

Voluntary Disclosure/Multi-Media Enforcement: U.S. Environmental Protection Agency and Clean Energy Production Company Enter into Consent Agreement



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The United States Environmental Protection Agency (“EPA”) published a Notice in the Federal Register announcing a Consent Agreement (“CA”) with ENEL Green Power North America, Inc. (“EGP”) resolving alleged violations of certain federal environmental statutes. See 82 Fed. Reg. 52899 (November 15, 2017).

EPA states that the proposed CA is the result of the voluntary disclosures of Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, and Emergency Planning and Community Right-to-Know Act violations by EGP to EPA.

EGP is stated to be an electric energy producing company specializing in producing clean energy from renewable sources (referencing hydro, solar, wind, geothermal, and biomass sources). The company is incorporated in the State of Massachusetts and located in Andover.

EPA and EGP are stated to have entered into a corporate audit agreement on October 12, 2012, pursuant to EPA’s policy on Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations (also known as the Audit Policy).

The company agreed to conduct a “systematic, documented, and objective review of its compliance with the applicable provisions” of the:

1. Clean Water Act
2. Clean Air Act
3. Resource Conservation and Recovery Act
4. Emergency Planning and Community Right-to-Know Act

The company agreed to submit a final audit report detailing:

- Specific facilities assessed
- Information setting forth violations discovered
- Correction actions taken

EGP is stated to have audited a total of 77 facilities. The results were documented in November 14, 2012 and March 7, 2017 Final Audit Report and Supplemental Audit Report, respectively. The alleged violations detailed in these audits were stated to have been disclosed by EGP to EPA.

EPA has determined that EGP “satisfactorily completed its audit and met all conditions set forth in the Audit Policy for the violations identified” in the CA. As a result, the federal agency waives 100 percent of the gravity-based penalties calculated for the violations. However, the CA identifies certain alleged Clean Water Act violations that EPA states did not meet one of the conditions of the Audit Policy (i.e., requiring correction of the violation within 60 days of the discovery). The agency therefore assesses a gravity-based penalty of \$22,373.

As to all violations identified in the CA, EPA calculated an economic benefit of noncompliance of \$54,624. As a result, EGP has agreed to pay a total civil penalty of \$76,997 for all the identified violations.

[A copy of the Federal Register Notice can be downloaded here.](#)