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*Strategies Available in Puerto Rico to  
Reduce Potential Environmental Liabilities  
and Self Disclosure Incentives for Current  
Owners and Operators*

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# Potential Liabilities in Puerto Rico

- EQB may impose penalties for non-compliance up to \$25,000 per day of violation.
- EPA may impose penalties up to \$25,000 per day of violation (as affected by inflation factors)
- EPA, when calculating penalties, assesses two (2) components: the gravity based and the economic benefit derived for non-compliance
- EQB and EPA may initiate criminal enforcement under the Puerto Rico Criminal Code and environmental statutes.

# Strategies Available

- Pollution Prevention and Source Reduction
- Developing and Implementing Protocols and Procedures aimed at maintaining environmental compliance
- Internal Programs for compliance audits
- Self Disclosure

# Self Disclosure Incentives

- EPA's "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" has been in effect since 1995.
- These incentives are for regulated entities that voluntarily discover, promptly disclose and expeditiously correct noncompliance, making formal EPA investigations and enforcement actions unnecessary.
  - The incentives do not apply to repeat violations; or

# Self Disclosure Incentives

- violations which may:
  - ≈ result in serious actual harm;
  - ≈ have presented an imminent and substantial endangerment, and
  - ≈ violate the administrative or judicial order or consent agreement conditions.

# Benefits of EPA's Audit Policy

- Significant penalty reductions.
  - 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 resulted from any non-compliance.
  - 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
- No routine requests for audit reports would be made

# Conditions for Penalty Mitigation

- Entities that satisfy the following conditions are eligible for Audit Policy benefits.
- Systematic discovery
- Voluntary discovery
- Prompt disclosure
- Independent discovery and disclosure
- Correction and remediation
- Prevent recurrence of the violation.
- Cooperation by the disclosing entity is required.

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# *Questions ?*

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