

# Self-Disclosure Policy/Federal Enforcement: U.S. Environmental Protection Agency Provides Updated Guidance



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

02/15/2021

The United States Environmental Protection Agency (“EPA”) on February 5th issued a document that:

... highlights interpretation and provides clarification of EPA’s self-disclosed violation policies and the eDisclosure system.

The document is titled:

*EPA’s Audit Policy Program: Frequently Asked Questions (“Q&A”)*

The document was prepared by EPA’s Office of Enforcement and Compliance Assurance.

Thanks to Kelly McQueen of McQueen Law Firm who notified me of the Q&A’s recent issuance.

EPA in 1995 issued its original policy “Incentives for Self-Policing, Discovery, Disclosure, Correction and Prevention of Violations.” See 60 Fed. Reg. 66706 (Dec. 22, 1995). The policy provides that voluntary self-disclosure violations can eliminate the gravity-component of a penalty if nine conditions are met. Those conditions are spelled out in the policy.

The eDisclosure system is an online process for the agency’s receiving and automatically processing violation disclosures under the disclosure policies.

The February 5th Q&A uses that format to address questions EPA has been asked about these programs. It supersedes other interpretive guidance and “frequently asked questions” documents that were issued in 1997 and 2007, respectively.

Examples of topics addressed in the February 5th Q&A include:

- Relationship of These Frequently Asked Questions (FAQs) to Prior EPA Guidance and FAQs
- Systematic Discovery
- Voluntary Discovery
- Prompt Disclosure
- Independent Discovery and Disclosure
- Correction and Remediation
- No Repeat Violations
- Other Violations Excluded
- Enforcement Policy and Practice

- Miscellaneous Issues
- Benefits of the New Owner Audit Policy
- Eligibility Requirements
- Relationship to eDisclosure System
- Enforcement Policy and Practice
- Submitting Confidential Business Information (CBI)
- Prompt Disclosure via eDisclosure
- No Repeat Violations
- Expeditious Correction Condition
- Online Portal Mechanics and Implementation
- Enforcement Practice and Policy

The Arkansas Department of Energy and Environment – Division of Environmental Quality has a similar disclosure process titled “The Environmental Self-Disclosure Incentive Policy.”

A copy of the Q&A can be downloaded [here](#).