



JYOTHISHMATHI INSTITUTE OF TECHNOLOGY & SCIENCE

ENVIRONMENTAL HEALTHY AND SAFETY

Presented by

S.karthik

Assistant Professor

Department of Civil Engineering

ENVIRONMENTAL HEALTH AND SAFETY (EHS) AUDITING

S.KARTHIK
ASST. PROFESSOR

Introduction

- Auditing important since 1970's
- Number of environmental laws
 - Clean Water Act (CWA)
 - Clean Air Act (CAA)
 - Resource Conservation and Recovery Act (RCRA)
 - Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, Superfund)
 - Toxic Substance Control Act (TSCA)

Definition

- Snapshot of a facility's or property's status with regards to environmental, health and safety rules and regulations.

3 Types of Audits

- Regulatory Compliance
- Property Transfer Assessment
- Environmental Management System

Regulatory Compliance Audit

Regulatory Compliance Audits

- EPA Audit policy
- Why conduct an audit
 - Reasons
 - Benefits
- Disadvantages
- Legal aspects
- How to conduct an audit
- Regulation to be audited

EPA Audit Policy

- 1986 draft EPA audit policy statement
- 1995 final EPA audit policy statement
- Revised in 2000
- Included in the appendix to the course handout

EPA Policy Statement

- May 11, 2000 Federal Register
- Purpose:
 - Enhance the protection of human health and the environment
- Encourage regulated entities with regards to feral regulations
 - Voluntarily discover
 - Disclose
 - Expeditiously correct

EPA Incentives

- Elimination or reduction of gravity aspects of civil penalties
 - 9 conditions that apply for total elimination
- Determination not to recommend criminal prosecution
- Not requesting copies of the audits

Differences between 1995 final and 2000 revised policy

- Clarified some of the language
- Synchronizing with actual EPA policy
- Extending the reporting period 21 days

Conditions for Elimination of Penalties

- Violation is discovered through an audit or due diligence procedure
- The law didn't require the review of the audit
- The violation is disclosed within 21 days of discovery
- Discovery is independent of government or third party action
- The violation is corrected within 60 days

Conditions, Part 2

- Company commits to prevent a reoccurrence
- The same violation has not occurred within the prior three years and is not part of a pattern of violation
- No actual serious harm to the public health or environment has occurred
- The company cooperates with EPA

Safeguards in the Policy

- Entities must act to prevent reoccurrences
- Remedy any harm that may have occurred
- Repeat violations, violation that cause harm are not eligible
- Companies not allowed an economic gains over competitors
- Entities criminally liable for conscious violations

Gravity-based Penalty Incentive, 100% reduction

- Fines assessed components
 - Economic benefit
 - Gravity based
- Economic benefit derived from a violator's illegal competitive advantage
- Gravity based over and above economic benefit - punitive portion

Gravity-based, Part 2

- Must meet all nine conditions
- Recognizes compliance management systems can discover, correct and prevent violations
- May still collect economic benefits
- May waive economic benefit component if found to be insignificant

Why keep economic benefit component

- Recovery threat keeps companies interested in complying
- Fair, provides protection to law-abiding companies and helps “levels the playing field”

75% reduction

- Meets eight of nine conditions
- Doesn't have the system to discover violations
- EPA expects company to work with them to develop a systematic program

“No prosecution” incentive

- Does not focus on companies conducting audits unless possible criminal behavior
- May recommend prosecution of individuals
- Must meet eight of nine conditions, except the systematic discovery requirement

Incentives Not Available

- Corporate officials condone or willfully blind to violations
- Impose serious harm or endangerment to human health or the environment
- Criminal prosecution for individuals or subsidiaries
- Ultimate discretion reside with US Dept. of Justice

EPA routine audit report requests incentive

- EPA will not request reports to trigger investigations
- May seek report if has independent evidence of the violation

EPA Definitions

- Environmental audit is a systematic, documented, periodic and objective review by a regulated entity of facility operations and practices related to meeting environmental requirements

- Compliance management system encompasses the regulated entity documented, systematic efforts appropriate to the size and nature of its business to prevent, detect and correct violations through all of the following:
 - Compliance policy, standards and procedures that identify how employees and agents are to meet the requirements of laws, regulations, permits, enforceable agreements, etc. for environmental requirements

- Assignment of responsibilities for complying with policy, standards and procedures and assigning responsibility for ensuring compliance at each facility or operation
- Mechanisms for systematically ensuring compliance that standards and procedures are being carried out including monitoring and auditing systems reasonably designed to detect and correct violations, periodic evaluations of the overall compliance of the management system, and a means for employees and agents to report violations of environmental requirements without fear of retaliation.

- Efforts to communicate effectively to regulated entities standards and procedures to all employees and other agents
- Appropriate incentives to managers and employees to perform in accordance with the compliance policies, standards and procedures including consistent enforcement through appropriate disciplinary actions mechanisms to ensure prompt correction of any violations and development of preventive actions

Condition 1

- Systematic discovery
 - Environmental audit
 - Compliance management system
- Accurate and complete documentation as to how the system meets due diligence
- How entity discovered the violation
- Make a description of the system available to the public

Condition 2

- Voluntary Discovery
 - Not through a legally required statute, regulation, etc.
 - Not through required sampling and monitoring

Condition 3

- Prompt disclosure
 - Fully disclosed within 21 days
 - Less time if required by law
 - Time begins when any officer, employee or agent has a basis for believing that a violation has or may have occurred

Condition 4

- Discovery is independent of third party prior to:
 - A federal or state investigation
 - Citizens suit
 - Filing of a complaint by a third party
 - Reporting of the violation by an employee, etc.
 - Imminent discovery of the violation by a regulatory agency

Condition 5

■ Correction and remediation

- Corrects the violation within 60 days of discovery
- Certifies that the violation has been corrected
- Takes appropriate action, as determined nby EPA, to remedy any human health or environmental harm
- EPA can order correction in a time shorter than 60 days, whenever it is feasible and necessary to protect human health and the environment
- Notify EPA in writing if more than 60 days required (must be before end of 60 days) and may require entering into an agreement

Condition 6

- Prevention of a Reoccurrence
 - Improvement to its environmental auditing or compliance management system
 - Instituting an auditing or management system

Condition 7

- No repeat violations
 - The specific or similar violation has not occurred within the past 3 years at the same facility
 - Has not occurred at multiple facilities in the past 5 years

Condition 8

- No actual serious harm to the public health or environment has occurred
 - Resulted in serious actual harm or resulted in potential public health or environmental harm
 - Violates the terms of a judicial agreement, consent order, etc.

Condition 9

- The company cooperates with EPA
 - Provides information as requested