

Environmental Compliance Auditing in California

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(Rel.45–9/2006 Pub.102)

PART A. INTRODUCTION**§ 84.01 Scope of Chapter**

Despite the best efforts of qualified environmental professionals, attorneys, in-house environmental staff, and environmental consultants, it is extraordinarily challenging to maintain compliance with environmental laws and regulations. Environmental rules are complex, highly technical, and based on principles of science, engineering, and toxicology. These highly prescriptive requirements are layered within a labyrinth of ever-changing federal, state, regional, and local rules administered by dozens of agencies. Industrial, commercial, and government facility owners and operators are required to develop a range of environmental permits (new, modified, and reconstructed), plans, and inventories, and to ensure that their staffs regularly receive specified training. Additionally, the regulated community must implement permit conditions, follow schedules of compliance, conduct self-inspections, maintain data logs, and calibrate equipment. Further, facilities are obligated to provide notice to specified agencies in the event of chemical releases exceeding certain threshold levels. To compound the challenge, the California Legislature is noteworthy for its frequent action on environmental policy which results in a dynamic regulatory framework.

Facilities have a number of tools at their disposal to manage the risk of violating environmental requirements. These include establishing compliance-focused environmental management systems (CFEMS) and programs which, among other things, determine the applicability of environmental standards to their operations. Facilities also achieve compliance by developing standard operating procedures (SOPs) to provide a level of accountability by translating requirements into roles and responsibilities of staff. In addition, facilities can help improve their compliance status by establishing training programs and by regularly tracking and integrating new legislative and regulatory developments. Finally, to ensure that these systems and programs are effective, auditing programs assist in validating compliance and identifying potential programmatic weaknesses and deficiencies while striving for continuous improvement.

This chapter ties together the substantive and procedural requirements of the environmental regulatory programs discussed in this treatise by describing how compliance audits manage environmental liability risks. The chapter discusses the audit process and methods available to protect the information collected during an audit. The chapter also addresses professional ethics governing audit activities and the appendices at the end of the chapter provide useful tools for conducting audits.

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§ 84.02 Introduction to Auditing

[1] General Purpose of Audits

Audits are designed to actively help manage the risk of noncompliance with environmental standards. Just like driving on the freeway, many regulated facilities are “speeding” in relation to the environmental laws. An audit program can help the facility “slow” down and bring it into compliance on an ongoing basis.

An environmental audit program is primarily designed to help a facility’s environmental manager identify and correct deficiencies before they result in agency enforcement actions. Additionally, audits can serve as a management tool to help managers more effectively administer compliance programs and implement best management practices (BMPs) which are not required but which can optimize environmental compliance. Audit programs are not limited to regulatory requirements and BMPs. They can be designed to evaluate compliance against a variety of standards ranging from the full panoply of federal, state, regional, and local environmental regulations to the prescriptions of the International Organization for Standardization (ISO) 14001 standards governing the implementation of environmental management systems (EMSs).¹

[2] Definitions

An “environmental audit” is an independent assessment of facility performance against environmental regulatory standards or requirements. There are a number of international organizations that variously define auditing as follows:

- An activity directed at verifying a site’s or organization’s environmental status with regard to specific, predetermined criteria.²
- “A systematic, documented, periodic and objective review by a regulated entity of facility operations and practices related to meeting environmental requirements.”³
- “A systematic, documented verification process of objectively obtaining and evaluating evidence to determine whether specified environmental activities, events, conditions, management systems, or information about these matters, conform to audit criteria, and communicating the results of

¹ For more information on Environmental Management Systems and the ISO 14001 standards, visit EPA’s website at <http://www.epa.gov/owm/iso14001/wm046200.htm>.

² Board of Environmental, Health and Safety Auditor Certifications’ (BEAC) *Standards for the Professional Practice of Environmental, Health and Safety Auditing* (1999).

³ U.S. EPA Policy Statement on Environmental Auditing, 51 Fed. Reg. 25004 (July 9, 1986).