

Insights

EPA ANNOUNCES NEW NATIONAL ENFORCEMENT POLICIES

Mar 17, 2025

On March 12, 2025, EPA's Office of Enforcement and Compliance Assurance ("OECA") issued a memo outlining new national enforcement and compliance initiatives ("NECIs"). The memo states that it seeks to align EPA's enforcement priorities with President Trump's executive orders revoking prior executive orders on environmental justice and directing agencies to remove impediments to the development and use of domestic fossil fuel and other natural resources.

The memo also references EPA Administrator Lee Zeldin's "Powering the Great American Comeback" initiative consisting of five pillars:

1. Clean air, land, and water for every American;
2. Restore American energy dominance;
3. Permitting reform, cooperative federalism, and cross-agency partnership;
4. Make the United States the artificial intelligence capital of the world; and
5. Protecting and bringing back American auto jobs.

In contrast, the Biden-era NECIs focused on:

1. Mitigating climate change;
2. Addressing per- and polyfluoroalkyl (PFAS) exposure;
3. Protecting communities from coal ash contamination;
4. Reducing air toxins in overburdened communities;
5. Increasing compliance with drinking water standards; and
6. Chemical accident reduction.

The memo states that “environmental justice considerations” cannot play any role in EPA’s enforcement and compliance work. The memo prohibits consideration of whether persons affected by potential violations constitute “minority or low-income populations.” The memo does allow enforcement and compliance work to focus on “areas with the highest level of [hazardous air pollutants] affecting human health” and to consider the “physiological vulnerabilities of community members” to the pollutants at issue and “the level of the particular pollutant found in one area relative to others.” The memo repudiates Biden-era enforcement directives that considered the race and socioeconomic status of communities and a community’s overall “pollution burden.”

ENERGY PRODUCTION

The memo issues a blanket directive that EPA enforcement may not “shut down any stage of energy production ... or power generation absent an imminent and substantial threat to human health or an express statutory or regulatory requirement.” The memo states that any enforcement action that would “unduly burden or significantly disrupt energy production or power generation” must be approved by the Assistant Administrator for OECA or his or her delegee.

CLIMATE CHANGE

The memo states that EPA will “no longer focus on methane emissions from oil and gas facilities.” Enforcement related to hydrofluorocarbons (HFCs) shall “focus on the unlawful import and subsequent sale of HFCs.”

COAL ASH

The memo describes the Biden administration’s enforcement activities relating to coal ash waste as “motivated largely by environmental justice considerations.” The memo states that henceforth, instead of focusing on “current performance standards and monitoring testing requirements,” EPA’s enforcement focus as to coal ash at active power plants will be on “imminent threats to human health.”

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The memo does not address the stance the new administration plans to take with regards to PFAS, which has been a hot button topic following the listing of two PFAS substances – PFOA and PFOS – as hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act.

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