

Instructions

What is eDisclosure?

eDisclosure is an EPA tool for the regulated community to self-disclose environmental violations electronically, and apply for penalty mitigation under EPA's Audit Policy. eDisclosure makes it easier and faster to self-report EPCRA (Emergency Planning and Community Right-to-Know Act) violations. It also speeds EPA processing of self-disclosures by ensuring that each disclosure contains complete information.

SAMPLE COMPLETED FORM

What violations can be self-disclosed?

-EPA is piloting eDisclosure nationwide for EPCRA violations. Disclosures of violations of other environmental laws should be submitted in hard copy. For more information on EPCRA see EPA's EPCRA Enforcement Web page at

<http://www.epa.gov/compliance/civil/epcra/index.html>.

-What if the facility has less than 100 full time employees? If the facility has 100 or fewer full time equivalent employees, please see EPA's Small Business Compliance Policy for additional information.

What are the benefits of self-disclosing?

The EPA Audit Policy encourages voluntary and systematic environmental audits. Audit Policy incentives include:

- Penalty mitigation. Disclosing entities that meet all nine (9) conditions contained in EPA's Audit Policy

(<http://www.epa.gov/compliance/incentives/auditing/auditpolicy.html>) are eligible for

100% mitigation of all gravity-based penalties. Disclosing entities that meet all of the conditions except for "systematic discovery" of the violations are eligible for 75% penalty mitigation of all gravity-based penalties. EPA retains its discretion to collect any economic benefit that may have been realized as a result of noncompliance. If an entity fails to meet one or more conditions in addition to "systematic discovery" then no penalty mitigation may be sought under the Policy.

-An EPA determination not to recommend criminal prosecution for disclosing entities that meet all applicable conditions contained in the Policy (ultimate prosecutorial discretion resides with the U.S. Department of Justice).

- No routine requests for audit reports from those who conduct environmental audits.

What information do I need to complete this form?

- Processing ID

- Company name and organization

- Contact information for submitter

- Facility name, physical location, contact information, and, if possible, EPA program ID numbers for the facilities in question

- Description of the violation

- How the violation was discovered

- Date violation was discovered

- Who discovered the violation

- Physical location of the violation

- Explanation of how each of the nine (9) Audit Policy conditions is met:

1. Systematic Discovery

2. Voluntary Discovery

3. Prompt Disclosure

4. Discovery and Disclosure Independent of Government or Third Party Plaintiff

5. Correction and Remediation-- When? How?

6. Prevention of Recurrence-- How?

7. No Repeat Violations

8. Other Violations Excluded

9. Cooperation

- An estimate of the cost of compliance, and a basis for this estimate.

What if some or all of the information is confidential business information?

The eDisclosure electronic reporting process does not allow for submittal of confidential business information (CBI).

Your company is entitled to assert a claim of business confidentiality covering all or any part of the information it submits, in the manner described in 40 C. F. R. Section 2.230(b). If you have CBI materials in support of your disclosure, you should mail

your Audit Policy disclosure to the appropriate listed contact at <http://www.epa.gov/compliance/incentives/auditing/auditdisclose.html>.

Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If a claim of business confidentiality is not asserted at the time the information is submitted to EPA, EPA may make this information available to the public without further notice to you.

What are the steps involved in obtaining and submitting this form?

Note: You will need Adobe® Reader® version 7 or higher to validate and save this form. You can check which version you have by clicking on "About Adobe Reader" on the Help menu. The latest version of Adobe® Reader® can be downloaded at <http://www.epa.gov/epahome/pdf.html#install>.

1. You should have registered for CDX on the CDX registration page. Registering as a CDX user allows you to access this electronic self-disclosure submission form.
2. After logging in to CDX and indicating that you would like to make a disclosure under EPA's Audit Policy, an e-mail with this electronic disclosure submission form should have been sent to you. You will use this form and the Processing ID contained in the e-mail to make your disclosure.
3. On your own computer, fill out all applicable sections of this electronic self-disclosure submission form, including the Processing ID, and compile any additional self-disclosure materials. The form will check that your entries are appropriate and complete when you click on the "Validate" button on the last page of the form.
4. Log in to CDX and upload the electronic self-disclosure submission form that you saved to your computer and any additional materials. Uploading the form to CDX finalizes your submission.
5. The EPA Regional Office or Headquarters assigned to your self-disclosure will review all submitted materials and determine the appropriate enforcement response.

How are self-disclosures handled?

- Self-disclosures are routed either to an EPA Regional office or to EPA Headquarters (for those cases involving facilities located in more than one Region).
- An e-mail will be sent to the address you provide acknowledging receipt of your disclosure and providing specific contact information.
- Disclosures are resolved through either a Notice of Determination for cases where no penalties are assessed, or through administrative penalty orders or judicial consent decrees for cases where penalties are assessed.

Can self-disclosures be submitted to EPA without using eDisclosure?

If you do not wish to use this electronic reporting process, you may send your self-disclosure to the appropriate contact listed at <http://www.epa.gov/compliance/incentives/auditing/auditdisclose.html>. Note that if you download the form and then do not submit it, EPA may decide to contact you.

Who should I contact if I have questions?

If you have questions regarding EPA's Audit Policy, you may contact Phil Milton, with EPA's Office of Civil Enforcement. His telephone number is (202) 564-5029 and his e-mail is milton.philip@epa.gov.

Basic Information

Items marked with an asterisk "*" denote fields required to be completed prior to submission.

Processing ID * (this is in the e-mail received when this form was obtained)

Complete Legal Name of Organization *

SAMPLE COMPLETED FORM

How Organized * (Check one)

- a person doing business as.....
- a corporation, which was incorporated under the laws of the State or Tribal Nation of.....
- a partnership, formed under the laws of the State or Tribal Nation of.....
- Other.....

Number of Employees (Corporation): * If there are fewer than 100 full time employees please see EPA's Small Business Compliance Policy for additional information. <http://www.epa.gov/compliance/incentives/smallbusiness/>

Individual submitting this self-disclosure

Title:

First Name: *

Middle Name (or initial):

Last Name: *

Suffix:

Job Title (e.g., individual, President, Vice President, Director, Partner, City Manager, Outside Legal Counsel, City Attorney, etc.): *

Is the individual submitting this self-disclosure authorized by the company to make such a disclosure and is this person an authorized signatory (having authority to perform policy or decision-making functions of the company)? * Yes No

Contact information for individual submitting this self-disclosure

Address Line 1: *

Address Line 2:

City: * State: * ZIP: *

Phone: * () -

E-mail: *

Fax: * () -

Facility Information

If more than one facility is involved in this violation, please indicate the number of facilities below and attach a sheet to your final submission with the physical address and EPA program ID numbers (if known) for each facility, and note which facilities have which violation(s). A suggested format for this information is available, see <http://www.epa.gov/compliance/incentives/auditing/edisclosure.html>.

SAMPLE COMPLETED FORM

Number of facilities involved in this violation: *

Facility Physical Address

Facility Name: *

Address Line 1: *

Address Line 2:

City: * State: * ZIP: *

Latitude: Longitude: Please give latitude and longitude in decimal degrees.

Facility Mailing Address

Check here if Mailing Address is the same as the Physical Address.

Address Line 1:

Address Line 2:

City: State: ZIP:

NAICS/SIC codes: (See the NAICS web site at <http://www.census.gov/epcd/www/naics.html>)

NAICS Code: *

SIC Code:

EPA Program ID Numbers (if known):

CAA AFS:

CWA NPDES:

RCRA:

EPCRA 313 (TRI ID):

Other (include description):

Describe the violation(s)

<p>Please check the Emergency Planning and Community Right-to-Know Act (EPCRA) section(s) involved with this self-disclosure.* See http://www.epa.gov/compliance/civil/epcra/epcraenfstatreg.html for details.</p>	<input type="checkbox"/>	Emergency Notification (section 304)
	<input type="checkbox"/>	CERCLA section 103 (check only if Emergency Notification has been checked)
	<input type="checkbox"/>	Material Safety Data Sheets (section 311)
	<input type="checkbox"/>	Emergency and Hazardous Chemical Inventory Forms (section 312)
	<input type="checkbox"/>	Toxic Chemical Release Forms (section 313)

Each violation should be described as completely as possible and include the following information.*

- Nature and description of potential violation(s) and specific regulatory, permit and/or statutory provision violated (include state references where appropriate);
- Identify the name, title, and employer of each person who discovered the violation, and what they were doing when the violation was discovered;
- How the violation was discovered; i.e., describe the moment at which the person first realized (objectively reasonable basis) that the violation(s) may have occurred or did occur;
- Physical location of violation;
- Dates of possible noncompliance;
- Chemical(s) involved in this disclosure, please include CAS number(s);
- For each chemical please list and specify separately the quantity (lbs.) that was stored, manufactured, processed, or otherwise used, produced, or released;
- Size of business and gross annual sales;
- Number of employees at each facility disclosing violations;
- Names of Reporting Entities, i.e. SERC, LEPC and local fire department(s).
- If the facility previously reported under EPCRA 313, under what facility name was the report filed.

For help using this form go to

<http://www.epa.gov/compliance/incentives/auditing/edisclosure.html>

Condition 1: Systematic Discovery of the Violation Through an Environmental Audit or a Compliance Management System *

If the violation was discovered as part of an Environmental Audit, indicate how the audit meets the EPA's definition of auditing as a systematic, documented, periodic and objective review. At a minimum, the response should include the following:

- A. Describe the audit system and procedures that were used, including checklists or protocols used by the auditors.
- B. Describe the schedule for conducting audits. If this is the first audit, please provide schedule for future audits.
- C. Describe the relationship between the facility and the person(s) responsible for conducting environmental audits, and procedures for insuring that auditor objectivity is not impaired.
- D. Why was this audit performed?
- E. Has an audit been performed at this facility in the past? If so, on what date(s)?

It is not required that the audit report be submitted with this disclosure at this time.

If the violation was discovered as a result of a Compliance Management System (CMS), provide evidence that your compliance program meets the EPA's definition of a CMS. At a minimum, the response should include the following:

- A. Explain in detail how the company's practices and the procedures leading to the discovery of the violation constitute a compliance management system. At a minimum, describe how the company's documented systematic efforts to prevent, detect and correct violations meet the six (6) components of a CMS described on page 19625 of the Audit Policy, <http://www.epa.gov/compliance/resources/policies/incentives/auditing/auditpolicy51100.pdf>
- B. Describe the process for periodically reviewing, monitoring and evaluating the CMS.

If the violation was discovered in a manner other than through an Environmental Audit or a CMS, describe the procedure used to discover the violation (note that a 75% penalty reduction is available even if the violation was not discovered through an Environmental Audit or a CMS if all other conditions are met; i.e., conditions 2-9).

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Condition 2: Voluntary Discovery*

Please state if the violation was voluntarily discovered. Voluntary discovery did not occur if the violation was found through a legally required monitoring, sampling, or auditing procedure that is required by statute, regulation, permit, judicial or administrative order, or consent agreement. The Agency may ask for copies of permits, orders, or agreements at a later date to confirm whether the discovery was voluntary.

SAMPLE COMPLETED FORM

Condition 3: Prompt Disclosure *

Provide the date of discovery of each violation disclosed. Please demonstrate that the violation was disclosed within 21 days after discovering that the violation occurred or may have occurred. 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; i.e., absolute factual and legal certainty is not necessary in order to require disclosure. As one example of discovery, for failure to submit a timely TRI report for an EPCRA 313 chemical, when was it first realized that applicable thresholds were met or exceeded?

For situations in which the 21-day period has already expired, the Agency may accept a late disclosure in the exceptional case, such as where there are complex circumstances, including where EPA determines that the violation could not be identified and disclosed within 21 calendar days after discovery. If disclosure of this violation was not within 21 days of discovery, please explain in detail why the violation(s) was not disclosed within the 21-day period.

SAMPLE COMPLETED FORM

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Condition 4: Discovery and Disclosure Independent of Government or Third Party Plaintiff *

This condition means that the disclosing party took the initiative to find violations on its own and disclose them promptly instead of as a result of a government or regulatory inspection or waiting for an indication of a pending enforcement action (e.g., inspection, investigation or issuance of an information request) or third party complaint. Was there any contact, e.g. letter, e-mail, telephone inquiry, etc. by any government or third party informing the facility of potential or actual violations, or any notification of an impending or commenced inspection prior to the disclosure? If yes, please explain.

SAMPLE COMPLETED FORM

Condition 5: Correction and Remediation *

This section asks for a description of how the violation was corrected and how any harm was remediated. Violations should be corrected within 60 days of the date of discovery.

Has the violation been corrected? If yes, provide the date and how the violation was corrected. For example, include written confirmation from authorities that submittals (Tier II reports, Form R's) were received.

SAMPLE COMPLETED FORM

If no, provide an estimate of the length of time it will take to correct the violation. If the violation will be corrected within 60 days, by certifying and submitting this disclosure you are committing to fix the violation within the time period you specify, not to exceed 60 days.

If more than 60 days will be needed to correct the violation, please explain the basis for this estimate and provide the opinion of any technical or engineering expert relied upon to arrive at the estimate. By certifying and submitting this disclosure, you are seeking an extension of the 60 days and commit to fix the violation within such period of time as may be granted by EPA.

Describe any environmental or human harm caused by the violation, and any measures undertaken to remediate such harm.

Condition 6: Prevent Recurrence *

Describe what steps were taken to prevent recurrence of the violation and provide the date that those measures were implemented. If the measures have not yet been implemented, provide the implementation schedule setting forth the dates of the anticipated actions.

SAMPLE COMPLETED FORM

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Condition 7: No Repeat Violations *

The same or closely-related violation must not have occurred previously at the same facility within the past 3 years. In addition, the same or closely-related violation must not have occurred within the past 5 years as part of a pattern at multiple facilities owned or operated by the same entity.

Has this facility been the subject of any state, federal, or local enforcement action, as defined in the Audit Policy, for violations of the same statutory section as this disclosure within the last 3 years? If yes, please list for each violation, the date and type of enforcement action and its resolution.

Please describe the business structure, including all parents and subsidiaries. At a minimum, provide the parent company's name and Dun & Bradstreet Number.

Has the parent corporation or any of its subsidiaries or facilities been the subject of any state, federal, or local enforcement action, as defined in the Audit Policy, for violations of the same statutory section as this disclosure within the last 5 years? If yes, please list for each violation, the facility, the date and type of enforcement action and its resolution.

SAMPLE COMPLETED FORM

Condition 8: Other Violations Excluded*

The policy excludes penalty reduction for violations that resulted in serious actual harm, which may have presented an imminent and substantial endangerment to public health or the environment, or which violate the specific terms of any order, consent agreement, or plea bargain.

State whether or not the violation resulted in serious actual harm to human health or the environment; provide your rationale for making this conclusion.

State whether or not the violation may have presented an imminent and substantial endangerment to human health or the environment; provide your rationale for making this conclusion.

Identify all environmental federal, state, or local judicial or administrative orders, or consent agreements under which this facility operates; state whether the violation violated any specific terms of these orders or agreements.

SAMPLE COMPLETED FORM

Condition 9: Cooperation *

Provide any other information you deem relevant that demonstrates your cooperation with EPA in determining applicability of this policy.

SAMPLE COMPLETED FORM

Cost of Compliance *

This policy allows for either elimination of the gravity portion of a penalty or a reduction of up to 75% if all but the first condition is met.

EPA retains its discretion to collect any economic benefit that may have been realized as a result of noncompliance. If no costs of compliance are provided, EPA will use its own best professional judgment to determine the value of economic benefit, if any. The EPA financial models used to determine economic benefit can be found on the web at

www.epa.gov/compliance/civil/econmodels/.

"Cost of compliance" is used so EPA may better assess any benefit derived from noncompliance. If you are able, please use the following fields to provide an estimate of any cost of compliance.

Cost of Compliance (dollars) * \$

Rationale behind the cost of compliance amount. *

For each facility, determine the cost to return to compliance. Such costs may include internal staff or outside consultants' time to become familiar with the regulations, determine which chemicals meet/exceed reporting thresholds, prepare forms/plans/ permits and submit forms to appropriate agencies; fees collected by state or other regulatory agencies; release detection or pollution control equipment; operation and maintenance costs; and secondary containment or start-up costs for plan implementation or tank monitoring.

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<http://www.epa.gov/compliance/incentives/auditing/edisclosure.html>

Name of individual submitting this self-disclosure: *

Current Date

SAMPLE COMPLETED FORM

- By checking this box, I, the person whose name is displayed above, certify under penalty of the law that this document
- was prepared under my direction and to the best of my knowledge and belief, the information submitted is true, accurate and complete. Furthermore, I understand that eligibility for, and any reduction of penalties under, the EPA Audit Policy is conditioned on the truth, accuracy and completeness of this disclosure.

Validation

An asterisk "" indicates a required field.*

Click below to validate the form. If any required fields are missing, they will be highlighted in red. When the form is fully valid, the 'NOT YET VALIDATED' statement on this page will disappear and the form can be submitted. The form may be saved before it is validated, but it should only be submitted when it is complete and validated.

Note: You will need Adobe® Reader® version 7 or higher to validate and save this form. To check which version of Adobe® Reader® you have, choose "About Adobe Reader" under the Help menu. For more information about Portable Document Format (PDF) files and to download Adobe® Reader® go to <http://www.epa.gov/epahome/pdf.html#install>.