

PMK Group Environmental

EPA Announces DPW Environmental Compliance Initiative

The United States Environmental Protection Agency (EPA) recently announced plans to conduct inspections throughout Region II that will focus on municipally owned and operated Department of Public Works (DPW) facilities. Letters were sent in late August of 2006 to over 3,000 public entities that are responsible for managing the environmental impacts of these facilities.

The EPA initiative will be concentrating on regulations of the Resource Conservation and Recovery Act, Clean Air Act, Clean Water Act, as well as vehicle maintenance activities (e.g. management of underground storage tanks and floor drain systems). The EPA will also focus on other issues, such as Spill Prevention, Controls and Countermeasures (SPCC) and hazardous and universal waste management; including items such as paints, solvents, fluorescent light bulbs, and computer equipment.

To encourage DPW facilities to gain compliance with their environmental regulations, EPA offers a Voluntary Audit Policy that encourages self-evaluation and self-disclosure of violations of environmental requirements. This policy, which initially took effect in May 2000, offers several incentives to facilities that take corrective action prior to the EPA's inspection.

In return for voluntarily self-

disclosing and promptly correcting violations, EPA can reduce the gravity-based portion of civil penalties by up to 75% if a facility meets at least eight of nine of the following conditions (specifically items 2-9).

1. **Systematic Discovery of the Violation through an Environmental Audit or a Compliance Management System**
2. **Voluntary Discovery**
3. **Prompt Disclosure**
4. **Discovery and Disclosure Independent of Government or Third Party Plaintiff**
5. **Correction and Remediation**
6. **Prevent Recurrence**
7. **No Repeat Violations**
8. **Other Violations Excluded**
9. **Cooperation**

For meeting all of the above conditions, EPA may fully eliminate the gravity-based portion of a civil penalty. In no event will EPA waive the penalty for economic benefit obtained from non-compliance. Additionally with self-disclosure,

EPA will not recommend criminal charges if facility operators conform to at least Conditions 2-9 and there are no unlawful or unethical circumstances relative to the violations.

Since 2000, when the EPA's Region II announced its first compliance initiative, PMK Group has assisted well over 100 healthcare facilities, colleges and universities, as well as marinas to voluntarily discover, disclose, and correct environmental violations. If you would like to learn more about EPA's Voluntary Audit Policy "Incentives for Self-Policing, Discovery, Disclosure, Correction and Prevention of Violations, Notice, 65 Federal Register 19618, April 11, 2000," information as well as view a checklist for compliance assistance, please visit the EPA website at <http://www.epa.gov/region02/capp/cip/>.

For further information or compliance assistance, please contact Richard Erickson or Chris Gulics of PMK Group at 800.879.6681.