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# Compliance

## EPA's Audit Policy

The EPA [Audit Policy \(April 2000\)](#) 65 FR 19,618 (04/11/00), 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.

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To take advantage of these incentives, regulated entities must voluntarily discover, promptly disclose to EPA, expeditiously correct, and prevent recurrence of future environmental violations.

## Summary of Incentives

**Significant penalty reductions.** Civil penalties under the environmental laws generally have two components:

1. an amount assessed based upon the severity or “gravity” of the violation, and
  - a. **No gravity-based penalties 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 noncompliance.
  - b. **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.
2. the amount of economic benefit a violator received from failing to comply with the law.

**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. Refer to the Audit Policy for a complete discussion of issues relating to disclosure of criminal violations.

**No routine requests for audit reports would be made.** EPA reaffirms its [Environmental Auditing Policy Statement](#), in effect since 1986, to refrain from routine requests for audit reports. That is, EPA has not and will not routinely request copies of audit reports to trigger enforcement investigations.

## Making a Voluntary Disclosure Under EPA's Audit Policy

An entity has 21 days from the time it discovers a violation has, or may have, occurred to disclose the violation in writing to EPA. Discovery is 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. Entities should make the disclosure to the EPA Regional Office where the affected facility is located. Voluntary self-disclosures for violations should be sent to the appropriate [Audit Policy Contact](#). In the event of violations affecting more than one Region, entities should contact [EPA Headquarters](#).

The disclosure should at a minimum identify the means of discovery, type of violation, and facility location. EPA encourages companies to review our [Sample Disclosure Follow-Up Letter](#) and the Self-Disclosure Questionnaire in Attachment A of that letter to get a sense of the type of information needed about the violation(s) being disclosed in order to process the submission.

## Conditions for Penalty Mitigation

Entities that satisfy the following conditions are eligible for Audit Policy benefits. Even if your entity fails to meet the first condition - systematic discovery - you can still be eligible for 75% penalty mitigation, and a recommendation for no criminal prosecution of the violations against your entity.

1. **Systematic discovery** of the violation through an environmental audit or the implementation of a compliance management system.
2. **Voluntary discovery** of the violation was not detected as a result of a legally required monitoring, sampling or auditing procedure.
3. **Prompt disclosure** in writing to EPA within 21 days of discovery or such shorter time as may be 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.
4. **Independent discovery and disclosure** before EPA or another regulator would likely have identified the violation through its own investigation or based on information provided by a third-party.

5. **Correction and remediation** within 60 calendar days, in most cases, from the date of discovery.
6. **Prevent recurrence** of the violation.
7. **Repeat violations are ineligible**, that is, the specific (or closely related) violations have occurred at the same facility within the past 3 years or those that have occurred as part of a pattern at multiple facilities owned or operated by the same entity within the past 5 years; if the facility has been newly acquired, the existence of a violation prior to acquisition does not trigger the repeat violations exclusion.
8. **Certain types of violations are ineligible** such as those that result in serious actual harm, those that may have presented an imminent and substantial endangerment, and those that violate the specific terms of an administrative or judicial order or consent agreement.
9. **Cooperation** by the disclosing entity is required.

## Additional Information about the Audit Policy

Please refer to the [Audit Policy \(April 2000\) \(PDF\)](#) (10 pp, 294K, [About PDF](#)) "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations", 65 FR 19,618 (04/11/00) for a more detailed discussion of eligibility and the application of the Audit Policy. Additional information about the Audit Policy and its use is available from the following:

- Questions and Answers concerning U.S. EPA's Audit Policy (also called Self-Disclosure Policy).
  - [Audit Policy Interpretive Guidance \(January 1997\)](#) This guidance was developed to answer frequently asked questions regarding the implementation of the original Audit Policy issued in 1995 (60 FR 66,706 (December 22, 1995).
  - [Audit Policy: Frequently Asked Questions 2007](#) This document describes the differences between the original Audit Policy and the 2000 Policy and is intended to supplement the 1997 Interpretive Guidance.
- [EPA's Interim Approach to Applying the Audit Policy to New Owners](#) describes tailored Audit Policy incentives for new owners that want to make a "clean start" at their recently acquired facilities by addressing environmental noncompliance that began prior to acquisition.
- Other Policies Related to Audits and the Audit Policy
  - [Environmental Compliance Audits as a Component of Injunctive Relief in Enforcement Settlements \(7/25/02\)](#)
  - [Confidentiality of Information Received Under Agency's Self-Disclosure Policy \(1/16/97\)](#)

- **Corporate Audit Agreements**  
A Corporate Audit Agreement allows an entity (such as corporation, university or other organization with many facilities or facility locations within its authority) to plan a corporate-wide or facility-wide audit. This is with an advanced understanding between the entity and EPA regarding schedules for conducting the audit and disclosing violations beyond the current 21-day disclosure requirement for single-facility disclosures. In return for the advanced agreement of an audit and disclosure schedule, the facility would receive the benefits of EPA's Audit Policy as applicable.
- **Audit Protocols**  
Audit protocols assist the regulated community in developing programs at individual facilities to evaluate their compliance with environmental requirements under federal law. The protocols are intended solely as guidance in this effort. The regulated community's legal obligations are determined by the terms of applicable environmental facility-specific permits, underlying statutes and applicable state and local law.
- **Audit Policy Self-Disclosure and Regional Contacts**  
Once a violation has been discovered, a company has 21 days from the time of that discovery to disclose in writing the violation to EPA. The initial disclosure should identify the means of discovery, type of violation, and facility location.

## **Sample Documents for Use in Self-Disclosing Environmental Violations under EPA's Audit Policy**

- **Sample Status Report**  
Some companies have used this report to provide information to EPA during the course of conducting an audit. The initial report, and subsequent periodic progress reports, have helped identify issues early in the auditing process and assisted in the overall progress of the audit.
- **Sample Disclosure Follow-up Letter**  
This is an example of what the Agency sends a company after receiving a self disclosure pursuant to EPA's Audit Policy. The letter provides companies with clear guidance on the kind of information needed by EPA to better understand the potential violations and determine whether a company's disclosure meets the conditions of the Audit Policy.

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