

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

February 2, 2007

Dear College or University Administrator:

For the last several years, the U. S. Environmental Protection Agency's (EPA) inspections of colleges and universities throughout the United States have shown serious violations of environmental regulations, many of which have resulted in large fines. To assist colleges and universities located in EPA Region 4's eight states with increasing their understanding of environmental laws and regulations and improving their overall compliance, we began providing Compliance Assistance Workshops for Colleges and Universities in 2002. EPA Region 4, in partnership with the state environmental agencies, has held seven workshops throughout the region. The most recent workshop, held in September 2006, concluded our planned compliance assistance initiative for the college and university sector.

The purpose of this letter is to now inform you of our second initiative for colleges and universities: **EPA Region 4's College and University Compliance Incentive Initiative**. Through this initiative, we are encouraging colleges and universities to take advantage of EPA's Audit Policy, "*Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations.*" The Audit Policy provides incentives for regulated entities to come into compliance with federal environmental laws and regulations by potentially reducing or waiving gravity-based penalties. These incentives are for those regulated entities that voluntarily discover, promptly disclose, and expeditiously correct non-compliance, making formal EPA investigations and enforcement actions unnecessary. For detailed information about the Audit Policy, please refer to the enclosed Fact Sheet.

Experience has shown that self-audits and self-disclosures under the Audit Policy are often preceded by consultation between EPA and the regulated entity, namely to discuss mutually acceptable disclosure details, compliance, and audit schedules. **If your institution intends to utilize the flexibility offered by the Audit Policy, you must notify EPA Region 4, in writing, no later than thirty (30) days from receipt of this letter.** Your response should be sent to:

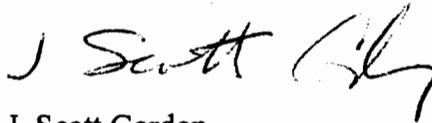
Kelly Sisario, Acting Chief
Enforcement and Compliance Planning and Analysis Branch
Office of Environmental Accountability
U. S. Environmental Protection Agency, Region 4
Atlanta Federal Center (Suite 9T25)
61 Forsyth Street, SW
Atlanta, GA 30303-8960

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Compliance with applicable Federal and State environmental laws is mandatory, while your decision to conduct a self-audit and self-disclose under EPA's Audit Policy is voluntary. Please be aware, however, that targeted inspections of colleges and universities in Region 4 will continue. If these inspections reveal non-compliance, formal federal enforcement action remains likely.

I hope that your institution will choose to take advantage of this self-auditing and self-reporting opportunity because it has the potential to not only make your institution cleaner and safer, but also to lessen funds needed to offset penalties that could possibly result from any future federal enforcement action. Please contact any of the EPA Region 4 staff listed in the enclosed Fact Sheet if you have questions or if we can facilitate your participation in the Audit Policy Initiative.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Scott Gordon". The signature is written in a cursive style with a large, sweeping "G" at the end.

J. Scott Gordon
Acting Associate Director
Office of Environmental Accountability

Enclosure

cc: State Environmental Agencies



U.S. Environmental Protection Agency (EPA)-Region 4 *Fact Sheet for Colleges and Universities: EPA's Audit Policy*

What is EPA's Audit Policy?

The EPA Audit Policy, formally titled *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*, safeguards human health and the environment by providing several major incentives for regulated entities to voluntarily come into compliance with federal environmental laws and regulations. The Audit Policy greatly reduces and sometimes eliminates gravity-based penalties for companies, including educational institutions, which discover, disclose, and correct civil violations through voluntary audits.¹ The policy, with interpretive guidance, is available on the web at the following URL:

<http://www.epa.gov/compliance/incentives/auditing/index.html>

Many regulated entities have found that the Audit Policy provides an excellent opportunity to ensure compliance and resolve violations of environmental requirements. 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.

How Do I Take Advantage of the Audit Policy?

To take advantage of the Audit Policy, a regulated entity would begin by performing a voluntary environmental audit of its operations. An environmental audit is a systematic, documented, and objective review of operations to determine compliance with environmental requirements. Conducting an audit under all applicable environmental statutes would provide the greatest assurance that an institution is in compliance with environmental requirements. However, an institution may choose to perform an audit under those statutes that most directly impact the institution.

After conducting the audit, an institution would identify and disclose in writing any potential areas of noncompliance.² In addition, the Audit Policy's conditions include that the violations be corrected within 60 days of discovery. However, if an institution estimates that more than 60 days will be needed to correct a violation, it should provide, in writing, an explanation as to why more than 60 days will be needed to achieve compliance and the estimated date that a violation will be corrected. EPA, however, retains the authority to order an entity to correct a violation. Finally, the regulated entity must also continue to comply with any existing law or regulation that requires reporting within a

¹ The policy does not apply to violations that are identified through a monitoring, sampling, or auditing procedure that is required by statute, regulation, permit, judicial or administrative order, or consent agreement.

² Disclosures will be handled by EPA-Region 4. Disclosures should be made to Kelly Sisario, Acting Chief, Enforcement and Compliance Planning and Analysis Branch, Office of Environmental Accountability, U.S. Environmental Protection Agency - Region 4, Atlanta Federal Center (Suite 9T25), 61 Forsyth Street, S.W. Atlanta, GA 30303-8960, Phone: (404) 562-9054.

specific and shorter time period (e.g., some spill or leaks of hazardous materials must be reported immediately).³

Please recognize that if specific conditions are met in the self-disclosure, EPA's Audit Policy allows **penalty reductions of up to 100%** for violations that might otherwise be assessed through an EPA enforcement action. However, as noted in the Audit Policy, EPA retains the discretion to collect any economic benefit that may have been realized as a result of noncompliance. The penalty amount that is assessed will be based on the avoided or delayed costs of compliance with environmental requirements. The Agency believes this is necessary to ensure that companies do not gain an economic advantage over their competitors by delaying investment in compliance.⁴

Although the Agency encourages preparation of self-audit reports to help in the discovery and correction of any violations to environmental requirements, institutions are under no obligation to submit the completed audit report to EPA-Region 4. The Region also encourages conducting institution-wide, comprehensive environmental audits at all aspects of educational operations; however, it should be understood that some institutions may not be eligible for Audit Policy consideration because of on-going enforcement activities or because EPA-Region 4 or a State has begun an inspection or investigation or has issued an information request.

Finally, please note that any agreement between EPA-Region 4 and a College or University under the Audit Policy does not preclude the exercise of State authority, including enforcement actions. EPA will consult with State officials to try to avoid duplicative activity. State positions on submissions made under their Self-Audit Policy, if available, is set out in the table enclosed with this Fact Sheet.

What if I Have Questions?

Technical questions about the Audit Policy should be directed to Denisse Diaz at (404) 562-9610 or Wesley Hardegree at (404) 562-9629. Legal questions can be directed to Paul Schwartz at (404) 562-9576.

What Compliance Assistance Materials and Information are Available?

EPA has developed audit protocols that provide summaries of applicable statutes and regulatory requirements to guide environmental auditors through the auditing process. These protocols are optional guidelines and are helpful, but should not supplant any other efforts to identify potential violations. To review these documents, please see the following website:

<http://cfpub.epa.gov/compliance/resources/policies/incentives/auditing/>

Also, MIT has developed an "Environmental Virtual Campus" to assist students, staff, and researchers with regulatory compliance and non-regulatory "green" environmental practices. Please see:

<http://www.c2e2.org/evc/home.html>

³ Because these types of violations are required by law to be disclosed, they are usually not covered by the Audit Policy.

⁴ EPA-Region 4 may elect to waive the penalty altogether if the Agency determines that the amount of economic benefit gained is insignificant. For example, EPA-Region 4 is more likely to exercise such discretion in cases where the violations are relatively minor and/or relatively short in duration.