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Voluntary Self-Disclosure Policy/Environmental Crimes Section/Environment & Natural Resources Division: U.S. Department of Justice Announces Revisions

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The Environmental Crimes Section (“ECS”) of the United States Department of Justice (“DOJ”) Environment and Natural Resources Division (“NRD”) issued revisions to its Voluntary Self-Disclosure Policy which was issued in 1991 titled:

Factors in Decisions on Criminal Prosecutions for Environmental Violations in the Context of Significant Voluntary Compliance or Disclosure Efforts by the Violator (“1991 Policy”)

ECS describes the revisions (“Revisions”) as:

- Updating the *1991 Policy*
- Providing standards for what constitutes voluntary self-disclosure of misconduct
- A description of benefits ECS prosecutors will confer on companies that complete the voluntary self-disclosure process
- Exception criteria that may limit the scope of voluntary self-disclosure benefits in certain cases

The incentive for self-disclosure is described as the potential receipt of resolutions under more favorable terms than if the government learns of the misconduct through other means.

The stated policy goals of the Revisions include:

- Encouragement of self-auditing, self-policing, and voluntary self-disclosure of criminal conduct by companies through application of such mitigating factors in ECS’s exercise of criminal environmental enforcement discretion
- Enabling the government to conserve resources, conduct more expeditious investigations, and hold responsible individuals accountable through voluntary disclosures
- Assist corporations by encouraging ethical and sustainable corporate governance, risk management, and good management practices

The Revisions address:

- Standards of Voluntary Self-Disclosure
- Voluntary
- Timing of the Disclosure

- Disclosure Made to the DOJ
- Method of Discovery
- Substance of the Disclosure and Accompanying Actions
- Acquisitions
- Credit for Voluntary Self-Disclosure, Full Cooperation, and Timely and Appropriate Remediation
- Aggravating and Disqualifying Factors that may warrant prosecution notwithstanding a voluntary self-disclosure include, but are not limited to, misconduct that:
 - Posed a threat of serious adverse impact to the environment, public health and safety, worker safety, wildlife, or natural resources;
 - Involved knowing endangerment of, serious injury, or death to any individual;
 - Was deeply pervasive throughout the company;
 - Involved concealment or obstruction of justice by senior management of the company;
 - Was followed by lack of full cooperation;
 - Was followed by lack of timely and appropriate remediation;
 - Independent Compliance Monitorship

A copy of the Revisions can be downloaded [here](#).