

# Mapping Effective Compliance to the U.S. Sentencing Guidelines

*Anthony M. Tocco CCEP, CFE, CIA*  
*Chief Compliance Officer*  
DTE Energy



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# Mapping Effective Compliance to the U.S. Sentencing Guidelines

## DTE Energy Overview

- One of the nation's largest diversified energy companies
- Headquartered in Detroit, Michigan
- Detroit Edison, an electric utility serving 2.1 million customers in Southeastern Michigan
- MichCon, a natural gas utility serving 1.2 million customers in Michigan.
- Also includes non-utility energy businesses
  - operating in 26 states
  - power and industrial projects
  - coal marketing and transportation
  - gas storage and pipelines
  - unconventional gas production
  - energy trading



# Mapping Effective Compliance to the U.S. Sentencing Guidelines

## Compliance program strategy:

- Proactive and preventative for mitigating legal and regulatory risk
- Based on the Federal Sentencing Guidelines recommended elements
- Key processes:
  - Risk Assessment
  - Training and Communication
  - Investigations
  - Auditing and Monitoring

# Federal Sentencing Guideline Element 1

## Guideline

The organization shall establish *standards and procedures* to prevent and detect criminal conduct.

## DTE Energy

- Code of conduct
- Core values
- Corporate and departmental policies
- Standard work instructions
- Internal controls
- Committee charters
- Job descriptions

# Federal Sentencing Guideline Element 2

## Guideline

The organization's *governing authority* shall be knowledgeable and exercise reasonable oversight.

Specific individual(s) within *high level personnel shall be assigned overall responsibility*.

Specific individual(s) shall be delegated *day-to-day operational responsibility*.

## DTE Energy

- Board of directors
  - Audit Committee
  - Public Responsibility Committee
- CEO
- General counsel
  
- Chief compliance officer
- Assistant to the chairman
  
- Compliance & ethics personnel
- Compliance liaisons
- Process owners

# Federal Sentencing Guideline Element 3

## Guideline

The organization shall use reasonable steps *not to employ those who have engaged in illegal activities* or other conduct inconsistent with an effective compliance and ethics program.

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- Pre-employment background check
- Personnel risk assessments

# Federal Sentencing Guideline Element 4

## Guideline

The organization shall *communicate* periodically its standards and procedures through *training* and other effective means of distributing information.

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- Company intranet
- Compliance office website
- Leader/staff meetings
- Board meetings
- Ethics training
- Law/regulation specific training
- Quarterly newsletter
- Promotional programs
- Posters and trinkets

# Federal Sentencing Guideline Element 5

## Guideline

The organization shall take reasonable steps to:

- *Monitor and audit* the compliance and ethics program
- Periodically *evaluate* the effectiveness
- Have and publicize an *employee reporting system*, allowing for anonymity and confidentiality

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- Compliance office
- Ethics and employee Issues office
- Business unit self-audits
- Internal/external audits
  
- Employee surveys
- Benchmarking
- Independent reviews
  
- *Ethics in Action* Helpline (365/24/7)
  - Internal/external websites
- Assistant to the chairman
- Audit committee



# Federal Sentencing Guideline Element 6

## Guideline

The organization shall promote the program consistently throughout the organization through *incentives and discipline*.

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- Incorporated into performance management model
- Employee recognition
- Positive discipline program

# Federal Sentencing Guideline Element 7

## Guideline

The organization shall take reasonable steps to *respond appropriately and prevent further occurrences*.

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- Internal/external investigations
- Internal/external audits or assessments
- Policy modification
- Internal control enhancements
- Communication
- Training

# Federal Sentencing Guideline Supplemental Element

## Guideline

The organization shall *periodically assess the risk.*

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- Compliance risk assessment
- Fraud risk assessment
- Internal control risk assessment
- Enterprise risk management
- Business/functional unit assessments
- Industry assessments
- Code of conduct employee survey
- Employee engagement survey

## Summary

**INTEGRATION** is key