

OVERVIEW OF EPA'S SELF-POLICING AUDIT POLICY

Voluntary disclosure of a violation is a decision many company managers face. The EPA's audit policy is very clear on self-policing and voluntary disclosure. Companies have a 21 day window to report the violation in writing to the EPA. This window is from the time of discovery to the time of written disclosure to the EPA. The written notice shall identify the means of discovery, type of violation and facility location. This audit policy can be of enormous value to new owners of facilities in which violations were discovered during acquisition due diligence.

The Nine Conditions to be met are:

- Systematic discovery through environmental audits or compliance management programs
- Voluntary discovery not through required monitoring
- Prompt disclosure within 21 days of discovery
- Independent discovery and disclosure
- Correction and remediation within 60 days of discovery
- Prevent reoccurrence
- Repeat violations are ineligible if occurring within 3 years
- Certain types of violations are ineligible
- Cooperation with EPA

In order to be eligible for a civil penalty waiver a company must be in compliance with all nine conditions of the audit policy. Penalties for violations are based on the gravity of the violation and the compliance with the audit policy conditions above. Self disclosure and fast action to remedy the situation are encouraged by the EPA and can result in lower penalties and possibly avoiding criminal prosecution. .

For more information about the EPA's policy log on to
www.epa.gov/compliance/resources/policies/incentives/auditing/auditpolicy.pdf

Individual states may have their own policies for self-policing violations. A side by side comparison is available from the EPA Region 5, Office of Regional Counsel, [Table X, Environmental Audit Immunity Laws and Self-Disclosure Policies: A State-By-State Comparison](#) by John A. Lee and Bertram C. Frey ** and can be found at <http://www.epa.gov/reg5oorc/articles/audit-article/table-x.htm>