



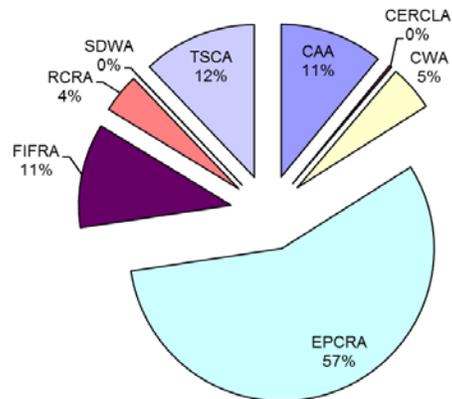
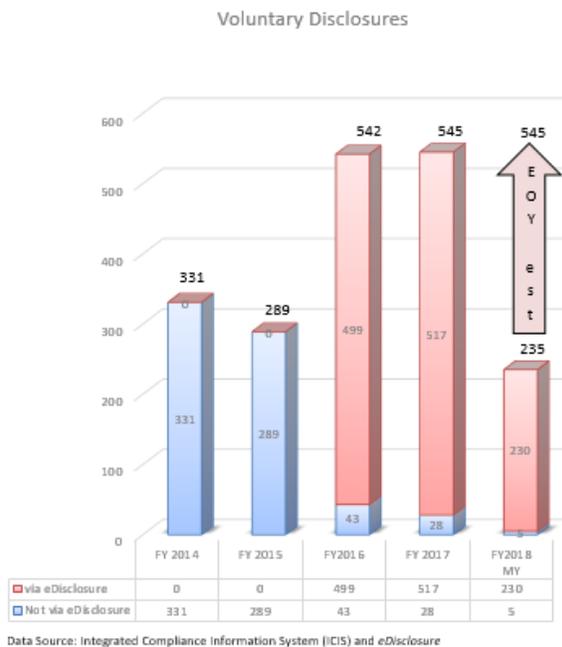
## EPA Announces Renewed Emphasis on Self-Disclosed Violation Policies (5/15/2018)

As part of EPA’s priority to address noncompliance in an efficient and timely manner, applying a broad range of enforcement and compliance tools (see *e.g.*, Goal 3 in [EPA’s FY 2018-2022 Strategic Plan](#)), the Agency today announced a renewed emphasis on encouraging regulated entities to voluntarily discover, promptly disclose, expeditiously correct, and take steps to prevent recurrence of environmental violations.

Specifically, EPA is taking steps to enhance and promote: (a) its already highly successful online “eDisclosure” program; (b) the additional flexibility that is available to new owners who self-disclose violations; and (c) opportunities to increase compliance through use of existing self-disclosure policies or tailored programs.

### A. eDisclosure

The *eDisclosure* system provides a centralized web-based portal to receive and automatically process self-disclosed civil environmental violations. Large and small businesses are quickly and efficiently disclosing and correcting many violations using *eDisclosure*. In the two years since launching eDisclosure, EPA has seen more than a 75% increase in the number of annual self-disclosures (from 310 to ~545) and a continuing comparable mix of disclosure types (with just over half involving EPCRA violations and almost half involving other environmental laws).



**eDisclosures by Law (12/9/2015 -12/9/2017)  
EPCRA over 50% because federal only  
program**

To encourage the continued and expanded use of these self-disclosure tools, EPA plans to supplement its [2015 eDisclosure FAQs](#), its [2007 Audit Policy Frequently Asked Questions \(FAQs\)](#), and the [1997 Audit Policy Interpretive Guidance](#) to clarify a number of issues that the regulated community has raised to EPA.

Additionally, EPA is reminding the regulated community that EPA's self-disclosure policies:

- (1) eliminate 100% of the gravity-based civil penalty that otherwise might apply if all policy conditions are met;
- (2) allow EPA to waive the economic benefit penalty component where EPA deems it insignificant (since the launch of the policies (EPA's [Audit Policy](#), [Small Business Compliance Policy](#), and [New Owner Audit Policy](#)), EPA has received over 10,500 disclosures and has sought to recover only the economic benefit component in less than 1% of them);
- (3) do not require advance notice to EPA of an audit;
- (4) do not impose time limits on audit completion;
- (5) do not require an affirmative admission that a violation has occurred (stating that violations "may have" occurred is sufficient);
- (6) provide entities with clarity by defining an objective time period for disclosing violations; and
- (7) provide entities with clarity by defining allowable violation correction time periods.

EPA believes that the above clarifications should help to dispel some common misconceptions that may unnecessarily discourage even greater use of EPA's self-disclosure policies.

#### **B. New Owner Audit Policy**

In publishing the [New Owner Audit Policy](#) on August 1, 2008, EPA offered additional flexibility and incentives to new owners that want to make a "clean start" at their newly acquired facilities by addressing environmental noncompliance that began prior to acquisition. Some of the policy's key incentives and areas of flexibility include, for example:

- (1) the ability of new owners to enter into audit agreements that incorporate disclosure reporting that is appropriate to their unique situation;
- (2) the waiver of economic benefit penalties that otherwise might apply to delayed expenditures; and

- (3) a more generous application of the Voluntary Discovery condition to allow consideration of all violations which would otherwise be ineligible for Audit Policy consideration because they are already required to be identified through a legally mandated monitoring, sampling or auditing protocol, and thus not “voluntarily discovered.” (e.g., to allow violations that would have been discovered pursuant to Clean Air Act Title V certification activities to be considered voluntarily discovered if the discloser enters into an audit agreement or discloses violations before the first instance when the Title V monitoring, sampling or auditing is required).

Although dozens of new owners that have acquired over 1,000 facilities have availed themselves of the benefits of the New Owner Policy, EPA believes that it can encourage greater use of the policy by expanding its outreach and education efforts to the regulated community and other stakeholders. To the extent that interpretive issues arise during such efforts, EPA will supplement its FAQs and/or interpretive guidance as needed.

### **C. New Owner Clean Air Act Audit Program for the Oil and Gas Sector**

The EPA is in the process of developing a [New Owner Clean Air Act Audit Program](#) tailored to the oil and natural gas sector and focused on, at a minimum, tank battery vapor control systems. This program will provide environmentally protective efficiencies and certainty in the oil and natural gas sector based on the Agency’s analysis of the sector’s unique operations. We view this as an opportunity to help new owners to achieve prompt and cost-effective return to compliance.

The program initially will be made available to upstream exploration and production sites where EPA and states have seen significant noncompliance. We believe offering additional flexibilities under a specific and tailored new owner audit program will make it easier for the regulated community to self-disclose and correct violations, thereby providing additional protection for public health and the environment.

A key program component will require that companies assess storage tank battery vapor control system design as part of the audit process. EPA has developed a draft standard audit program agreement template, and will be conducting outreach and seeking feedback from states, tribes, the regulated community, environmental NGOs and other stakeholders on the draft agreement.

#### **For more information:**

See EPA’s [eDisclosure](#) and [New Owner Policy](#) websites or contact the National Audit Policy Coordinator, Philip Milton ([milton.philip@epa.gov](mailto:milton.philip@epa.gov) or 202-564-5029).