5 Things You Should Be Doing 5 Years After Your Audit

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Presented by
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and
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Agenda

- Peer Audit Program Review
- 5 Things You Should be Doing
- Wrap-Up
- Questions and Answers
Peer Audit Program: Review of Policy Conditions and Legal Obligations
US EPA Audit Policy Basics

1. Self Audit
2. Disclose violations to EPA within 21 days of discovery of each violation
3. Correct violations within 60 days of discovery
4. Comply with 9 criteria
5. Avoid 5 disqualifiers
6. Benefit:
   - Penalty relief if comply with all 9 conditions
EPA Audit Policy Conditions

Nine (9) conditions you have to meet:

1. **Systematic Discovery***
2. Voluntary Discovery
3. Prompt Disclosure: Twenty-one (21) Days
4. Government or Third-Party Plaintiff as investigator

*** Important!
EPA Audit Policy Conditions (cont.)

5. Sixty (60) days to correct
6. Steps to prevent recurrence
7. No repeat violations
8. Excluded violations
9. Cooperate with government***

*** Important!
Your EPA Agreement

Remember – we negotiated a group program altering the basic Audit Policy conditions:

- Relief from penalties is 100% – Not 75%
- Self-audit by peer auditors allowed
- Do not have to disclose all violations
- Disclose 21 days after receipt of audit report – not 21 days after discovery of violation
- Allowed to self-schedule
- If EPA inspects during pendency of program (why would they?) – no fines – just add to list of disclosures
- After-discovered violations can be added as long as program still running
Systematic Audits & the Duty to Cooperate

1. To get 100% penalty waiver, EPA requires violations be *found* through a periodic environmental audit or EMS.

2. Prior to this program, most college had *never* conducted an environmental audit.

3. So, EPA agreed to 100% penalty waiver if the peer audit was the *start* of periodic audits or EMS.
Systematic Audits & the Duty to Cooperate (cont.)

Duty to Cooperate

• EPA has the right to “check our work” at any time.
• Includes corrective actions, permits, EMS, periodic audits, etc.
• Especially true where EPA is still reviewing reports and issuing NODs
Failure to Meet Conditions

- Failure to complete systematic audits
  - Lose 25% of penalty waiver
    - Most colleges are between $350,000 and $500,000 in estimated penalty waivers.
    - 25% equals $87,500 and $125,000
  - Invites broader and deeper inspections
- Failure to cooperate
  - Lose 100% penalty waiver
  - Invites broader and deeper inspections
Failure to Meet Conditions (cont.)

- One of our colleges failed to meet the conditions
  - Whistleblower called local EPA office re: failure to correct violations
  - College suffered an in–depth multimedia inspection
    - College wasn’t cooperative
  - College paid approximately $140,000 fine after negotiations
  - College paid local lawyers, environmental lawyers, consultants, expedited clean–up costs
  - College lost credibility and is on EPA’s radar
5 Things You Should be Doing
5 Things You Should be Doing

1. Locate and read your audit report
2. Locate your corrective action documentation
3. Locate and read your final compliance report
4. Identify status of EMS/Audits
5. Maintain “10 Action Items” from audit prep and corrective actions
1. Locate and Read your Audit Report

- Your audit report identified what regulations applied to you at the time of the audit
- Your audit report identified why other regulations did not apply to you at the time of the audit
- Your audit report identified opportunities for improvement with your compliance on campus

Can’t locate your report – HRP can provide a .pdf copy
2. Locate your corrective action documentation

- From your audit report, you began to correct your regulatory opportunities
- You should have photos, training logs, plans, etc as documentation of your corrective actions
- Read, review, update, and implement these corrective actions
3. Locate and read your final compliance report

- Your final compliance report states your intentions for EMS vs. Recurring Audits
- Your final compliance report states what you are going to do to ensure similar violations do not recur on campus
- Ensure you are following these protocols

Can’t locate your report – HRP can provide a .pdf copy
4. Identify status of EMS/Audits

- If you selected audits
  - What frequency are you completing audits (should be at least every 2 years)
  - How are you completing and documenting these audits
  - Are you addressing the findings from these audits
4. Identify status of EMS/Audits

- If you selected Environmental Management Systems (EMS)
  - Is it documented?
  - Is it measured?
  - Is it recorded?
  - Is there action?
4. Identify status of EMS/Audits

- Management Review
- Environmental Policy
- Continual Improvement
- Checking & Corrective Action
- Planning
- Implementation & Operation
5. Maintain “10 Action Items” from audit prep and corrective actions

a) Create an oil storage inventory for SPCC Plan
b) Complete a Chemical Inventory
c) Complete an inventory of PCB containing equipment
d) Identify Air Emission Sources
e) Inventory all Waste Streams
f) Collect Licenses
g) Determine who has environmental training
h) Organize all waste shipment/manifests
i) Organize all historical environmental documents
j) Investigate wastewater discharges
5a. Create An Oil Storage Inventory for SPCC Plan

- During your audit, this inventory was used to identify if Spill, Prevention, Control and Countermeasures (SPCC) Plans applied to your campus

- Your campus has changed since your audit

- If you have an SPCC Plan, make sure that plan is up to date

- If you were not required to have an SPCC plan, do you now exceed thresholds?
5b. Complete a Chemical Inventory

- Chemical inventories were used to determine EPCRA Tier II applicability
- Are you keeping these inventories up to date at least annually?
- Are you completing Annual Tier II reports for all necessary chemicals?
5c. Conduct an Inventory of PCB-Containing Equipment

- PCB material is regulated both for disposal as well as in use
- Have you completed re-lighting projects that may affect this inventory
- Are you now the owner of campus transformers where before the local utility owned those transformers (or vise versa)
This inventory and emission calculations was used to determine what air permits were required for your campus

AIR REGULATIONS KEEP CHANGING

Have you added new boilers – new regulations may apply

Have you added new emergency generators – new regulations may apply
5e. Inventory all Waste Streams

- Failure to document waste stream determinations was the number 1 audit finding
- As your campus generates new wastes, these inventories must remain up to date
- You must document that your waste is either hazardous or non-hazardous
5f. Collect Licenses

- Obtain licenses and contracts from vendors and on-site staff who conduct:
  - pesticide applications,
  - pool maintenance,
  - refrigerant recycling,
  - Water/wastewater operators,
  - biomedical waste disposal,
  - universal waste disposal, and
  - hazardous waste disposal.

- Make sure these are up to date with new personnel and renewed licenses.
5g. Determine Who Has (needs) Environmental Training

- What training was completed prior to and following your audit?
- Are you following the required training schedule (or what you said in your FCR)?
  - RCRA Hazardous Waste (potentially annually)
  - DOT Hazardous Materials (every 3 years)
  - SPCC Plan (annually)
  - Universal Waste (awareness)
5h. Organize all Waste Shipments/Manifests

- Continue to organize and compile copies of off-site shipments of all wastes in the last three (3) years, including:
  - hazardous wastes,
  - universal wastes,
  - recycled materials,
  - low-level radioactive material,
  - used oil,
  - kitchen grease, and
  - biomedical waste

- Remember – CRADLE TO GRAVE!
5h. Waste Shipments/Manifests

- File all copies in one location
- Ensure all hazardous waste manifest returned copies have been received
- For disposal of lab pack items, ensure that documentation of contents of the lab pack is maintained
- Include any generation logs along with the associated manifest
5i. Organize all Historical Environmental Documents

- Not having records/documents was a huge issue for many campuses
- What documentation/record retrieval protocol did you establish leading up to and following the audit
- Do you have easy access to all of these documents and records
5j. Investigation of Wastewater Discharges

- What relationship did you establish with the sanitary sewer district leading up to and following your audit?
- Are you maintaining that dialogue of what is going down the drain?
Wrap Up
We understand many colleges suffer turnover of staff and administration

But:

- Your college signed an agreement with EPA to meet the conditions of the Audit Policy
- The program was not a “one and done”

Your campus is dynamic therefore your environmental compliance program must be dynamic
Wrap Up (cont.)

- If you realize your campus might be behind or that your new administration is uninformed on the Peer-Audit Agreement please contact Goldberg Segalla so that we may discuss your options.
Questions
Thank you!

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