

March 8, 2019

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The Honorable Andrew Wheeler
Administrator, United States Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, DC 20460-0001

Re: EPA's draft National Compliance Initiatives for Fiscal Years 2020-2023
Docket ID: EPA-HQ-OECA-2018-0843

Dear Administrator Wheeler,

The National Steering Committee for the network of state Small Business Ombudsmen (SBO) and Small Business Environmental Assistance Programs (SBEAPs) thanks you for the opportunity to comment on EPA's draft National Compliance Initiatives for FY 2020-2023 (Docket ID: EPA-HQ-OECA-2018-0843).

The state SBO/SBEAPs are mandated by 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. Assistance from SBO/SBEAPs is the most economical solution to small businesses striving for environmental compliance and many times their only economically feasible solution. In addition, by helping achieve compliance through collaborative non-enforcement methods, we provide a much more effective and efficient alternative to time-consuming and costly enforcement actions carried out by environmental compliance programs.

The SBO/SBEAPs support the agency's evolution from National Enforcement Initiatives to National Compliance Initiatives and recognize that there are many paths to increasing compliance with environmental regulations. We believe coupling compliance assistance activities with traditional enforcement in a methodical and logical manner will enhance the effectiveness of environmental programs and yield higher compliance rates than independent execution of each alone. Ideally, compliance assistance and enforcement should be complimentary programs which each adding value to environmental protection.

SBO/SBEAPs can work with U.S. EPA on compliance assistance to increase compliance with many of the NCIs including Cutting Hazardous Air Pollutants, Reducing Risks of Accidental Releases at Industrial and Chemical Facilities, Reducing Toxic Air Emissions from Hazardous Waste Facilities and Reducing Children's Exposure to Lead, all of which can impact small operations. SBO/SBEAPs can and do work across many of these sectors within their states. Area Source National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations have increased concerns about the cumulative impact of the large number of small sources. At times, these sources can have significant noncompliance without having

professional environmental health and safety (EHS) staff to help them understand the requirements and best practices for managing hazardous materials, waste, discharges and emissions.

Currently, U.S. EPA and state regulatory agencies often lack the ability to address these small sources, which can still have significant environmental impacts. SBO/SBEAPs can provide the proactive, upfront assistance necessary so businesses can avoid getting into non-compliance, thus reducing the need for enforcement. When violations do occur, the programs can provide the additional handholding small businesses need to get into compliance as quickly as possible.

As state providers of technical compliance assistance for more than 25 years, our members have provided extensive, hands-on assistance in helping businesses comply with both state and federal environmental regulations. Many among this group have lengthy experience working in various state regulatory programs; additionally, most members maintain a close relationship with the regulatory programs in their states to better assist businesses. We have detailed knowledge of environmental regulations with a unique awareness of the impact of regulations on businesses nationwide. As a result, and in alignment with the Agency's goal of increasing the environmental law compliance rate and reducing the average time from violation identification correction, we feel the SBO/SBEAPs could play a valuable role in helping support and implement the U.S. EPA's NCIs.

We believe that compliance assistance is best administered at the state level with support from the federal agency. Businesses need a complete picture of their compliance obligations. Assistance in navigating both state and federal regulations is essential in providing effective technical compliance assistance. By helping businesses proactively achieve compliance and protect the environment through collaborative compliance assistance approaches, the SBO/SBEAP's provide a more effective and efficient alternative to traditional reactive enforcement approaches that often require more resources, lengthy timelines and costly enforcement actions after a violation (and possible harm to the environment) has already occurred. A strong and vibrant state SBO/SBEAP provides a valuable complement to U.S. EPA and a state's traditional enforcement programs as it allows its limited resources to be more focused.

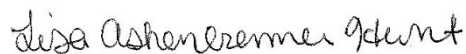
The SBO/SBEAP model has been embraced at varying levels by states across the U.S. These state programs, many staffed by only one person, assist thousands of businesses annually. Some states allocate only as many resources as minimally necessary to meet the federal mandate, thereby leaving these assistance programs with a limited ability to provide services and many to only focus on regulations specific to the mandate under the Clean Air Act Amendments. With limited resources, some states have allocated no Full-Time Equivalents (FTEs) to an SBO/SBEAP. Other states have recognized the significant value in these programs and have provided additional resources, thereby enabling the programs to assist businesses with multimedia regulations. We recognize that small business environmental compliance needs cut across the traditional media-specific regulatory silos of air, water and waste and beyond the assistance mandates of Section 507 of the Clean Air Act. SBO/SBEAPs could enhance their impact on the NCIs if they all had additional resources to provide assistance in all environmental areas.

As we work toward our shared core mission of providing Americans with clean air, land and water by increasing compliance with environmental laws, it is clear that providing more resources to the state SBO/SBEAP programs to proactively collaborate with America's business community to increase compliance and protect the environment is a sound investment with a high rate of return. Even programs with resources to provide comprehensive assistance (air, land and water) still have vastly less than what is truly needed to fully serve the businesses that need assistance. Further, it is our concern that these programs may receive even fewer state resources in the future, since, although a mandate, they could be and have been viewed by some as non-essential when compared to traditional regulatory programs. The lack of dedicated federal funding and increased pressure on state budgets has left the state SBO/SBEAPs extremely vulnerable to cuts and, in some states, elimination at a time when more small businesses are regulated than ever before. Not providing this necessary compliance assistance at the state level results in increased confusion and non-compliance, costly and time-consuming enforcement, and a drain on the already limited resources of small businesses. We recommend that U.S. EPA evaluate and strengthen current mechanisms to ensure all states are supported in meeting the mandates of Section 507 of the Clean Air Act to provide adequate and fully functional Small Business Environmental Assistance Programs and explore opportunities to expand the reach of these programs. We also would appreciate consideration for additional support from each Regional EPA office with an assigned Regional Small Business Liaison for our programs to collaborate with on initiatives or in times when additional information is needed from U.S. EPA on regulatory issues.

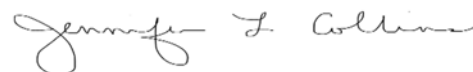
As the agency finalizes its NCIs and develops an implementation strategy, we hope use of the SBO/SBEAPs will be prioritized. As U.S. EPA strives to make the public more aware of available tools to achieve compliance, U.S. EPA can help by promoting business use of these state programs. Our national website is <https://nationalsbeap.org/> where information on each program is listed.

In closing, we thank you for your consideration of these comments. We also encourage a closer look at the value SBO/SBEAPs provide and, with some additional resources, the even more significant role they could play in helping the agency achieve its National Compliance Initiatives.

Sincerely,



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List of enclosures: National SBO/SBEAP Informational Sheet