

US EPA ARCHIVE DOCUMENT

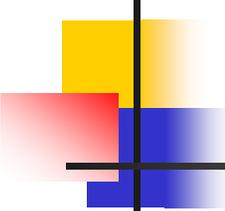
Overview of EPA's Audit Policy

(i.e., Voluntary Self-Disclosures)



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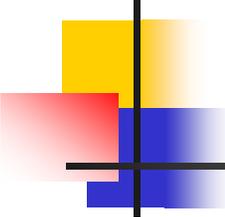
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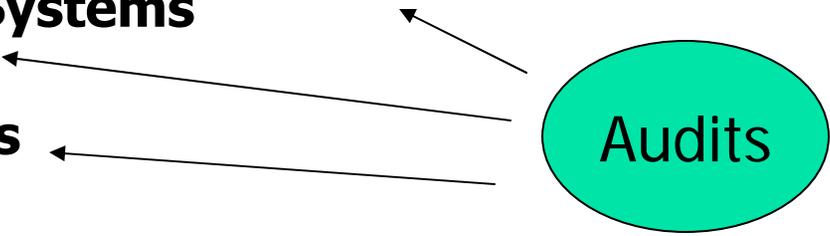
EPA Compliance Assurance

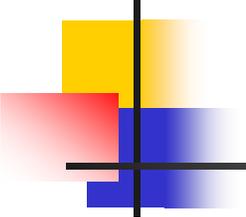
- **EPA is responsible for maximizing compliance to a universe of 40 million regulated entities using:**
 - 12 federal environmental statutes, and
 - 28 distinct federal programs under those statutes

- **To conduct the work necessary for the 28 programs, OECA utilizes 4 primary tools to pursue compliance, thereby achieving cleaner air, purer water and better-protected lands.**
 - Compliance Assistance
 - Compliance Monitoring
 - Enforcement
 - *Compliance Incentives*



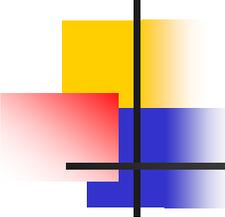
Compliance Incentives

- **Compliance Incentives are a set of policies and programs that eliminate, reduce or waive penalties under certain conditions for business, industry, and government facilities which voluntarily discover, promptly disclose, and expeditiously correct environmental problems. Incentive programs and tools include the following:**
 - **Auditing**
 - **Innovations**
 - **Environmental Management Systems**
 - **Small Business Program**
 - **Pollution Prevention Programs**
 - **Compliance Incentive Programs**
 - **Market Based Incentives**
- 



EPA's Audit Policy

- **The purpose of EPA's Audit Policy is to encourage regulated entities to**
 - *voluntarily discover,*
 - *disclose,*
 - *correct, and*
 - *prevent violations***of federal environmental requirements.**



History of EPA's Audit Policy

- **The Audit Policy is technically known as *“Incentives for Self Policing: Discovery, Disclosure, Correction, and Prevention of Violations”***
- **Original Policy**
 - **60 FR 66706 - Effective January 22, 1996**
- **Revised Policy**
 - **65 FR 19,617 - Effective May 11, 2000**
 - **www.epa.gov/compliance/incentives/auditing/auditpolicy.html**

Summary of Incentives under EPA's Audit Policy

- **Penalty mitigation**
- **No recommendation for criminal prosecution.**
- **No routine requests for audit reports.**

Audit Policy: Penalty Mitigation

- **Civil penalties under the environmental laws generally have 2 components:**
 - an amount assessed based upon the severity or “*gravity*” of the violation, and
 - the amount of *economic benefit* a violator received from failing to comply with the law.

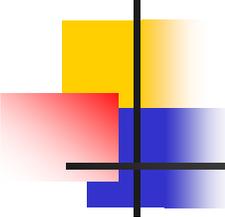
- **Under the Audit Policy,**
 - **No gravity-based penalties (i.e., *100% gravity-based mitigation*) if all nine of the Policy’s conditions are met.**
 - EPA retains its discretion to collect any economic benefit that may have been realized as a result of non-compliance.
 - **Under the Audit Policy, a *reduction of gravity-based penalties by 75%* where the disclosing entity meets all of the Policy’s conditions except detection of the violation through a systematic discovery process.**

Audit Policy: No Criminal Prosecution, No Requests for Audits

- **No recommendation for criminal prosecution for entities that disclose criminal violations if all of the applicable conditions under the Policy are met.**
 - **“Systematic discovery” is not a requirement for eligibility for this incentive, although the entity must be acting in good faith and adopt a systematic approach to preventing recurring violations.**
- **No routine requests for Audits**

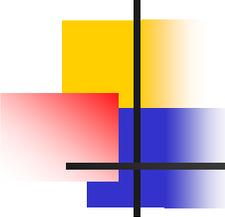
What are the Nine Conditions of the Audit Policy?

- 1. Systematic Discovery of the violation through an environmental audit or a compliance management system.**
- 2. Voluntary Discovery, in other words it is not through a legally required monitoring, sampling or auditing procedure.**



Conditions of Policy *continued*

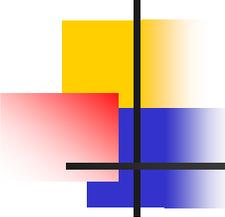
- 3. Prompt Disclosure in writing to EPA within 21 days of discovery or any shorter time required by law. Discovery occurs when any officer, director, employee or agent of the facility has an objectively reasonable basis for believing that a violation has or may have occurred.**



Conditions of Policy *continued*

- 4. Independent Discovery and Disclosure, before EPA likely would have identified the violation through its own investigation or based on information from a third party.**

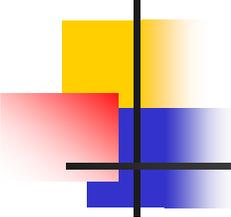
- 5. Correction and Remediation within 60 days, in most cases, from date of discovery.**



Conditions of Policy *continued*

6. **Prevent recurrence of a violation.**

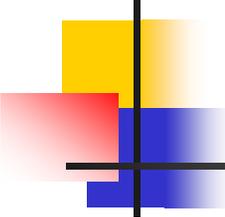
7. **Repeat violations are not eligible, that is violations that occurred within the past 3 years at the same facility or as part of a pattern of violations within the past 5 years at facilities owned or operated by the same company.**



Conditions of Policy *continued*

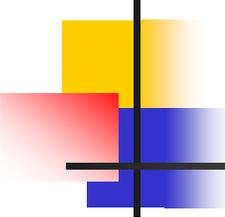
8. **Certain violations are not eligible: Those that result in serious actual harm; that may have presented an imminent and substantial endangerment; or that violate specific terms of an Administrative or Judicial Order or Consent Agreement.**

9. **Cooperation by the disclosing entity is required.**



Corporate Audit Agreements

- **Allows entities, such as Colleges and Universities, to plan a facility-wide audit with an advance understanding with EPA regarding schedules and disclosures.**
- **Key benefit is extended schedule for disclosures beyond the 21-day requirement for routine disclosures.**

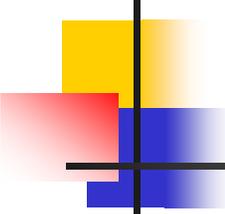


Audit Tool – Audit Protocols

- **Developed by EPA to assist entities in developing compliance audits.**
- **Provide detailed regulatory checklists in easy to understand question format.**
- **Protocols cover: CERCLA, CWA, EPCRA, FIFRA, RCRA, TSCA, SDWA.**
 - <http://cfpub.epa.gov/compliance/resources/policies/incentives/auditing/>

Voluntary Disclosure - To Make a Disclosure Under the Audit Policy:

- **Contact EPA Region where entity or facility is located.**
- **Where multiple Regions are involved, contact EPA HQ.**
- **For criminal violations, contact Regional criminal investigation division, EPA HQ or US Department of Justice.**



For More Information - Contact:

- **Kelly Sisario, EPA Region 4, Enforcement and Compliance Planning and Analysis Branch, Acting Branch Chief**
 - (404) 562 – 9054

- **Paul Schwartz, EPA Region 4, legal**
 - (404) 562 - 9576

- **Leslie Jones, EPA Headquarters**
 - (202) 564 - 5123

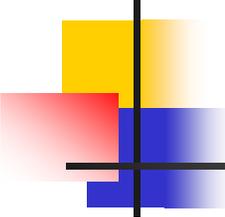
- **James “J.T.” Morgan, EPA Headquarters, Criminal Investigations Division**
 - (202) 564 - 7684

Voluntary Audit Disclosures: Region 4's Process

Letter acknowledging receipt of disclosure will be sent to the facility by EPA within 7 days of receipt of disclosure.

EPA's Review Includes:

- **Determining if disclosure meets nine criteria of Policy.**
- **Requesting additional information, if needed.**
- **Determining whether penalty mitigation is appropriate.**



Voluntary Disclosure History

- **Over the past eight years, 2,438 disclosures under the Audit Policy have been received and settled nationally. These disclosures covered 4,424 facilities.**
- **During this same period, EPA Region 4 received and processed 348 disclosures, covering 528 facilities.**

Disclosures in Region 4 Should be Mailed to:

**Kelly Sisario, Acting Chief
Enforcement & Compliance
Planning & Analysis Branch
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303**