

From: Byer, James
Sent: Thursday, November 17, 2005 8:33 AM
To: Redig, Michael; London, Lisa; Holmes, Georgiana
Cc: Woehle, Melissa
Subject: RE: ONYX Self Reporting Determination

Thanks Mike, This confirms what Melissa and I were thinking. Onyx needs to see some reward for "self-policing."

Based on the four cited violations (with 75% adjusted) and one possible "new" violation I discovered during my CDI- the final adjusted penalty could be in the 20K to 30K range.

We would also insist on a contamination assessment (if not already completed), modifications to facility tracking records/system and a possible third party audit of the records.

Thoughts? Jim

-----Original Message-----

From: Redig, Michael
Sent: Wednesday, November 16, 2005 4:24 PM
To: Byer, James; London, Lisa; Holmes, Georgiana
Cc: Woehle, Melissa
Subject: RE: ONYX Self Reporting Determination

Jim,

On an initial reading of the EPA Policy in the FR provided this may merit a 75% reduction in any potential CPP assessment. The OES company meets that on the basis of qualifying for meeting the conditions of Section D items 2-9. I say this since the audit (criteria D - 1) that discovered the depth and breadth of the violations was an ad-hoc response to an internal complaint investigation and not the result of an EMS driven routine audit that would be the hallmark of an ISO 14000 implementation for all Onyx operations.

Thanks
Mike

Please note: Florida has a very broad public records law. Most written communications to or from state officials are public records and may be made available to the public or media upon request. This e-mail communication, your reply, and future e-mails to my attention may therefore be subject to public disclosure.

**This communication is privileged and confidential
attorney-client discussion and/or work product not subject
to Public Disclosure pursuant to Ch 119 FS.**

From: Byer, James
Sent: Wednesday, November 16, 2005 11:03 AM
To: Redig, Michael; London, Lisa; Holmes, Georgiana
Cc: Woehle, Melissa

Subject: ONYX Self Reporting Determination

Attached are the PDF documents you may need to help us with a determination for application of good faith prior to discovery.

- Included are;
- ONYX Letter (follow-up to telephone notification) self-reporting violations
 - Extract of EPA guidelines on application of “good faith adjustment factors”
 - Fed Register copy of EPA’s Incentive for Self-Policing
 - Directive DEP922 Incentives for Self-Evaluation by the Regulated Community

<< File: HW- ONYX Letter 092005.pdf >> << File: Pages from
rcracivilpenaltypolicy2003-fnl.pdf >> << File: Self-reporting.pdf >> << File:
dep922.pdf >>

Thanks for your help in possible application of this determination.
We want to be consistent with the State-wide application of this possible penalty adjustment.

Jim