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June 12, 2019

VIA REGULATIONS.GOV

Susan Parker Bodine, Assistant Administrator  
U.S. EPA Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460-0001

Re: Memorandum on Enhanced Planning and Communication Between the EPA and States in Civil Enforcement and Compliance Assurance Work  
Docket ID: EPA-HQ-OECA-2019-0204

Dear Assistant Administrator Bodine,

The National Steering Committee (NSC) for the network of state Small Business Ombudsmen (SBO) and Small Business Environmental Assistance Programs (SBEAPs) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (U.S. EPA) Office of Enforcement and Compliance Assurance (OECA) draft memorandum "Enhancing Planning and Communication Between EPA and the states in Civil Enforcement and Compliance Assurance Work."

This network represents the state SBO/SBEAPs which were mandated under Section 507 of the 1990 Clean Air Act Amendments to provide free and confidential environmental compliance assistance to small businesses with zero to 100 employees. Many of these state programs cover all environmental regulatory topics when they provide assistance to businesses in their respective states and most are located within the state's environmental agency. Assistance from SBO/SBEAPs is the most economical solution to small businesses striving for environmental compliance, and many times their only option for compliance services. By helping a business achieve compliance through non-regulatory means, we provide an effective and efficient alternative to time-consuming and costly enforcement actions by environmental compliance programs.

The NSC for SBO/SBEAPs supports the U.S. EPA's recognition that there are many paths to increasing compliance, as reflected in the recent change of the "National Enforcement Initiatives" to "National Compliance Initiatives". We agree that a partnership between federal and state environmental agencies is critical to achieving shared goals. Coupling compliance assistance activities with traditional enforcement activities in a methodical and logical manner enhances the effectiveness of environmental programs and yields higher compliance rates than independent execution of each alone. Small sources can have significant environmental impacts and may not have professional environmental staff to help them understand requirements and best practices for managing hazardous materials, waste, discharges and emissions. U.S. EPA and state agencies often lack the ability to address small sources. SBO/SBEAPs can provide the proactive, upfront assistance necessary for businesses to avoid non-compliance. SBO/SBEAPs are also

available to provide the additional hand-holding small businesses need to get back into compliance as quickly as possible.

As state providers of technical compliance assistance for more than 25 years, the SBO/SBEAPs have provided extensive, hands-on assistance in helping businesses comply with both state and federal environmental regulations. Many have lengthy experience working in various state regulatory programs; additionally, most maintain a close relationship with the regulatory programs in their states to better assist businesses. As a result, and in alignment with the U.S. EPA's goal of increasing compliance rates and reducing the average time from violation identification to correction, we feel the SBO/SBEAPs could play a valuable role and should be included when collaborating with state enforcement programs.

The SBO/SBEAPs should be included in OECA's strategic planning on enforcement and compliance assurance. Section I.B. of the memo notes that planning should consider "the environmental compliance problems and needs in the state" and "national, regional, and state compliance assurance priorities." The SBO/SBEAPs work every day with regulated small businesses and have valuable insight to help EPA identify common areas of compliance issues. When considering how the combined resources of the U.S. EPA and states could be used to address needs, as outlined in Section I.B.(4), the small business programs should be considered as a critical element of those state resources. One way U.S. EPA could use our resources is to include SBO/SBEAP contact information in violation notices or enforcement letters if the entity meets the definition of a small business. That way, businesses know where to go for help getting into compliance. You can find state contact information on the National SBEAP website: <https://nationalsbeap.org/states>.

SBO/SBEAPs also need to be kept informed of U.S. EPA's priorities and emerging issues so we can tailor our outreach and assistance resources accordingly. One way to facilitate this would be assigning a Regional Small Business Liaison in each EPA region to work with our programs. Only a few regions currently have someone assigned to this role.

By helping businesses proactively achieve compliance and protecting the environment through collaborative compliance assistance approaches, the SBO/SBEAPs provide a more effective and efficient alternative to traditional reactive enforcement approaches. State enforcement programs that focus on fixing the problem after it has occurred often require more resources, lengthy timelines and costly legal procedures when any possible harm to the environment has already taken place. Strong and vibrant state SBO/SBEAPs provide a valuable complement to traditional U.S. EPA and state enforcement programs, allowing limited enforcement resources to be more focused.

As the agency finalizes this memorandum and develops an implementation strategy, we hope cooperation with the SBO/SBEAPs will be included. We also encourage a closer look at the value of SBO/SBEAP compliance assurance work. We thank you for your consideration of these comments.

Sincerely,



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List of enclosures: National SBO/SBEAP Informational Sheet