



AUDIT POLICY UPDATE

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Office of Regulatory Enforcement

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Outreach Programs Expand Use of EPA's Audit Policy

2,000 Tons of Volatile Organic Compounds Reduced From Petroleum Above-Ground Storage Tanks

Disclosures under EPA's Audit Policy continued to reach record levels in 2000 as the Agency promoted the disclosure and correction of violations in specific sectors.

The Agency continues to promote compliance through the use of the Audit Policy, and has extended its applicability recently to a number of priority areas and sectors such as:

- ① Above-ground storage tanks
- ② Wetlands
- ③ Universities
- ④ Nitrate compounds
- ⑤ 'Non-road' engines
- ⑥ Grain producers
- ⑦ Telecommunications companies

- ⑧ Airlines
- ⑨ Iron and steel 'minimills'

In fiscal year 2000 alone, more than 425 companies disclosed potential violations at nearly 2,200 facilities. More than 215 companies corrected and received penalty relief for violations at approximately 435 facilities in 2000, as well as 72 companies and 455 facilities in the first quarter of 2001. These numbers represent a continuing increase in the number of disclosures made annually under the Audit Policy.

Since 1995, when the Audit Policy became effective, more than 1,150 companies have disclosed potential

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EPA Revises Audit, Small Business Policies

To expand its regulatory compliance incentives program, EPA recently revised its two self-disclosure policies, the Audit Policy and the Small Business Compliance Policy.

After a two-year evaluation, EPA revised the policies based on extensive public outreach and the Agency's experience in handling self-disclosure cases. Businesses that meet policy conditions are eligible for penalty reductions and waivers and other benefits; however, both policies prohibit benefits to companies for certain violations, such as those that may result in serious harm or risk, those that reflect repeated noncompliance, or those in which corporate officials condone criminal behavior. In addition, the policies allow EPA to recover economic benefits from violating companies to ensure businesses that comply with environmental laws are not put at a competitive disadvantage by those not complying.

Key revisions to the Audit Policy include lengthening the amount of time from 10 to 21 days that entities have to disclose a violation after it is discovered; clarifying

See "Policies Revised"
on page 2

Snapshot

Results of Recent Audit Policy Programs

- ✓ Volatile Organic Chemicals Reduced: **2,021 Tons Annually**
- ✓ Wetlands Acreage Restored: **2,000 plus**
- ✓ TRI Reporting of Nitrate Compounds—Companies Reporting 1st Time or Correcting Form Rs: **135**
- ✓ New Spill Prevention, Control and Countermeasure Plans: **246**
- ✓ Sulfuric Acid, Diesel Fuel, Lead Reported to Emergency Responders: **5.5 Million Pounds**
- ✓ Carbon Monoxide Reduced: **644 Tons Annually**

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and submitted more than 9,000 late or corrected Form Rs. **Contact Tom Marvin, EPA HQ, (202) 564-4282.**

5 Non-road Engines

In FY2000, EPA received disclosures affecting more than 2,200 illegal nonroad engines. The CAA requires that nonroad engines imported into the United States display labels certifying that they meet federal emission standards. EPA investigations at several U.S. ports, conducted in cooperation with the U.S. Customs Service, suggest that a number of imported engines fail to meet these labeling requirements, and a subset are not meeting emission standards. These "gray market" engines undermine the nation's air quality goals and put law-abiding equipment dealers at a competitive disadvantage.

EPA has taken many steps to bring industry into compliance such as audit settlements with importers and responding to industry requests for increased enforcement against illegal imports. For first-time violators, EPA's goal is to achieve a settlement that includes a requirement for the violator to conduct an audit and correct all prior

violations of the regulations.

All uncertified engines must be exported, but label violations may be corrected once EPA determines that the engine is certified. When uncertified engines are imported in equipment, the importers are required to correct violations by exporting the uncertified engines and providing a new certified replacement engine to the end user. **Contact Mark Siegler, EPA HQ, (202) 564-8673.**

6 Grain Producers

In November 2000, EPA Region 7 issued letters to grain processing facilities inviting them to voluntarily audit for and correct violations of the CAA's New Source Review (NSR)/Prevention of Significant Deterioration requirements.

Demand for products from this sector has steadily increased in the past decade. Existing facilities may have increased capacity by modifying process units or building new ones to meet this new demand. Increased capacity may trigger the need to obtain pre-construction permits under the CAA.

Participants will have about six months to complete an air compliance audit and disclose any potential areas of noncompliance to EPA.

Region 7 has identified the grain processing sector as an enforcement priority for 2001. EPA plans to increase overall inspections of grain processing facilities. **Contact Jan Lambert, EPA Region 7, (913) 551-7003,**

7 Telecommunications Industry

In 2000, EPA continued to encourage telecommunications companies to voluntarily disclose and promptly correct compliance problems.

In October, five companies disclosed 3,457 environmental

violations from 1,122 of their facilities in 45 states and the District of Columbia.

Under the proposed settlements, the companies will pay a total of \$329,426, the amount saved by delaying compliance with EPCRA, SPCC requirements, CAA, and RCRA. The companies and their violations included: AirTouch Communications, Inc.; EPCRA and CWA SPCC; AT&T Corp.; CAA and SPCC; AT&T Broadband, LLC. EPCRA and SPCC; NEXTLINK Communication, Inc.; EPCRA, SPCC, CAA, and RCRA; and Qwest Communications International, Inc.: EPCRA, SPCC and CAA.

Remedial actions for these companies' violations include notifying local emergency planning committees of the presence of hazardous chemicals, preparing spill prevention plans, applying for permits to construct or install standby generators, maintaining records for appliances containing more than 50 pounds of refrigerant, repairing refrigerant leaks from heating, ventilation and air conditioning units, and obtaining a letter of financial assurance demonstrating financial responsibility for corrective action or damage caused by sudden accidental releases from underground storage tanks.

Since the outset of this initiative, EPA reached penalty settlements under its Audit Policy with 24 telecommunications companies that voluntarily disclosed and corrected more than 6,200 environmental violations at more than 2,200 facilities. The companies received a 100 percent waiver of the gravity-based penalties, totaling more than \$32 million, that otherwise could have been assessed. These companies paid approximately \$607,000 in penalties in recent

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settlements—the amount of the economic benefit they realized through noncompliance.

These responsible companies have ensured 246 facilities now have SPCC plans in place and have reported to emergency responders and planners more than 2.3 million pounds of diesel fuel, 2.1 million pounds of sulfuric acid, and 1.4 million pounds of lead present at their facilities. *Contact Phil Milton, HQ, EPA, (202) 564-5029.*

8 Airlines

Following American Airlines' voluntary disclosure of Clean Air Act fuel standards violations in 1999, EPA sent letters to all major domestic airlines inviting them to audit and self-disclose violations. The goal was to heighten the awareness of the airline industry's environmental obligations to comply with CAA federal fuel standards, CWA storm water and spill prevention requirements, and EPCRA emergency releases reporting. In addition, EPA informed facilities of the availability of compliance information on the Transportation Environmental Resource Center (TERC) and provided highlights of applicable regulations to assist in

self-audits.

Seven airlines and one fuel supplier self-disclosed violations, five of which were settled. EPA also initiated four other investigations against two airlines and their fuel suppliers.

Last year, under the Agency's Audit Policy, EPA and American Airlines (AMR Corporation) entered into a settlement that is expected to eliminate nearly 700 tons of pollutants from the air annually. American Airlines reported the use of a high-sulfur fuel in motor vehicles at 10 major airports around the country in violation of the Clean Air Act. Under the settlement, EPA cut total penalties by more than 90 percent for

Questions About the Audit Policy?

If you have questions about EPA's Audit Policy or its applicability to specific situations, contact EPA's Audit Policy Coordinator, Leslie Jones, at (202) 564-5123. Questions may be asked without disclosing the name of the client or company.

In addition, EPA's Quick Response Team (QRT) may be consulted as a resource for cases

of first impression. Chaired by Leslie Jones, the QRT is made up of representatives from EPA Headquarters, Regions, and the Department of Justice.

The QRT was developed to ensure that determinations for eligibility under the Audit Policy are expeditious, fair and consistent nationally.

violations that the airline voluntarily disclosed and promptly corrected. The company also agreed to additional pollution reduction measures at Boston's Logan Airport. *Contact Jocelyn Adair, EPA HQ, (202) 564-1011.*

9 Iron and Steel Minimills

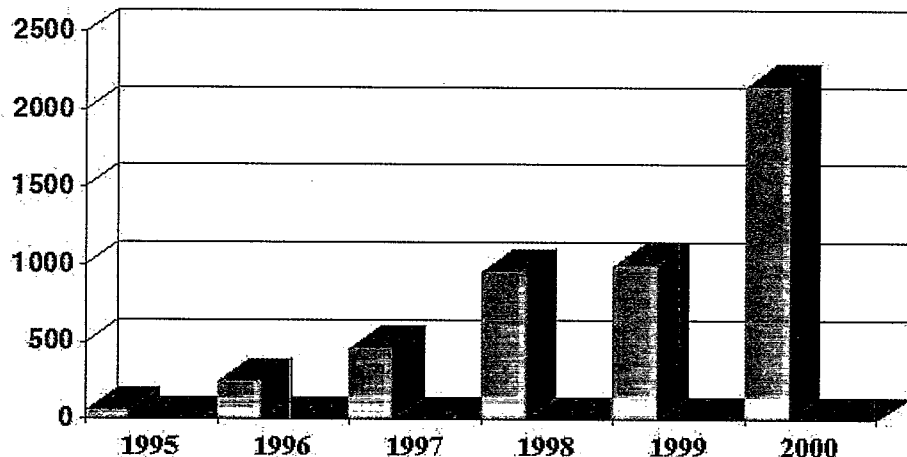
In August 2000, EPA sent letters to 41 minimills inviting them to participate in a voluntary audit and self-disclosure program based on the Audit Policy.

As a result of Agency investigations during the past few years, EPA has become increasingly concerned that serious, substantive violations of federal environmental regulations are occurring at some minimills.

Companies that chose to disclose violations had until Feb. 28, 2001, to do so. Not all minimills were sent such letters—some were excluded from the program because of ongoing investigations and/or other enforcement activities.

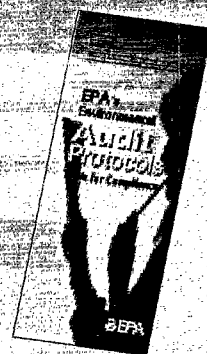
Minimills that received a letter were invited to perform an environmental audit of their facility to discover areas of noncompliance, and encouraged to consider taking advantage of EPA's Audit Policy.

Facilities Disclosing Under EPA's Audit Policy



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EPA's Office of Compliance Publishes New Protocols to Aid Regulated Entities in Conducting Self-Audits



EPA's Office of Compliance has published nine environmental audit protocol manuals for businesses and organizations to perform voluntary environmental audits and disclose violations in accordance to EPA's Audit and Small Business Policies.

The audit protocols also provide technical guidance to regulated entities conducting environmental compliance audits and help ensure that audits are conducted in a thorough and comprehensive manner. Protocols are the principal

working documents used by the auditor to evaluate federal environmental compliance. EPA has produced audit protocols covering requirements under RCRA, CERCLA, EPCRA and portions of TSCA and SDWA.

The protocols can be obtained through <http://www.epa.gov/oeca/ccsmd/profile.html>. The EPA Web site offers the protocols in both PDF and MS-Word formats. For greater flexibility, the word processing format allows the user to custom-tailor the protocols to more specific

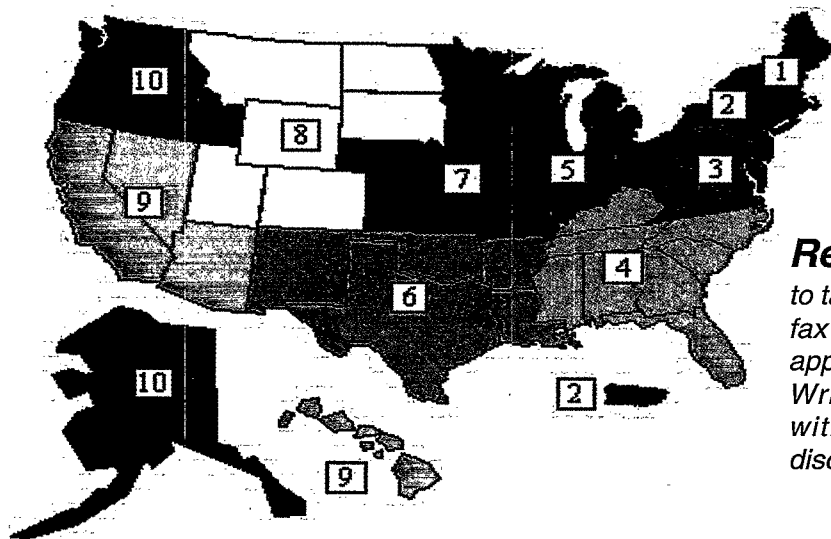
environmental aspects associated with the facility to be audited.

Hard copies of the audit protocols can be obtained by contacting EPA's National Service Center for Environmental Publications (NSCEP) at 1-800-490-9198. For more information, contact Richard Satterfield at EPA HQ at (202) 564-2456.

Audit Policy Online Resources

- @ **Audit Policy Information Homepage**
<http://www.epa.gov/oeca/ore/apolguid.html>
- @ **Audit Policy: Incentives for Self-Policing**
<http://www.epa.gov/oeca/auditpol.html>
- @ **Audit Policy Interpretive Guidance (Questions and Answers)**
<http://www.epa.gov/oeca/audpolguid.pdf>
- @ **'Audit Policy Update' (Newsletter)**
<http://www.epa.gov/oeca/ore/auditupd.html>
- @ **Confidentiality of Information Received Under Agency's Self-Disclosure Policy**
<http://www.epa.gov/oeca/sahmemo.html>
- @ **Memorandum--Subject: Implementation of the Environmental Protection Agency's Self-Policing Policy for Disclosures Involving Potential Criminal Violations**
<http://www.epa.gov/oeca/oceft/audpol2.html>
- @ **Policy on Compliance Incentives For Small Businesses**
<http://www.epa.gov/oeca/smbusi.html>
- @ **Memorandum--Subject: Reduced Penalties for Disclosures of Certain Clean Air Act Violations**
<http://www.epa.gov/oeca/ore/caa-tit.pdf>
- @ **Optional Form for Disclosure Submittal**
<http://www.epa.gov/oeca/ore/checklist.pdf>
- @ **Audit Policy Evaluation**
<http://www.epa.gov/oeca/oppa/ape.htm>
- @ **'Enforcement Alert' (Newsletter)**
<http://www.epa.gov/oeca/ore/enfalert>

Who to Contact to Make a Disclosure



Regulated entities that wish to take advantage of the policy should fax or send a written disclosure to the appropriate EPA contacts listed below. Written disclosure must be made within 21 days of the violation's discovery.

■ **Region 1:** Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Contact Joel Blumstein at (617) 918-1771; fax (617) 918-1809.

■ **Region 2:** New Jersey, New York and the territories of Puerto Rico and the U.S. Virgin Islands.

Contact John Wilk at (212) 637-3918; fax (212) 637-4035.

■ **Region 3:** Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

Contact Samantha Fairchild at (215) 814-2999; fax (215) 814-2905.

■ **Region 4:** Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Contact Bill Anderson at (404) 562-9680; fax (404) 562-9663.

■ **Region 5:** Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Contact Tinka Hyde at (312) 886-9296; fax (312) 353-4135.

■ **Region 6:** Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Contact Charles Sheehan at (214) 665-2228; fax (214) 665-2146.

■ **Region 7:** Iowa, Kansas, Missouri, and Nebraska.

Contact Becky Dolph at (913) 551-7281; fax (913) 551-7925.

■ **Region 8:** Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

Contact David Rochlin at (303) 312-6892; fax (303) 312-6339.

■ **Region 9:** Arizona, California, Hawaii, and Nevada, and the territories of Guam and American Samoa.

Contact Dan Reich at (415) 744-1343; fax (415) 744-1041.

■ **Region 10:** Alaska, Idaho, Oregon, and Washington.

Contact Jackson Fox at (206) 553-1073; fax (206) 553-0163.

■ **HQ Criminal Enforcement:** Contact Jon Jacobs at (202) 564-4037; fax (202) 501-0599 (*all potential criminal violations*).

■ **National Audit Policy Coordinator:** Contact Leslie Jones at (202) 564-5123; fax (202) 564-0011 (*civil violations in more than one EPA Region and policy questions*).



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Audit Policy Update

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This year's minimill program is the most recent in a multi-year effort to assist this sector in achieving compliance. This focused effort began in 1996, when EPA Region V encouraged minimills to self-disclose violations to the Agency to improve compliance among the minimills within its six states. The disclosures submitted by the companies and the multimedia inspections performed by Region V and states revealed environmental concerns involving uncollected K061 baghouse dust, slag cooling water puddles, electric arc furnace shop floor dust and

monitoring, reporting, and maintenance requirements. **Contact Michael Calhoun, EPA HQ, (202) 564-6031.**

Update: Pork Producers

In November 1998, EPA and the National Pork Producers Council (NPPC) agreed to a comprehensive Clean Water Act Compliance Audit Program. The Clean Water Act audit program provides incentives for pork producers to undertake voluntary comprehensive on-farm environment assessments by greatly reducing penalties for any CWA violations that are promptly disclosed and corrected

under this program.

Since the start of the program, EPA has entered into a total of 239 agreements and received 154 reports with no violations reported.

The NPPC, which represents pork producers nationally, plans to have independent auditors conduct audits nationwide to improve environmental management practices and assure compliance with the CWA. **Contact Kate Anderson, EPA HQ, (202) 564-4016.**

