

Legal Lookout: EPA's 'Tips' Website Is a Hit

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by Lynn L. Bergeson

When the Senate Environment and Public Works Committee confirmed Granta Nakayama as Assistant Administrator of EPA's Office of Enforcement and Compliance Assurance (OECA), it was unclear what his agenda might include. Few predicted, then, that EPA's top enforcement official would reinvigorate the EPA tip website as a means for prompting compliance.

EPA's website

EPA's old web-based tool for reporting tips and complaints had been hard to find and use.

Nakayama was familiar with a federal agency tip website being used to greater effect – an acquaintance he picked up while working with the Consumer Product Safety Commission as a private sector attorney prior to joining EPA in 2005. When Nakayama took over, he simply borrowed the commission's strategy. As one of Nakayama's first initiatives, OECA launched the new, redesigned and more user-friendly site to facilitate reporting environmental violations (www.epa.gov/compliance, or click on the shield on EPA's homepage).

To report a violation, users are asked to complete basic information fields. EPA estimated that the form would take up to 30 minutes to complete.

Results to date



According to Nakayama, since the site was launched in January 2006, it has received about 4,500 tips (as of mid-November). The vast majority of tips involved civil or administrative claims and nearly 500 possible criminal activities.

Once a tip is logged onto the site, Nakayama seeks to have it preliminarily reviewed within 48 hours. Matters that may endanger human health or the environment are referred to the agency's criminal enforcement office. EPA noted that while the information may never result in an enforcement action, the agency nonetheless finds the information valuable in shaping its judgment as to industrial or commercial activities.

The agency may refer and/or share the information with state and EPA regional offices.

Why you should care

Recently, the budgets of enforcement offices at the federal and state levels have been cut. Indeed, for a number of years now, most enforcement actions are inspired not by on-site inspections, but rather employee, neighbor, competitor, or other third-party tips or complaints.

The new site is easier to access and use. EPA's immediate receipt of the information and its commitment to process complaints quickly suggest that the agency is serious about the site, leveraging the agency's limited enforcement resources to ensure that it has as big an impact as possible. Legitimate tips and complaints will be submitted to EPA, along with

complaints perhaps motivated more by events unrelated to environmental protection – competitive, employment or other issues.

This makes it all the more important today that facilities be proactive in ensuring compliance, and in maintaining a work environment that does not tolerate noncompliance. Companies need to maintain their own 800-call-in services and thus provide an opportunity to report noncompliance, be vigilant in monitoring competitor activities, and be aware of potential work-place issues that could spiral out of control and result in the filing of baseless tips or complaints. The government's reliance on these virtual surveillance tools will only expand in the future.

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