

RCRA/SUPERFUND HOTLINE MONTHLY REPORT

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1. Frequently Asked Questions about RCRA Enforcement

What types of enforcement actions can EPA use to address violations of RCRA?

EPA has various enforcement options, including administrative, civil, and criminal actions. The decision to pursue any one of these options is based in part on the nature and severity of the violation. The purpose of all these actions, however, is the same: to return the facility to compliance, to deter noncompliance in others, and to eliminate the economic benefit of noncompliance. An administrative action is a non-judicial enforcement action that can be either informal or formal. Examples of informal actions are phone calls or warning letters. Formal actions involve the assessment of monetary penalties and/or the issuance of an order to comply with RCRA. Civil actions are formal lawsuits, filed in court in conjunction with the Department of Justice, that are generally employed for repeated or significant violations or in complex or precedent-setting cases. Criminal actions, reserved for the most serious violations, are judicial actions that can result in the imposition of fines or imprisonment.

How does EPA assess penalty amounts?

Penalty amounts are assessed based on case-specific facts. The penalty calculation process consists of: (1) determining a base penalty amount based on the gravity or seriousness of the violation; (2) adding a multi-day component, as appropriate, to account for the duration of the violation; (3) adjusting the sum of the gravity-based and multi-day components, up or down, for case-specific circumstances (e.g., upward adjustments if the facility has a history of noncompliance or downward adjustments if the facility shows a willingness to correct the violation); and (4) adding the economic benefit gained through noncompliance (RCRA Civil Penalty Policy, October 1990).

If a facility voluntarily discloses a violation, will EPA reduce or waive any associated penalties?

Under certain conditions, as part of an administrative action settlement, EPA may reduce or waive gravity-based (i.e., non-economic benefit) penalties for violations that are voluntarily discovered and that are promptly disclosed and corrected. EPA has issued guidelines for this policy in its final Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations, also known as the Audit Policy (60 FR 66707; December 22, 1995).