



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

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

June 29, 2020

**MEMORANDUM**

**SUBJECT:** COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program:  
Addendum on Termination

**FROM:** Susan Parker Bodine 

**TO:** All Governmental and Private Sector Partners

On March 26, 2020, I issued a memorandum entitled [COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program](#), a temporary policy regarding EPA's exercise of enforcement of environmental legal obligations during the COVID-19 public health emergency. Since that time, new federal guidelines and directives have been issued to support both the public health response and economic recovery efforts,<sup>1</sup> and many parts of the country have already taken steps to relax social distancing restrictions in parts or all of individual states, with the goal of returning to normal operations. As state and local restrictions are relaxed or lifted, so too may the restrictions that potentially impede regulatory compliance, reducing the circumstances in which the temporary policy may apply.

Some states are seeing an increase in COVID-19 cases following efforts to reopen, and as a result some states may pause reopening,<sup>2</sup> or modify their reopening protocols.<sup>3</sup> Similarly, some businesses are temporarily closing, after initially re-opening, to address COVID-19 infections. As states and businesses begin to re-open, there will be a period of adjustment as regulated entities plan how to effectively comply both with environmental legal obligations and with public health guidance from the Centers for Disease Control and Prevention or other agencies regarding actions suggested to stem the transmission and spread of COVID-19.

In light of these developments, it is now appropriate to expressly include a provision in the temporary policy that covers termination of the temporary policy, and to make such changes to the policy as are needed to reflect the impact of the changing circumstances on facility operations, worker shortages, and other constraints caused by the public health emergency. Accordingly, I am today revising the temporary policy to add the following new section. I have selected August 31, 2020, as the termination date for the

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<sup>1</sup> See, e.g., White House, [Guidelines for Opening Up America Again](#); Centers for Disease Control and Prevention, [Activities and Initiatives Supporting the COVID-19 Response and the President's Plan for Opening America Up Again](#) (May 2020); [Executive Order on Regulatory Relief to Support Economic Recovery](#) (May 19, 2020).

<sup>2</sup> For example, on June 11, 2020, the State of Oregon announced a [one-week statewide pause](#) on reopening following a noticeable increase in COVID-19 cases.

<sup>3</sup> On June 18, 2020, California issued [new guidance for the use of face coverings](#). On June 17, 2020, Arizona announced an [Enhanced COVID-19 Action Plan](#), which, among other things, authorized local governments to implement enhanced mitigation measures.

temporary policy because it reflects the appropriate balancing of the relevant factors; it recognizes that the circumstances surrounding the temporary policy are changing, but also ensures that there is adequate time to adjust to the changing circumstances. As stated in the temporary policy, entities should make every effort to comply with their environmental compliance obligations and the policy applies only to situations where compliance is not reasonably practicable as a result of COVID-19. These situations should become fewer and fewer.

## **VI. Termination**

This temporary policy terminates in its entirety at 11:59 PM Eastern Daylight Saving Time, August 31, 2020. This means that the EPA will not base any exercise of enforcement discretion on this temporary policy for any noncompliance that occurs after August 31, 2020.

In addition, the EPA may terminate this temporary policy (i.e., indicate it does not apply to future noncompliance) on a state or national basis, in whole or in part, at any earlier time, taking into account changing conditions in a state or region of the country, including as appropriate the expiration or lifting of “stay at home” orders in a state, the status of federal and/or state COVID-19 public health emergency guidelines, and/or other relevant factors or considerations.

In order to provide fair and sufficient notice to the public, the EPA will provide notification at least seven days prior, if it terminates this temporary policy prior to August 31, 2020, either nationally or at a more local level, in whole or in part.

Nothing herein limits the ability of the EPA to exercise enforcement discretion on a case-by-case basis regarding any noncompliance, including noncompliance caused by the COVID-19 public health emergency, before or after the temporary policy is terminated. This includes the situation in which a person or entity makes a reasonable attempt to comply with guidance from the Centers for Disease Control and Prevention or other agencies regarding actions suggested to stem the transmission and spread of COVID-19, which the person or entity reasonably deems applicable to its circumstances.