



Outcomes Report Peer Environmental Self Audits



In the spring of 2004, AICUP, Halloran & Sage, LLP and Turning Bird Consulting, Ltd. (TBC), approached the Pennsylvania Department of Environmental Protection (PADEP) and the United States Environmental Protection Agency (EPA) Region 3 in Philadelphia with a proposal for a cooperative compliance agreement for AICUP member institutions.

Under the agreement that was approved by both agencies, the regulatory agencies agreed to allow AICUP member institutions the opportunity to audit for environmental compliance and to self-report non-compliant findings on an extended schedule. As part of this initiative, EPA and DEP would place the participating institutions on a low-inspection priority list until two years after the last institution had completed the program and forgive 100% of the gravity based penalties that could normally be imposed. This initiative was open to all AICUP members, but the institution had to formally elect to participate before December 31, 2005.

Each institution was audited by trained peer reviewers from other institutions and informed the agencies that the audit had been completed and then either disclosed or did not disclose violations with the understanding that only those that are disclosed would receive protection under the EPA Audit Policy.

Main Areas of Compliance Audited:

- Clean Air Act (CAA)
- Clean Water Act (CWA)
- Emergency Planning and Community Right-to-Know Act (EPCRA)
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
- Pollution Prevention (P2), to include the Pennsylvania Source Reduction Strategy
- Resource Conservation and Recovery Act (RCRA)
- Safe Drinking Water Act (SDWA)
- Spill Prevention, Control and Countermeasure (SPCC) Plan
- Toxic Substances Control Act (TSCA)

Participation Facts

- 43 Participating Institutions
- 36 Institutions Submitted Final Compliance Reports (FCRs)
- 6 Institutions in Process of Completing FCRs
- 1 Institution Withdrew

AICUP institutions have led the nation in pioneering this new type of peer-assisted audits. The EPA agreement was signed in March of 2004 and was the first of its kind in the country and has served as a model for a number of other agreements across the nation. It is unlikely any other association or group of institutions will ever get as good a deal as AICUP was able to

achieve—given that it was the first and a number of lessons have been learned by all parties as a result of the project. The PADEP entered into an agreement with AICUP in January of 2005. This agreement took considerably longer to negotiate as the state agency was undergoing some changes in upper administration levels.

Following the negotiation of the agreements, it was imperative that the platform for the performance of the audit be accomplished. Since the audits were to be performed by peer auditors, not environmental health and safety (EHS) professionals, compliance questions had to be stated so as to be understood by anyone – from a Custodial Supervisor to a Faculty member or a CFO. The platform for this software changed during the course of the five years, and the functionality for the auditor, through their feedback became increasingly more simple, easy to use, and easy to understand. This software has enabled the peer auditors to work independently, but under the supervision of a qualified EHS professional who interprets the data collected, assembles the reports and prepares the documentation for submissions to the various agencies.

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The group of auditors from each institution had to be trained in how to audit for EHS concerns. TBC conducted a three day Peer Auditor course addressing compliance issues on their own campus as well as the audited campus. A total of 136 auditors were trained in four sessions. Audits were piloted at Waynesburg College and Washington & Jefferson College in the spring of 2004. Five audits were conducted in the fall of 2004 and five to eight were audited each semester with Dickinson College and Albright College being the final audits in the spring of 2008.

The one less positive aspect of this project was the time taken to draft and finalize the reports for the regulatory agencies. The time to finalize reports ranged between 231 days to 1128 days. This led to more stringent agreements in other states requiring completion of the entire process to be done in less than nine months. Review of the report by the institution and the legal team was the most significant factor in delay of report delivery.

AICUP's Peer Environmental Self Audit Program is the first... and the largest...group of institutions to have undertaken and completed peer-assisted environmental compliance audits.

Of the 36 institutions that have submitted their Final Compliance Report (FCR), only seven received interrogatories from EPA reviewers. Of these, only two had greater than 35 questions. The average number of questions asked was eight. In almost all cases, the interrogatories were associated with the institutions audited earlier in the process. To date, 19 of the 36 institutions submitting their FCR received Notice of Determinations (NODs) from the EPA. The NODs have noted a median of ten formal violations with 50% of the institutions receiving between five and 12 violations each. The total amount of projected fines based on findings was \$9,566,100 and the total amount based on disclosures was \$7,762,400. To date,

EPA has waived a total of \$2,465,573 in penalties for these 19 institutions (an average of \$129,767) which makes for another successful AICUP program. If this average holds true, the 43 participants will have avoided a total of \$5,709,748 in penalties. In summary, for the NOD fines waived, the most significant factors were two items: 1) the number of leased houses with lead-based paint disclosures not properly documented and 2) whether an SPCC plan had been developed and implemented when required. These two areas received the most number of interrogatories and thus receiving the largest amounts of fines waived.

Most Common Questions from the EPA

- Toxic Substances Control Act (TSCA)
- Lead-Based Paint (LBP)
- Clean Water Act (CWA)

	Number of Findings	Total Amount of Projected Fines (Based on Findings)	Number of Disclosures	Total Amount of Projected Fines (Based on Disclosures)	NOD Penalties Waived
Total	-	\$9,566,100	-	\$7,762,400	\$2,465,573
Average	-	\$217,411	-	\$199,036	\$129,767
Minimum	15	\$25,100	5	\$21,000	\$1,650
Median	53	\$188,750	39	\$167,000	\$93,404
Maximum	128	\$641,000	105	\$638,000	\$469,014

It is often said that higher education institutions are like cities when it comes to the application of regulatory compliance initiatives within the campus borders: anything you find within the city limits of a mid-sized American town may be found on, or within, the constraints of a college campus at some scale. With that in mind, the AICUP environmental compliance audits were designed to be thorough, comprehensive and thought provoking. While the main goal of this program was to find the problems before a regulatory agency did, much more was achieved as reflected in this report.