




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 10 2019

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Reaffirmation of the EPA's Policy and Practice Against Using Enforcement as Retaliation

FROM: Susan Parker Bodine 

TO: OECA Office Directors
Regional Counsels
ECAD Directors

The EPA has a longstanding policy and practice of not retaliating against any member of the regulated community. That policy as it applies to enforcement has been reaffirmed in writing twice in the past twenty years, through memoranda issued by Assistant Administrators for Enforcement and Compliance Assurance. I am proud of the professionalism exhibited by the EPA's compliance monitoring and enforcement personnel and do not believe that there has ever been an instance of retaliation in the history of the EPA's enforcement and compliance assurance program.

As the EPA observes National Small Business Week, I am personally reaffirming the non-retaliation policy and remind all EPA employees engaged in any enforcement and compliance assurance activities to make every effort to avoid even the appearance of retaliatory action. Members of the regulated community should never face retaliation by the EPA for any reason.

I agree with the Small Business Administration's Office of the Ombudsman (SBA ONO) that the reassurance offered by non-retaliation policies is critical to ensuring that any small businesses subject to federal enforcement or compliance-related activities may freely voice their concerns about these activities. Any regulated entity should feel free to comment to the EPA or to the SBA ONO without fear of retaliation regarding any on-site inspection, compliance assistance effort, enforcement action, or other enforcement-related communication or contact by this agency. "Retaliation" includes threats meant to prevent comments by a regulated entity, as well as taking adverse actions or imposing more rigorous compliance standards than required by law in revenge for comments that were made. Any retaliatory action by an EPA employee may result in disciplinary action.

As noted above, this Memorandum confirms our longstanding policy and practice. Please distribute it broadly to ensure that it reaches all enforcement and compliance assistance personnel. A copy will also be available to EPA staff and the public at <https://www.epa.gov/enforcement/small-businesses-and-enforcement>.

If you have questions about this policy, or have a specific concern relating to issues of retaliation, please contact Rosemarie Kelly, Director of the Office of Civil Enforcement (kelly.rosemarie@epa.gov, 202-564-2220).