintaining excellent professional working relationships with the regulators."

For the future, manager Peter Burnes wrote, "the most likely course will be one demanding more attention and resources allocated, both centrally and locally, to maintain marginal non-compliance."

### Memo surfaces in lawsuit

The memo, sent to former Environmental Health and Safety Director Tom McBride, has surfaced as a central document in a lawsuit by a health and safety engi-

neer against the university. Gary Schell contends the memo shows Stanford is intentionally skirting state law. He also claims Stanford has tried to muzzle his reporting of safety violations.

Schell sued the university last year after his pay was cut and he was denied promotions. Stanford, he said, was retaliating after he complained to his bosses and regulators about safety violations.

Schell is seeking about \$70,000 and punitive damages and wants Stanford to give stronger enforcement powers to its health and safety officers. "What we have is knowing and intentional deception," said Schell's lawyer, John Shaffer, contrasting the language of the memo with earlier promises by the university to improve its hazardous waste management.

The university denies Schell's charges.

Stanford attorney Mike Vartain said Schell had been given a temporary pay supplement in connection with certain duties and understood that it could be discontinued. "It had nothing to do with his providing information to OSHA (the state's occupational safety agency)," he said. "That was part of his job duties."

The memo's author, Burnes, said only that he wrote it to ward off university budget cuts.

Stanford administrators said Burnes' words were simply a poor choice. "What he meant was compliance but at the most cost-effective level," said McBride, the former environmental safety director. "The memo sounds like somehow Stanford's trying to get away with non-compliance. That is not the case."

### 'PR approach' alleged

But Ted Smith, executive director of the Silicon Valley Toxics Coalition, an environmental watchdog group, said the memo suggests Stanford takes "a PR approach instead of improving its environmental management." Many Silicon Valley companies probably take a similar approach, he said, "but I've never seen a

## STANFORD VIOLATIONS

The state Department of Toxic Substances Control has cited Stanford for a series of hazardous waste violations in the past five years:

- **November 1991** — Stanford is cited for 25 violations dating back to 1988 and 1989, including improper storage of hazardous waste, storing waste in a leaking container, inadequate training of hazardous-waste employees, inadequate inspections and improper labeling of containers. It recommends a \$186,000 fine against Stanford.
- **March 1992** — Stanford assures the state that it has corrected the problems.
- **April, May 1992** — State inspections on seven different days reveal hundreds of containers of hazardous waste, badly rusted, outdated, unlabeled, mislabeled or improperly stored.
- **December 1992** — As a result of the spring inspections, the state cites Stanford for 28 violations of hazardous waste control laws and says that the university "intentionally or negligently falsified inspection records" and downplayed the possibility of resulting fires or explosions.
- **August 1993** — State finds six violations of improper storage and labeling of hazardous waste and inadequate training of employees.
- **September 1993** — A Stanford hospital employee mixes two chemicals that cause a chemical reaction and pours them down the drain to the sanitary sewer. The state cites Stanford for five violations.

Source: Department of Toxic Substances Control

document that admitted that." Regulators were divided over the memo.

"Minimal compliance is all we ask of anybody," said Jim Blakey, a supervising hazardous materials specialist with the Santa Clara County Department of Environmental Health. "You meet the code, you meet the code."

The county's weekly facilities inspections have generally found nothing more serious than lapses in paperwork and labeling that the university has corrected when told of them, he said.

John Duncan, deputy director of the state Department of Industrial Relations, which also oversees Stanford's labs, disagreed. "Safety officers should not be in the business of advocating marginal non-compliance, particularly in writing," he said. "It's an invitation for a visit from us."

A year after the memo was written, state inspectors found "literally hundreds and hundreds" of rusting and unlabeled containers of hazardous waste at Stanford — some containing such nasty substances as the corrosive, sulfuric and hydrochloric acid; cancer-causing asbestos and benzene; and the poison, cyanide.

University officials contend that Stanford is a special case because unlike industry, it uses small quantities of a variety of chemicals. Stanford's thousands

of labs are "like running 300 or 400 companies," lawyer Vartain said.

Of 8,000 companies, industrial sites and other institutions overseen by the state toxics department, Stanford is the only university that requires a department permit because of how much and how long it stores chemicals and other hazardous substances, Hirsch said.

To oversee all that, it assigns 50 employees and almost \$6 million a year.

The university beefed up its health and safety operation and named McBride as director in 1988, after Jon Moldestad, a top safety director, sued Stanford for mismanagement, waste, intimidation and coverup in its environmental safety.

McBride defended his former department's record, saying it is nearly impossible to reach total compliance with regulations.



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*Mercury News Staff Writer John Hubner contributed to this report*