CEEC

Corporate Environmental Enforcement Council

February 8, 2013

The Honorable Cynthia Giles
Assistant Administrator
Office of Enforcement and Compliance Assurance
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Audit Policy Issues Including New Owner Policy

Dear Ms. Giles:

On behalf of the Corporate Environmental Enforcement Council (CEEC), I want to thank you for taking the time to meet with the CEEC membership in December and discussing with our members a wide variety of environmental enforcement policy issues. CEEC values its longstanding relationship with the Office of Enforcement and Compliance Assurance (OECA), and in particular the ongoing dialogues with you and your staff.

In response to your invitation to provide you and your staff with follow-up information, from our perspective, regarding EPA's "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" (Audit Policy), and specifically with respect to the Agency's ongoing consideration of the future viability of the Audit Policy, we would like to share with you the following comments.

CEEC understands that the Agency is seriously considering eliminating the Audit Policy, based on a desire to conserve and better deploy its limited enforcement resources. While CEEC understands the need for OECA to carefully review and manage its resources, we don't believe that elimination of the Policy is necessary to achieve resource savings. The Audit Policy has consistently resulted in the identification and notification to the Agency of noncompliance with no required commitment of resources. The only resources the Agency commits to the program

is to follow-up on the notifications it receives – a commitment that is totally within the Agency's control, and is independent of whether the Policy itself has a beneficial effect. In fact, the Agency could – and we believe it should – consider changes to the way it administers the program, including a determination to take no follow-up action at all on disclosures, which would reduce the resource commitment to near zero and still achieve the benefits of the Policy.

As you know, CEEC has been actively engaged on this issue since before the Agency originally issued the Audit Policy back in 1995. CEEC worked closely with EPA on the development of the original policy, and since then has worked not only to ensure that the Audit Policy was appropriately implemented but also to revise and expand it as appropriate, most notably with respect to the revisions that the Agency adopted in 2000 and issuance of the "Interim Approach to Applying the Audit Policy to New Owners" in August, 2008.

CEEC believes that the Audit Policy is one of the most successful programs that the Agency has implemented. For 17 years, CEEC and its member companies have been focused on ensuring the continued viability of the program, addressing issues that have arisen in the implementation of the Audit Policy, and suggesting ways that the Policy and its implementation could be improved. CEEC firmly believes that the Audit Policy continues to achieve its stated objective: "to enhance protection of human health and the environment by encouraging regulated entities to voluntarily discover, promptly disclose and expeditiously correct violations of Federal environmental requirements." 70 Fed.Reg. 19618 (April 11, 2000).

CEEC would like to address a couple of broad issues that have been discussed with respect to the Agency's current thinking on the Audit Policy, and also provide some additional discussion regarding some of the benefits that continue to accrue as a result of the availability and use of the Audit Policy -- benefits that CEEC believes the Agency should more fully recognize.

It is our understanding that the Agency believes that it may not be appropriate to continue to expend resources on the implementation of the Audit Policy, in part because it believes that

auditing has become more widespread in the regulated community and that therefore the Policy is no longer needed as an "incentive" for companies to perform compliance audits. CEEC has also been made aware that the Agency also believes that its enforcement resources would be better spent elsewhere because the Policy typically generates the disclosure of violations that do not fall within the Agency's high priority enforcement areas, and because the corrective actions undertaken to address the disclosed violations do not result in environmental benefits that are easily quantifiable in the context of the metrics used by the Agency to measure enforcement effectiveness (e.g., volume of emission reductions).

If our understanding of the Agency's views are correct, CEEC believes that those views are misaligned with the mission of the Audit Policy, and also do not necessarily reflect the complete universe of "effects" of the Audit Policy. First and foremost, CEEC maintains that the Audit Policy is not and should not be considered merely an "incentive." What the Policy does is remove a disincentive, which is very different. Without the Audit Policy a company with a rigorous audit program that reports noncompliance to the Agency is far worse off than a company that doesn't audit at all.

It is also disconcerting that the Agency is basing a decision to do away with the Audit Policy on an evaluation of the "importance" of the noncompliance being disclosed. The Agency has long maintained, in situations like ECPRA reporting, that there is no such thing as a "trivial" violation. Yet it appears that the Agency is declaring that there actually are "trivial" violations by suggesting that the Audit Policy is not worth preserving because it is not producing disclosures of significant noncompliance. Putting aside for a moment that the universe of noncompliance disclosed pursuant to the Audit Policy is due in large part to the nature of the policy itself (which precludes from coverage noncompliance otherwise required to be reported, like certain air and wastewater exceedances), eliminating the audit policy could send a signal that companies need no longer expend the efforts they presently do to identify all noncompliance.

In addition, the implementation of the Audit Policy has resulted in significant benefits, both in terms of protection of human health and the environment and in the development of more

sophisticated environmental compliance programs that have generated compliance-related benefits that are not necessarily captured by the Agency in its efforts to measure the effectiveness of the Agency's enforcement programs. As discussed below, there are several metrics by which the benefits generated as a result of the availability and use of the Audit Policy could and should be measured. When these types of metrics are considered, CEEC s believes that the analysis of benefits gained versus resources expended vis-à-vis the Audit Policy paints a much different picture than the scenarios described by the Agency with regard to the Audit Policy..

As discussed in their recent paper "*Coming Clean and Cleaning Up: Does Voluntary Self-Reporting Indicate Effective Self-Policing?*" Michael Toffel and Jodi Short analyzed whether use of the Audit Policy might indicate effective self-policing efforts by those companies that used the Policy, which in turn provides the regulatory agency (EPA) with opportunities for enforcement efficiencies. This analysis involved reviewing empirical evidence in the context of the Audit Policy and enforcement of the Clean Air Act, and the authors conclude:

> We further demonstrate that firms that voluntarily disclosed regulatory violations and committed to self-policing improved their regulatory compliance and environmental performance. Specifically, they were subsequently cited for fewer regulatory violations by agency inspectors and subsequently experienced fewer accidental releases of toxic chemicals than a matched set of non-disclosers. These results suggest that, on average, firms that self-reported to the Audit Policy also engaged in effective self-policing. Collectively, our results suggest that self-reporting can be a useful tool for reliably identifying and leveraging the voluntary self-policing efforts of regulated companies.[1]

CEEC recommends that the Agency can and should consider ways in which it can streamline and more efficiently implement the Audit Policy, such that the resources that the Agency does devote to the Audit Policy are more efficiently deployed without sacrificing the broad benefits to the environment that the availability of the Audit Policy will continue to generate. Although this letter is focused on the policy issues and metrics that CEEC believes

[1] Toffel and Short. 2011. *Coming Clean and Cleaning Up: Does Voluntary Self-Reporting Indicate Effective Self-Policing?* Journal of Law & Economics 54(3): 609-64, at 611.

supports the continued existence of the Audit Policy, we do set forth some initial thoughts on specific recommendations for more efficient implementation of the Audit Policy. CEEC believes that a dialogue regarding more efficient implementation would be useful to pursue, to ensure the efficient utilization of agency resources supporting the audit policy. In addition, CEEC recognizes that others in the regulated community have engaged with you and your staff on ways to make administration of the Audit Policy more effective, and looks forward to continued discussions on these issues.

Metrics/Ramifications That the Agency Should Consider

Regarding the broad application of the Audit Policy, CEEC would suggest that there are at least three issues deserving of consideration by the Agency when it is evaluating the benefits of the continued availability of the Audit Policy. Those issues include:

- The degree to which audits that reveal noncompliance and trigger corrective action to address that noncompliance have actually resulted in emission reductions that are not captured by the current methods employed by the Agency to measure enforcement results and/or the implementation of corrective actions that offer enhanced human health and environmental protection;
- The importance of continuing to allow Audit Policy treatment for disclosure of noncompliance with certain reporting obligations (such as the obligations under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) – the Toxics Release Inventory (TRI) -- or under Sections 311 and 312 of EPCRA (Tier I and Tier II reporting requirements)). This program alone has accounted for a significant number of disclosures, with the primary benefit inuring to the communities in which the facilities operate, and has contributed significantly to efforts to ensure that accurate and complete data is available for use by EPA, the states and the general public; and,
- The potential impacts on state enforcement programs, including state-equivalent audit policies, if the Agency were to discontinue the Audit Policy.

Reductions in Emissions/Releases

While CEEC recognizes that many of the disclosures that the Agency has received historically have involved violations of EPCRA reporting requirements, CEEC also would suggest that the Agency is underestimating the overall environmental and human health benefits of disclosures and the related corrective action that self-disclosers implement pursuant to the Audit Policy.

When an audit reveals noncompliance that is reported to EPA pursuant to the Audit Policy, the self-discloser is required to implement corrective action to address the noncompliance. CEEC has observed that "corrective action" in the context of an audit self-disclosure frequently includes adoption of additional projects or programs that go beyond technical correction of the disclosed violations, such as implementation of best practices or other enhanced environmental compliance and improvement projects. In addition to the same type of benefits noted above (reductions in pollutants emitted or permitted releases, or general environmental improvement), they also frequently result in the avoidance of noncompliance or environmental releases in the future. As a result, not only are there immediate benefits beyond those realized by correcting the specific violations, there are benefits from avoided future noncompliance or releases that accrue from the self-disclosure.

These benefits from best practices or enhanced programs go beyond the scope of the self-disclosure, and again to not appear to be reflected in the Agency's evaluation of the "benefits" of the self-disclosure in question, thus resulting in greater underestimation of the environmental and human health benefits and improvements gained as a result of companies' use of the Audit Policy.

CEEC also notes that the widespread implementation of self-policing and auditing programs is due in large part to corporate management support for the concepts, and the demonstration to corporate management that EPA is committed to encouraging these programs through the Audit Policy. More specifically, when questions arise regarding implementation of

an environmental auditing program inside a company, it is extremely helpful to be able to point out to management that, pursuant to the Audit Policy, there is the potential for significant if not total penalty relief (at least with respect to the gravity component of the penalty). It is also helpful to be able to cite to the discussions in the Audit Policy regarding the Agency's commitment to not recommend criminal prosecution for the disclosing entity as a general matter, and to refrain from routinely requesting copies of audit reports that are generated in the course of an auditing program and that could be used to trigger enforcement investigations. The Agency should not underestimate the constructive impact of the Policy on regulated entities and their management, and more importantly the signal that the Agency could be perceived to be sending by eliminating the Policy.

In addition to reductions in emission or releases attributable to the mere existence of audit programs and/or corrective actions taken as a result of self-disclosures under the Audit Policy, self-disclosures can bring to the Agency's attention industry-wide compliance issues that can trigger broader actions that result in enhanced protection of human health and the environment in a manner that is not captured by the Agency in its measurement of enforcement results. One of the best examples involves the telecommunications industry, which is one of the Agency's most oft-cited examples of a successful compliance incentive program.

The telecommunications example demonstrates how the Agency is able to transform the benefits of an individual self-disclosure into something much broader, with much greater benefit, without having to rely on traditional enforcement tools that would require the commitment of significantly greater enforcement resources. Again using the Agency's own information and numbers, as a result of a self-disclosure under the Audit Policy by one telecommunications company, EPA reached out to others in the telecommunications industry, using both the Audit Policy and the threat (and use) of traditional enforcement actions, with respect to the type of noncompliance that had been disclosed.. As a result, over 6000 facilities have "come into compliance" through 38 settlements (34 under the Audit Policy, according to EPA); this has resulted in the following specific corrective actions:

- 4,872 facilities filed Tier I and Tier II EPCRA reports with local emergency responders and planners, notifying them of the presence of sulfuric acid, diesel fuel, lead, and ethylene glycol
- 838 facilities implemented SPCC Plans
- 779 facilities came into compliance with various Clean Air Act (CAA) State Implementation Plan requirements
- 24 facilities came into compliance with CAA requirements regarding ozone depleting substances
- 10 facilities came into compliance with RCRA UST requirements
- 1 facility came into compliance with RCRA Subtitle C requirements[2]

These collateral benefits, that were directly the result of a single company's self-disclosure under the Audit Policy, would have been realized otherwise only with the expenditure of significant enforcement resources, if they would have been realized at all.

TRI Self-Disclosures Result in More Accurate Data, Benefitting Not Only Local Communities But Also the Quality of EPA's Decision Making and Enforcement Efficiency

One of the basic environmental enforcement principles, which CEEC supports, is the need to have complete, accurate and reliable data. This is important for local communities who rely on this information to better understand the environmental conditions in which they live and work, as well as for EPA and state and local regulatory bodies who rely upon such data to inform their regulatory and enforcement policy decisions, including decisions about where to deploy its limited enforcement resources.

One critical source of information that EPA uses itself, and that it disseminates to state environmental and health agencies and to the general public, is the TRI database. EPA has consistently stated that the goal of the TRI program "is to provide communities with information about toxic chemical releases and waste management activities and to support informed decision making at all levels by industry, government, non-governmental organizations, and the public,"[3] and when the Agency released the 2011 Toxics Release Inventory numbers on January 16, 2013,

[2] *Id.*
[3] U.S. EPA, *What is the Toxics Release Inventory Program?*, accessed 1/22/2013 at http://www.epa.gov/tri/triprogram/whatis.htm.

Administrator Jackson explicitly acknowledged the importance of TRI inventory data and the valuable environmental information contained in the reported data.

In addition, EPA has been focusing on gathering real-time monitoring and emissions data and relying on that data, as well as data that is contained in reports filed with EPA (and state agencies), in making regulatory and enforcement decisions. It seems to CEEC that the Agency needs to be able to ensure that it has access to as accurate and complete information and data as possible, especially given the emphasis that EPA is placing on ensuring that communities are also able to participate in the Agency's regulatory and enforcement decision making processes.

CEEC believes that the continued availability of the Audit Policy is one of the more effective tools that the Agency can use to ensure that incorrect or missing information regarding releases and emissions of substances subject to reporting under TRI are corrected or submitted. Eliminating the Audit Policy would remove a significant incentive for companies to voluntarily correct inaccurate emissions information, or submit missing information.

Impact on State Programs

The Agency also needs to consider another unfortunate consequence that could result from an elimination of the Audit Policy -- the impact on state auditing programs. Based on CEEC's collective experience, states refer to and rely upon the Audit Policy, and the guidance that the Agency has issued (both formally and informally) with respect to the Policy. That is true regardless of whether the state in question has formally developed and implemented its own audit policy, or simply seeks to rely upon the federal Audit Policy, and the principles upon which it is based, in exercising its enforcement discretion with respect to state environmental laws. In fact, even as EPA is considering eliminating the Audit Policy there are States that are in the process of developing and implementing their own Policies using the EPA Audit Policy as a model, fully mindful and aware of the positive results the federal government has achieved.

CEEC believes that most, if not all of the states that have adopted their own audit policies are basing their policies, in large part, on the federal policy. Even where a state policy departs

from the four corners of the federal Audit Policy, CEEC experience is that state enforcement personnel use the Agency's guidance when faced with implementation issues that are new or unique. CEEC is concerned that the withdrawal of the Audit Policy would cause many states to either act in a similar manner by withdrawing their program, or by reducing the flexibility or scope of their program due to the lack of federal policy or guidance.

CEEC has a similar concern with respect to states where there is no formal state program but, through administrative practice, state enforcement personnel are open to discussing resolution of noncompliance that is self-disclosed to the state through the application of the principles set forth in the Audit Policy. The universe of benefits, both those easily recognizable and those that are more subtle, from implementation of a state audit policy are very similar, if not identical, to those discussed above with respect to the federal Audit Policy. CEEC recommends that the Agency more fully explore, if it has not already done so, the adverse ramifications that any decision to back away from the Audit Policy will have on state audit policy programs, including having direct discussions with states that have formal programs and states that more informally apply the federal Audit Policy.

Comments Specific to the New Owner Policy

As indicated earlier CEEC was very engaged with the Agency as it developed its "Interim Approach to Applying the Audit Policy to New Owners ("New Owner Policy)" that was released on August 1, 2008. This effort arose out of discussions with the Agency that focused on the need for the Audit Policy approach to be modified to provide flexible and meaningful incentives for companies that acquired new facilities and that want to make a "clean start" at those recently acquired facilities by addressing environmental noncompliance that began prior to acquisition. One of the primary purposes of the New Owner Policy was to encourage new owners to audit newly acquired facilities, and to self-disclose violations discovered during the audit.

CEEC has been made aware in a number of discussions with our member companies, with others in the regulated community, and with EPA officials that the New Owner Policy has

been a solid success. CEEC suggests that the New Owner Policy has been successful in allowing the Agency to use the Audit Policy to leverage its ability to make effective use of scarce enforcement resources, thereby securing "higher quality environmental improvements more quickly and effectively than might otherwise occur."[4]

As discussed above, CEEC is opposed to the withdrawal of the Audit Policy in its entirety, and this discussion of the New Owner Policy should not be seen or represented as an endorsement of the New Owner Policy to the exclusion of the remainder of the Audit Policy. In addition, CEEC also believes that there are some distinctions that can be drawn between the Audit Policy and New Owner Policy of which the Agency should be aware in the context of its broader review of the Audit Policy.

The Agency has posited that many if not most companies now do some type of environmental compliance audits in the ordinary course, and that therefore the "incentive" component for the Audit Policy may not be as great today as it was in 1995. While CEEC agrees that many companies do currently have environmental audit programs, as stated above, CEEC disagrees that the widespread existence of these programs somehow renders the need for incentives to conduct compliance audits moot. This is especially true with respect to the New Owner Policy and the incentives for conducting post-closing environmental audits contained therein.

As EPA is aware, companies that acquire new facilities can be in a good position and motivated to conduct compliance audits at the newly acquired facilities. That has not changed since 2007-2008 when EPA developed the New Owner Policy, and CEEC continues to believe that by offering the tailored incentives set forth in the New Owner Policy, EPA will encourage and enable new owners to take proactive steps to discover and address potential historical compliance issues that ultimately lead to environmental benefits that are realized in a more

[4] U.S. EPA, *EPA's Audit Policy: Tailored Incentives for New Owners*, accessed 1/18/2013 at http://www.epa.gov/compliance/incentives/auditing/newowners-incentives.html.

efficient and timely fashion than if the compliance issues were addressed in the context of a more traditional EPA enforcement action.

This is particularly true in cases where there is little if any opportunity to do in-depth due diligence into a facility's compliance status prior to the deal. In any merger, acquisition, or asset purchase, the scope of the due diligence that is able to be performed before the transaction closes is and will continue to be driven by the business circumstances and interests of the transaction – circumstances including the timing and nature of the deal, whether the transaction is an "arms-length" deal (where full due diligence may occur) or a hostile takeover (where very limited, if any, due diligence may be available), the nature and size of the business being acquired, business decisions on representations and warranties and indemnification, confidentiality of information, etc. In our experience, more and more transactions involve expedited timeframes, short due diligence site visits, and other circumstances that dictate that there is little opportunity for pre-closing environmental due diligence that goes beyond the subjects of potential liability under CERCLA for historical contamination, high level inventory of significant permits, and potential capital requirements. There simply is no opportunity to conduct detailed pre-Closing compliance auditing during due diligence site visits. Further, despite the use of actual and virtual data rooms populated with key documents to be examined by the buyer's consultants and counsel, numerous operational documents that require close examination to detect non-compliance reside at a facility or facilities, and a buyer will not obtain unfettered access to these documents –or to facility personnel--until after the Closing.

In the absence of the types of incentives offered in the New Owner Policy, a company that is acquiring a facility may be deterred from performing post-closing environmental audits for fear that they could face civil penalties for noncompliance (whether gravity or economic benefit-based). This potentially includes both pre-closing violations and noncompliance that continues after the closing until the noncompliance is detected and remedied (presumably once the new owner has had the opportunity to conduct a full audit and bring the asset or assets into compliance). This fear is only exacerbated in situations that involve the acquisition of smaller

companies that may not have sophisticated audit programs by companies that have such programs (and that are acutely aware of the risks posed by pre-closing noncompliance that is discovered in a post-closing compliance audit where there is no New Owner Policy with its attendant protections).

The New Owner Policy, as it was developed and has been implemented, has substantially mitigated many of the real and perceived impediments to auditing of newly acquired facilities by new owners, and CEEC fears that any retreat from the New Owner Policy, through withdrawal or otherwise, will undermine the incentives and bring back many of those impediments.

In addition, CEEC believes it makes good policy sense to continue to implement the New Owner Policy, because when an acquiring company conducts post-closing audits of newly acquired facilities, it usually also integrates those facilities into the acquiring company's formal auditing program, thereby subjecting them to regular compliance audits. In many cases these are facilities that may not otherwise have been included in such a formal program, especially if the seller was a smaller company that may not have had an environmental auditing program—sophisticated or otherwise, and the corresponding benefits will go beyond simply bringing acquired facilities into compliance and getting past violations corrected to include all of the wide ranging benefits that result from subjecting a facility to an ongoing environmental auditing program. Our members firmly believe that facilities that are regularly audited have staff that are more familiar with applicable legal requirements, have more complete and sophisticated documentation, and are more likely to achieve substantial compliance with applicable regulations, than those at facilities that are not.

Members of CEEC know from experience in the acquisition process that there are still many companies that do not have either auditing programs or sophisticated compliance systems. There is no doubt that acquisition of such companies by companies with sophisticated systems in place results in higher levels of compliance. By repudiating the New Owner Policy the Agency is putting those companies that have invested the time and resources to put good programs in

place at greater risk than companies that have not done so, an outcome that would not be expected to be the desire of EPA.

For these reasons, CEEC requests that the Agency take a special, more directed consideration of the New Owner Policy as it evaluates the broader Audit Policy. Although it has only be in existence for a little over four years, CEEC believes that the New Owner Policy has been very successful in providing needed incentives for new owners to conduct compliance audits of newly acquired facilities, with the attendant benefits of ensuring that noncompliance is corrected and other environmental benefits are realized. Implementation and use of the New Owner Policy has allowed for these benefits to be accomplished outside of the context of a more formal EPA enforcement action, which CEEC believes would require the investment of many more of EPA's enforcement resources to accomplish the same results.

CEEC Audit Policy Recommendation

CEEC recognizes that is both sensible and responsible for the Agency to look for ways to make its programs – including the Audit Policy – more efficient and effective. We believe that there is a way of doing this within the Audit Policy while retaining the benefits of the Policy.

For example, the Agency has historically spent a tremendous amount of time reviewing the disclosures it receives to confirm that the disclosures actually met each of the specific elements of the Audit Policy. While we believe that meeting the Audit Policy requirements is important, we also believe that responding to a disclosure of EPCRA or TRI noncompliance by issuing an "interrogatory-like" request to insure that the noncompliance was indeed discovered and disclosed in no more than 21 days is a serious misapplication of the Agency's resources. CEEC believes that the Agency could amend its internal processes and procedures to eliminate these types of inefficiencies without completely eliminating the Audit Policy, and we would like to work with EPA to identify ways to accomplish this objective. As a starting point, CEEC suggests that the Agency consider the following policy recommendations with respect to the Audit Policy:

1. Eliminate the current process of making an "eligibility decision" on every audit disclosure.
2. For all disclosures with regard to reporting (EPCRA, TRI, etc,), issue a pro forma acknowledgement of receipt to the following effect:
    a. The Agency hereby acknowledges receipt of your submission and claim of coverage under the Self-Policing Policy. Without the Agency having made any legal or factual determination, you are entitled to assume that you have met the conditions of the Policy. However, the Agency retains complete authority to at any point perform a substantive review of your submission for compliance with the Policy, and at that time take whatever actions it deems appropriate with regard to enforcement of the underlying statute and regulations.
3. For disclosures of noncompliance not limited solely to reporting, make a brief pro forma review of the facts and determine quickly whether the issue being disclosed merits further investigation. If not, issue a similar acknowledgement to the one identified above.
4. If the nature of the issues disclosed in specific disclosures merit further investigation, it is those disclosures that should be the focus of any supplemental directed Agency efforts. CEEC believes this would be a very limited number of disclosures. The Agency would also want to avoid letting a determination that further investigation is warranted become a predetermination that the disclosure does not meet the elements of the policy. In addition, the decision as to whether an individual disclosure requires additional Agency time and resources should not be a substitute/surrogate for an eligibility determination.

Conclusion

CEEC has supported and continues to support the Agency's efforts to make the Audit Policy (including the New Owner Policy) the success story that we believe it is. CEEC also strongly believes that the desire of the Agency to more effectively manage its enforcement resources does not require elimination of the Audit Policy. Instead, we believe it should drive the Agency to make fundamental changes in the manner in which it implements the Audit Policy,

and we look forward to continued discussions and the opportunity to further discuss the types of changes that we discuss in this letter.

On behalf of CEEC we thank you for the opportunity to share these comments with you, and would welcome the opportunity to continue our discussions on this important policy, and on the issues and recommendations described in this letter, with you and your staff. CEEC anticipates that the Agency will carefully consider these comments and those of others prior to any formal or informal public changes in the applicability and availability of the Audit Policy.

Please contact us at (202) 289-1365 or CEEC's Counsel, Ken Meade, WilmerHale at (202) 663-6196 if you have any questions or need additional information.

Sincerely,

Steven B. Hellem
CEEC Executive Director
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