



New Law Rewards Voluntary EHS Audits Starting November 1

By Ashlyn Smith and Jake Krattiger
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The [Oklahoma Environmental, Health and Safety Audit Privilege Act](#) is designed to encourage voluntary compliance with environmental and occupational health and safety (“EHS”) laws. The Act follows a national trend towards immunity from civil and administrative penalties for regulated entities that perform voluntary EHS audits and then remedy and disclose any discovered violations. Regulated entities in this context will include operators of oil and gas leaseholds, pipelines, and processing plants, as well as operators of underground petroleum storage tanks, to name a few. As an added incentive, the Act also provides that reports generated during the audit process are privileged and, therefore, not admissible as evidence nor subject to discovery in civil actions or administrative proceedings.

To invoke the Act’s protections, certain requirements must be met. For example:

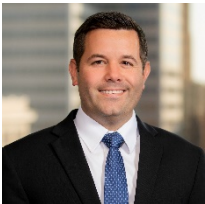
- The audit must be a systematic and voluntary evaluation of compliance with state and federal EHS laws and regulations.
- Upon the discovery of a violation, the regulated entity must immediately initiate efforts to achieve compliance.
- The regulated entity must promptly disclose the violation by written notice to the appropriate regulatory agency and then cooperate with the agency in connection with any further investigation.

The Act is meant to incentivize proactive behavior. Therefore, regulated entities are not protected when a violation is discovered by happenstance or when the violation has already been independently detected by the appropriate regulatory agency. Any violation discovered pursuant to an audit already required by law is similarly excluded.

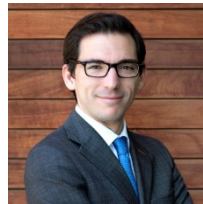
In addition, the Act explicitly excludes protection in light of certain types of violations, such as those which result in injury or imminent and substantial risk of serious injury to

persons, property, or the environment, or which are the result of willful or reckless conduct. Certain other exclusions also apply in limited circumstances, and in any case, the burden is on the regulated entity to show that it has satisfied each requirement of the Act.

At bottom, although strings are attached, the Act creates a valuable option for regulated entities that wish to get in front of potential EHS issues and thereby curb civil and administrative liability. GableGotwals is experienced in helping regulated entities comply with state and federal EHS laws. Our team of attorneys is available to help you leverage the benefits of voluntary EHS audits. Please contact any [GableGotwals Energy, Oil and Gas, or Environmental](#) attorney for assistance.



Ashlyn Smith
asmith@gablelaw.com
Direct dial: 405-568-3319



Jake Krattiger
jkrattiger@gablelaw.com
Direct dial: 405-568-3301

GableGotwals * 1100 ONEOK Plaza * 100 West Fifth Street * Tulsa, OK 74103
www.gablelaw.com

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