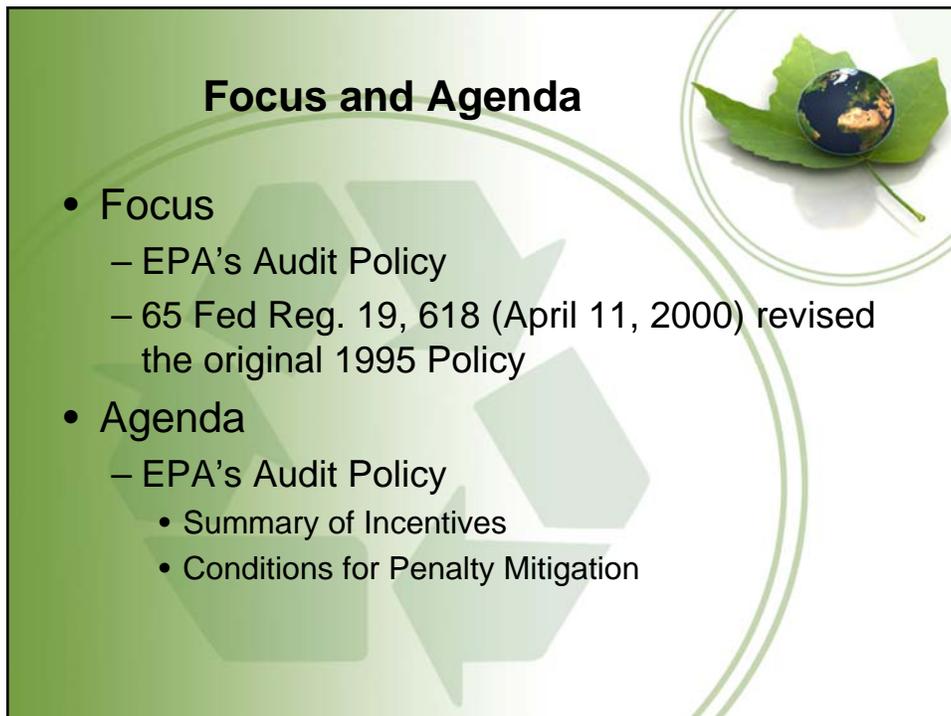
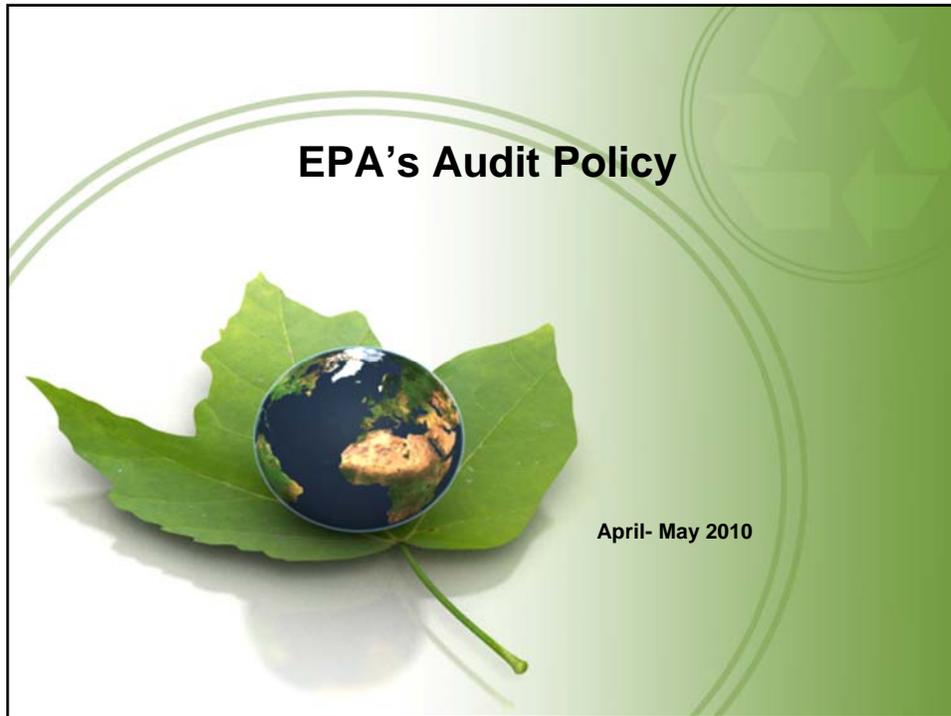


EPA Audit Policy



Focus and Agenda

- Focus
 - EPA's Audit Policy
 - 65 Fed Reg. 19, 618 (April 11, 2000) revised the original 1995 Policy
- Agenda
 - EPA's Audit Policy
 - Summary of Incentives
 - Conditions for Penalty Mitigation

This slide has a green background with a large, faint recycling symbol. In the top right corner, there is a small image of a globe on a leaf. The text "Focus and Agenda" is centered at the top. Below it, there are two main bullet points: "Focus" and "Agenda", each with sub-bullets. The "Agenda" sub-bullet includes "Summary of Incentives" and "Conditions for Penalty Mitigation".

EPA Audit Policy

EPA's Audit Policy

- Formerly titled “Incentives for Self-Policing: Discover, Disclosure, Correction and Prevention of Violations”
- Is designed to provide incentives for regulated entities to come into compliance with federal environmental laws and regulations.
- Incentives are for regulated entities that voluntarily discover, promptly disclose and expeditiously correct noncompliance, making formal EPA investigations and enforcement actions unnecessary.



EPA's Audit Policy

- Company has 21 days from the time of discovery to disclose in writing the violation to EPA
- Disclosure should identify:
 - Means of Discovery,
 - Type of Violation,
 - Facility Location
- EPA will send follow-up communications to a company after receiving a self-disclosure pursuant to 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



EPA Audit Policy

Summary of Incentives

- **Significant penalty reductions.** Civil penalties under the environmental laws generally have two components, an amount assessed based upon the severity or “gravity” of the violation, and the amount of economic benefit a violator received from failing to comply with the law.
- **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.
- **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.
- **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.**

Conditions of Penalty Mitigation

- 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 a 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.

EPA Audit Policy

Conditions of Penalty Mitigation



- 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.

Conditions of Penalty Mitigation



- 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 Type of Violation 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.

EPA Audit Policy

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