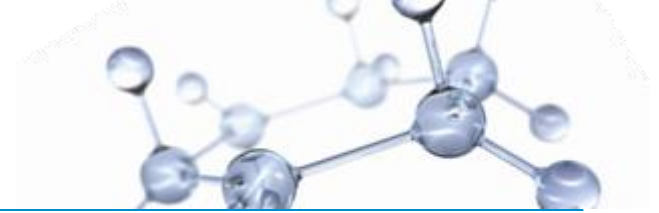


Environmental, Health & Safety – Regulatory Compliance

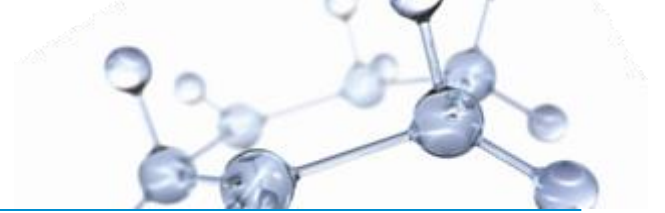
Snehal R. Patel, Counsel
ExxonMobil Law Department

Overview



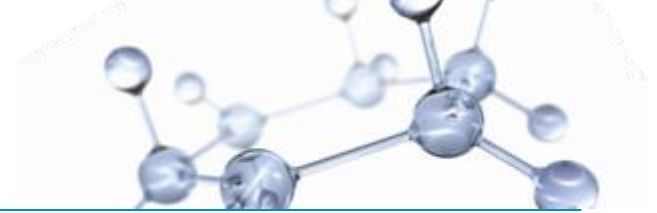
- Who's the Client?
 - Rules of Professional Conduct
- Code of Ethics and Business Conduct
- Compliance Expectations
- Roles and Responsibilities
- Compliance Scenarios

Who's the Client?



- Texas Disciplinary Rules of Professional Conduct:
 - Duty to the Entity overrides Individual Constituent
 - Rules on Protecting the Entity

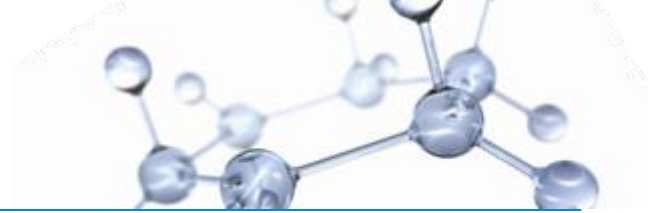
Ethics Policy



"The policy of Exxon Mobil Corporation is to comply with all governmental laws, rules and regulations applicable to its business.

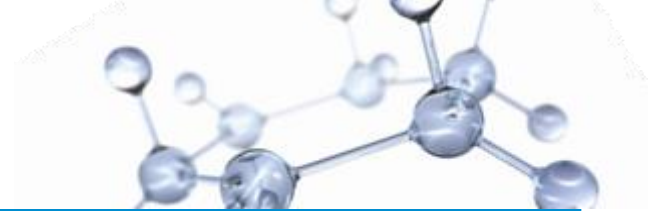
The Corporation's Ethics policy does not stop here. Even where the law is permissive, the Corporation chooses the course of highest integrity. Local customs, traditions, and mores differ from place to place, and this must be recognized. But honesty is not subject to criticism in any culture. Shades of dishonesty simply invite demoralizing and reprehensible judgments. A well-founded reputation for scrupulous dealing is itself a priceless corporate asset."

Compliance Expectations



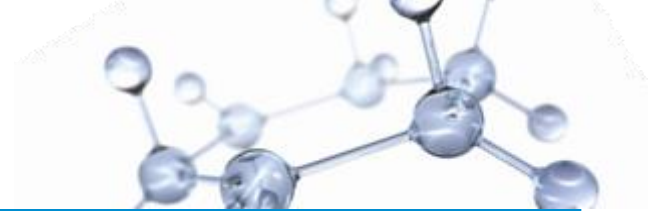
- Compliance with all laws/regulations
- Choose the course of highest integrity

Roles & Responsibilities



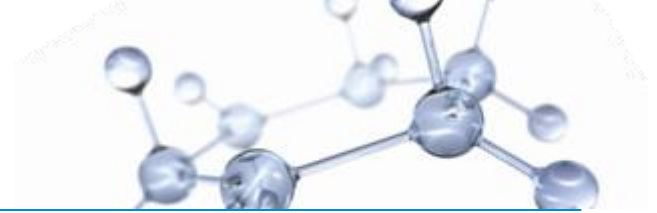
Role as a Counselor/Advisor/Negotiator

- Responsible for providing advice on legal compliance issues
 - Analyze laws and facts
 - Evaluate legal options
 - Evaluate potential legal exposures



Compliance Hypotheticals – For Discussion

Hypothetical 1



Fuel Quality Standards

Severe weather disrupted regional commercial activity and led to government concerns about motor fuel shortages. The government encouraged fuel producers and suppliers to ignore certain environmental standards in order to facilitate the production and distribution of an adequate supply of fuels. The government did not have the legal authority to suspend the requirements, but pledged that it would not prosecute violators. What advice do you give?

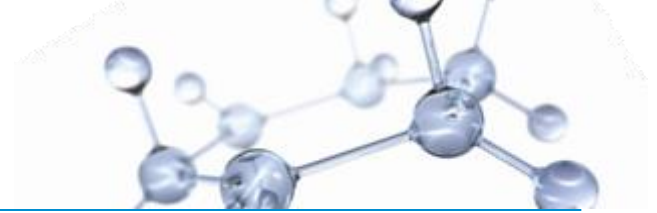
Hypothetical 2



Release Reporting

A provision of national law requires the immediate reporting by telephone of certain air emissions, to determine whether a government emergency response was necessary to protect public health or the environment. The government makes a mistake and sets the reporting threshold for one substance so low that a large number of telephone reports are generated for circumstances that would not normally require an emergency response. The government asks companies to refrain from reporting these types of releases during the lengthy period required to change the reporting threshold. Without the legal authority to waive or suspend the requirement, it could only promise not to enforce against the specified violation. What advice do you give?

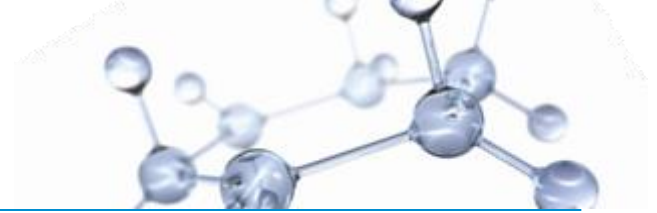
Hypothetical 3



Discovery of Spills at a Site

During some routine maintenance at a small barge cleaning company, a worker finds evidence of spills from cleaning solvents in the soil. There are regulatory requirements for reporting spills “upon discovery” within 24 hours. The plant manager is new to the job and would like to quietly handle the matter in-house. The plant manager also tells you that the release is finding its way into a nearby waterway that is a source of drinking water. What advice do you give?

Hypothetical 4

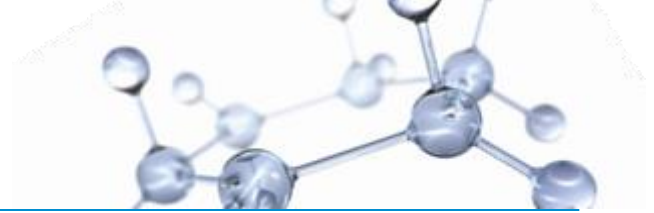


Natural Disaster

In response to a natural disaster, a regional governor lawfully issues a proclamation suspending all laws and regulations of the regional government that would impede responding to the disaster.

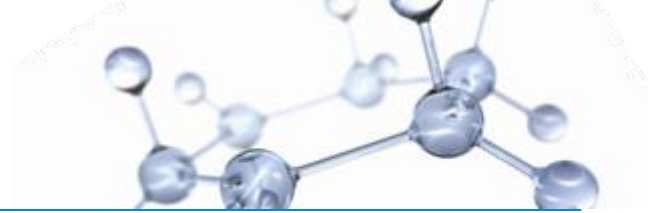
The regional environmental agency issues guidance that all "reasonable" actions that are "necessary and prudent" to "facilitate, maintain, or restore" the production and distribution of fuel were covered by the proclamation. It offers "enforcement discretion" for noncompliance with specified fuel vapor pressure rules.

The national government exercised its legal authority to suspend certain fuels-related environmental requirements under national law.



CLASS STUDY

Clean Water Act



- Permit Shield Provision – Section 402(K) of CWA
 - Permit holder complies with CWA if it complies with the terms of its NPDES permit.
- *Sothorn Appalachian Mountain Stewards v. A&G Coal Corp.*
- *Sierra Club v. ICG Hazard*
- *Seminal Case: Piney Run Preservation Association*