

Self-Disclosure Policy and the Federal Government

Federal Environmental
Symposium East

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Audit Policy

- The EPA [Audit Policy](#), "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations," has been in effect since 1995
- To encourage regulated entities to voluntarily discover, disclose, correct, and prevent violations of federal environmental requirements



Purpose of the Audit Policy

- To enhance protection of human health and the environment by encouraging regulated entities to voluntarily discover, disclose, correct and prevent violations of federal environmental requirements
- As incentive, EPA will forgo all gravity based (non-economic benefit) penalties when the regulated entity satisfies all policy conditions



Purpose of the Audit Policy (cont.)

- As incentive, EPA will forgo all gravity based (non-economic benefit) penalties when the regulated entity satisfies all policy conditions



Conditions

- The violation was identified voluntarily
- The violation was discovered through:
 - an environmental audit; or
 - an environmental management system
- (75% reduction possible otherwise)



Conditions

- Promptly disclose violations in writing to EPA (within 21 days of discovery)
- In USEPA Region III, send to:
Samantha P. Beers, Director
Enforcement, Compliance and Environmental
Justice (3EC00)
USEPA Region III
Philadelphia, Pennsylvania 19103

Conditions

- Must promptly correct violations (usually within 60 days)
- Correcting the violation includes remediating any environmental harm associated with the violation, as well as implementing steps to prevent a recurrence of the violation



The Policy Excludes

- Violations that result in serious actual harm or present an imminent hazard to public health, safety, or the environment
- Repeat violations (within three years)



The Policy Excludes

- Violations identified through any legally mandated monitoring or sampling requirement prescribed by statute, regulation, permit, judicial/administrative order or consent agreement
- Violations that are part of a pattern of similar violations across a multi-facility organization within the past five years



The Policy Excludes

- Criminal violations of individuals (entities generally exempt)



Audit Agreements

- Audit agreements allow EPA and the 'facility' to reach mutually acceptable terms regarding schedules for conducting the audit, and disclosing and correcting any violations discovered



Advantages of Audit Agreements

- More time to disclose and correct violations
- Other flexibility can be built into agreement to meet needs
- Single point of contact for all environmental regulatory issues



Steps to Negotiate an Audit Agreement

- Contact EPA for current model agreement
- Submit commitment letter
- EPA submit draft agreement
- EPA discusses comments, if any, with facility
- Draft agreement developed for final review
- Final agreement signed



How to Disclose

- Submit disclosure under the Audit Policy, in writing within 21 days of discovery or
- Submit disclosures pursuant to deadlines in a negotiated auditing agreement



The Numbers

- In 2007, around 500 self-disclosures were processed nation-wide
- Guess how many Federal Facilities?
 - One (1)
- Amount of Gravity penalty waived
 - \$34,000,000



Our First Agreement

- Bureau of Prison
 - 16 facilities included in the agreement
 - Flexible schedule



Thank you !!!

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