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On August 1, 2008, the U.S. Environmental Protection Agency ("EPA") published modifications to its Audit Policy to provide tailored incentives for new owners of facilities to conduct compliance audits and disclose violations that occurred prior to acquisition. Issued in April 2000, EPA’s Audit Policy, formally known as "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations," offers parties penalty mitigation and other benefits in return for voluntarily discovering, disclosing and correcting violations of environmental requirements if certain conditions are satisfied. In its new "Interim Approach to Applying the Audit Policy to New Owners" ("Interim Approach"), 73 Fed. Reg. 44991, EPA recognized that new facility owners are often particularly well-situated to address environmental non-compliance given their motivation, flexibility, and capital.

The Interim Approach, which is effective immediately, offers additional incentives to new facility owners beyond those provided by the basic Audit Policy. First, new owners may receive penalty mitigation not otherwise available under the Audit Policy, including avoidance of most or all "economic benefit" penalties. Also, the Interim Approach provides additional flexibility for new owner disclosures of violations that would otherwise fail to meet the Audit Policy’s conditions for being systematically found, voluntarily discovered, and promptly disclosed, or that would otherwise be excluded from Audit Policy applicability. The Interim Approach contains specific definitions and timing requirements to qualify under the new owner incentives.

EPA developed the Interim Approach based in part on input it received on an earlier proposal published in May 2007. EPA is accepting public comments on the current Interim Approach until October 30, 2008.