



## 9 Conditions for Penalty Mitigation

According to the EPA, entities that satisfy the following 9 conditions are eligible for Audit Policy benefits. Even if you fail to meet the first condition - systematic discovery - you can still be eligible for 75% penalty mitigation and a recommendation for no criminal prosecution of the violations against your entity.

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 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.
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.
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 types of violations 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.

For more information, please visit the EPA's website at:

<http://www.epa.gov/compliance/civil/rcra/ustcompendium/violations.html>