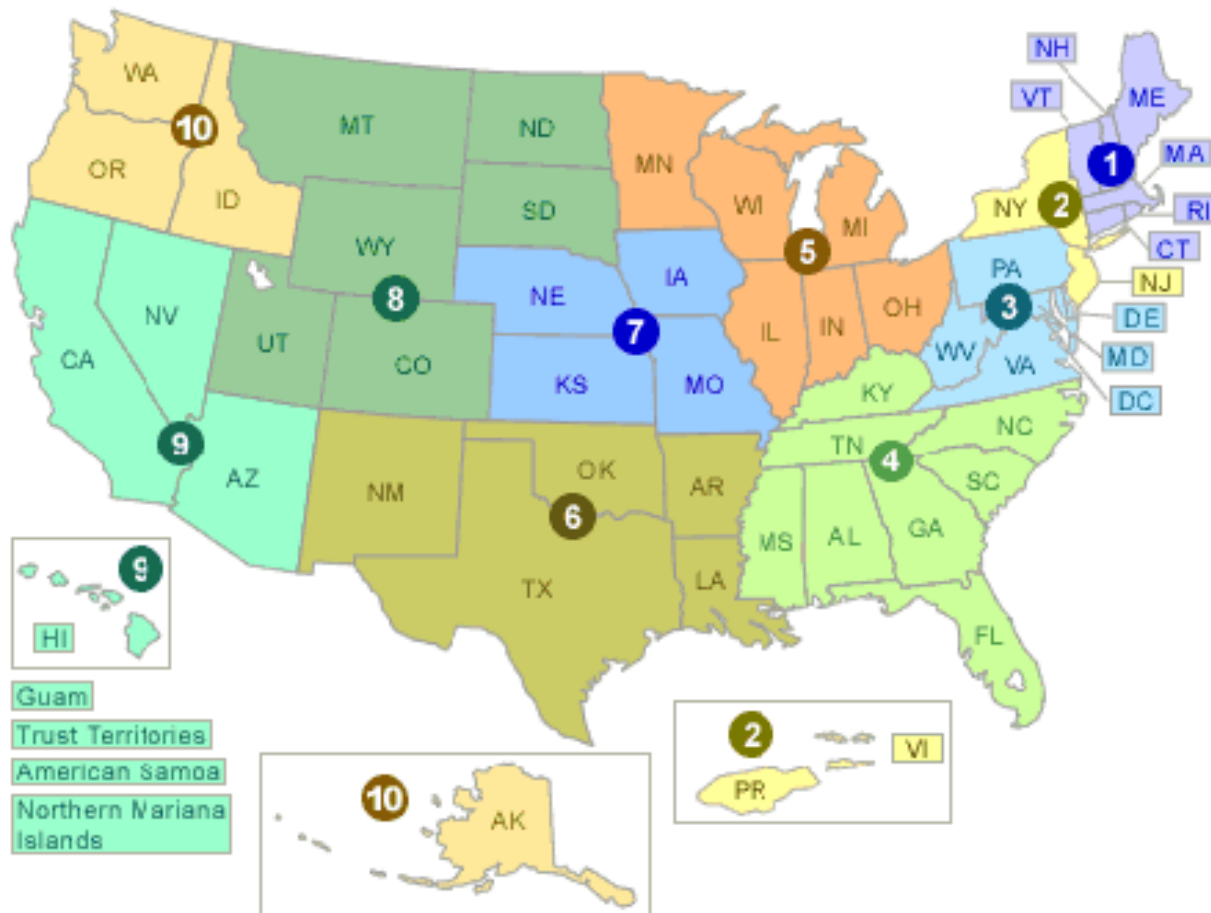


# Comparison with Other States' Self-Policing Policies



# EPA Audit Policy

- EPA issued the first audit policy in 1995 (rev. 2000)  
<http://www.epa.gov/compliance/resources/policies/incentives/auditing/auditpolicy51100.pdf>
- Applies to federally authorized programs
- Meet all 9 conditions – will not seek gravity based penalties for the violations disclosed
  - May still seek economic benefit
- EPA generally issues a Notice of Determination (NOD) to close out disclosures, where there is no assessment of penalties
  - Known as their ‘final determination’

# EPA Audit Policy (Con't)

- EPA has developed 'Audit Policy' FAQ (2007)

<http://www.epa.gov/compliance/incentives/auditing/2007-faqs.pdf>

- Sample disclosure documents

<http://www.epa.gov/compliance/incentives/auditing/auditpolicy.html>

- Series of protocols developed for each federal environmental program

<http://cfpub.epa.gov/compliance/resources/policies/incentives/auditing/>

- EPA recommends e-disclosure: EPCRA

– Region 6 states can use e-disclosure for other environmental laws  per the Policy

<http://www.epa.gov/compliance/incentives/auditing/edisclosure.html>

# EPA Audit Policy (Con't)

- Interim Audit Policy for “New Owners” (2008)

<http://edocket.access.gpo.gov/2008/pdf/E8-17715.pdf>

- *New owners* that want to make a “clean start” to correct violations under previous owner
- *New owner* must meet EPA definition
- Apply 5 conditions of the Policy differently  
(systematic discovery, voluntary discovery, prompt disclosure, other violations, cooperation)
  - All violations eligible under Policy\*
  - Disclosure within 45 days of closing date
- **Unique economic benefit waiver**

\* As long as violations disclosed prior to first instance when monitoring, sampling, etc. is required to be performed.

# Self-Policing State Overview

- States may have their own audit policy, law or rules to address state-specific environmental programs
- State Self-Policing:
  - Policies modeled after EPA's (19 states)
    - Generally follows the EPA's format for nine eligible conditions under the Policy
  - *Privilege & Immunity Laws* (26 states)
  - *Privilege & Immunity Rules* (1 state)

# CT Policy

- 9 Conditions in *Policy on Incentives for Self-Policing* virtually word-for-word from EPA policy
- Key Differences:
  - CT Policy applies equally to violations of state regulations and state-delegated programs
  - Allows 30 days from discovery to disclosure

# Neighboring States Policies

- Massachusetts

- *Policy on Incentives for Self-Policing*
- *Interim Policy on Compliance Incentives for Small Businesses*

- 10 employees or less & strict eligibility criteria
- Must conduct an environmental audit or accept on-site compliance assistance to receive penalty mitigation

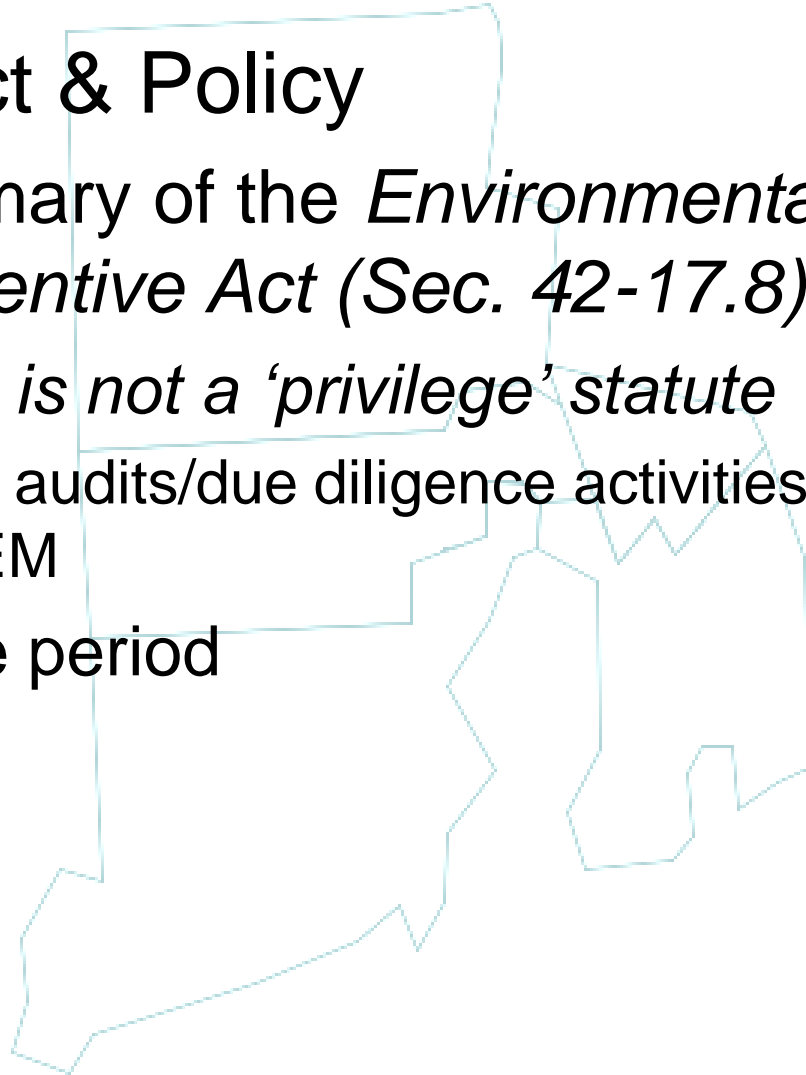
- New York

- *Small Business Self-Disclosure Policy*

- 100 employees or less
- Must conduct an environmental audit or accept on-site compliance assistance to receive penalty mitigation

# Neighboring States Policies (con't)

- Rhode Island Act & Policy
  - Policy is a summary of the *Environmental Compliance Incentive Act (Sec. 42-17.8)*
  - Policy states: *Act is not a 'privilege' statute*
    - Information from audits/due diligence activities can be requested by DEM
  - 15 day disclosure period





# Multi-Media Audit Case Summary

- Peer Audit Agreement w/ more than 200 Independent Colleges and Universities
  - Disclosed more than 16,000 State & Federal Violations

Notice of Determinations (NODs) for Violations Disclosed		
# violations	EPA Calculated Civil Penalty	Economic Benefit
7	\$168,040 - 100% waiver	100% waiver
54	\$242,855 - 100% waiver	100% waiver
99	\$1,218,982 - 100% waiver	100% waiver
88	\$1,816,312 - 100% waiver	100% waiver
333	\$5,317,704 - 100% waiver	100% waiver

- Development of leaner and more sustainable business practices, notably EMS and Green Project Initiatives

# Audit Case Summary (Con't)

## Average Penalty per School by Regulation



Toxic Substances Control Act (TSCA)  
8%  
\$37,187

Clean Air Act (CAA)  
2%  
\$9,297

Clean Water Act (CWA)  
18%  
\$83,670

Safe Drinking Water Act (SDWA)  
<1%  
<\$4,648



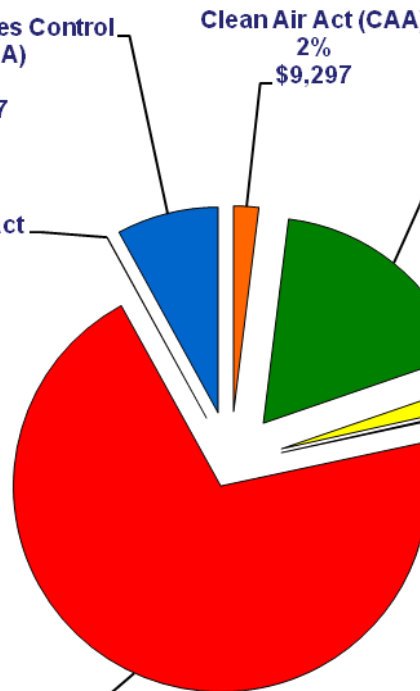
Emergency Planning and Community Right-To-Know Act (EPCRA)  
2%  
\$9,297



Federal Insecticide Fungicide and Rodenticide Act (FIFRA)  
<1%  
<\$4,648



Resource Conservation and Recovery Act (RCRA)  
70%  
\$325,382



### Identified & properly managed at 195 schools:

- 100 tons hazardous waste
- 69 tons legacy waste
- 41 tons non-hazardous chemicals
- 42 tons batteries and bulbs

Calculated\* total average penalty per school (all violations):     **\$465,000**

\*Per EPA's civil penalty policy