OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE

WASHINGTON, D.C. 20460

`

December 5, 2025

MEMORANDUM

SUBJECT: Reinforcing a "Compliance First" Orientation for Compliance Assurance and Civil Enforcement Activities

FROM: Craig J. Pritzlaff, Acting Assistant Administrator

CRAIG PRITZLAFF Digitally signed by CRAIG PRITZLAFF Date: 2025.12.05 17:30:30 -05'00'

TO: OECA Office Directors and Deputies
Regional Administrators and Deputy Regional Administrators
Regional Counsel and Deputies
Regional ECAD Directors and Deputies
Regional SEMD Directors and Deputies

I. Purpose

This memorandum reinforces a "compliance first" orientation as the guiding principle for the U.S. Environmental Protection Agency's (EPA) Office of Enforcement and Compliance Assurance (OECA) and all related civil enforcement and compliance programs within the regional offices (collectively, the enforcement program). The mission of the enforcement program is to protect human health and the environment for all Americans by ensuring compliance with federal environmental laws. The primary focus for the Agency in all inspection, investigation, EPA enforcement, state/tribal enforcement coordination, and compliance assistance activities must be on achieving and ensuring timely compliance.

This policy reinforces prioritizing environmental compliance across all OECA civil judicial and administrative enforcement activities in the most efficient, most economical, and swiftest means possible, while ensuring that our actions align with the clearest, most defensible interpretations of our statutory and regulatory mandates.[1]

[1] While compliance-first principles are generally applicable to all civil programs, nothing in this memorandum changes the longstanding approach to handling Superfund enforcement with early action. *See* Enforcement First for Remedial Action at Superfund Sites (Sep. 20, 2002), and "Enforcement First" to Ensure Effective Institutional Controls at Superfund Sites" (Mar. 17, 2006). Also, guidance concerning implementation of EPA's criminal enforcement program may be issued separately. *See* Exec. Order No. 14294, Fighting Overcriminalization in Federal Regulations (May 9, 2025).

II. Alignment with Agency Priorities

Compliance assurance and enforcement activities must properly consider Executive Orders and guidance from the Administrator.[2] Administrator Zeldin's agenda for the "Powering the Great American Comeback" Initiative (Initiative) is defined by five foundational pillars.[3] OECA is key for delivering on the Initiative's promises of ensuring clean air, land, and water; enhancing cross-agency partnerships and reviving cooperative federalism; and restoring American energy dominance. Indeed, OECA serves as the tip of the spear for fulfilling the agency's core missions: to protect human health and the environment for all Americans, while energizing economic growth. Environmental protection and economic prosperity are mutually reinforcing goals and not binary choices. Our shared objective, therefore, will always be compliance first, ensuring that compliance is achieved in the most efficient, most economical, and swiftest means possible, all under the clearest interpretation of our legal mandates. The nation's environmental statutes create a comprehensive system for restoring and maintaining environmental quality for the general welfare, benefit, and development of all Americans. By maintaining clear focus on achieving timely compliance in all our actions, we more closely adhere to the spirit and purpose of our environmental laws.

III. The Compliance First Operating Framework

Effective immediately, all personnel responsible for civil judicial and administrative enforcement and compliance assurance activities across the agency must prioritize ensuring compliance when addressing potential noncompliance with federal environmental laws. OECA has always emphasized compliance, but at times there may have existed a posture of pursuing enforcement that included findings of violation or orders that exceeded statutory or regulatory requirements. Such a posture prolongs negotiations and delays actual compliance. Other actions may have been derived from investigations spanning lengthy periods of time, thus potentially allowing evidence to go stale or ongoing violations to continue during the pendency of an action. But enforcement must be tailored to achieve compliance quickly so that matters can be timely resolved, and we should utilize approaches that can achieve compliance faster. This policy reinforces that when confronting compliance issues, every employee should begin by asking how compliance can be achieved in the most efficient and quickest means possible. The following six factors outline the foundation for our compliance-first operating framework.

1. Compliance Assistance Toolkit. Enforcement is an important tool for maintaining programmatic integrity, ensuring proper deterrence, and reducing pollution caused by noncompliance. However, it is not the only means of achieving compliance. The agency's

[2] *See e.g.*, Exec. Order No. 14154, Unleashing American Energy (Jan. 20, 2025); Exec. Order No.14156, Declaring a National Energy Emergency (Jan. 20, 2025); Exec. Order No. 14192, Unleashing Prosperity Through Deregulation (Jan. 31, 2025); Exec. Order No. 14215, Ensuring Accountability for All Agencies (Feb. 18, 2025); Exec. Order No. 14219, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative (Feb. 19, 2025); Exec. Order No. 14241, Immediate Measures to Increase American Mineral Production (Mar. 20, 2025); Exec. Order No. 14260, Protective American Energy from State Overreach (Apr. 8, 2025); Exec. Order No. 14261, Reinvigorating America's Beautiful Clean Coal Industry and Amending Executive Order 14241 (Apr. 8, 2025); Exec. Order No. 14262, Strengthening the Reliability and Security of the United States Electric Grid (Apr. 8, 2025); and others as issued.

[3] *See* Press Release, EPA, "Powering the Great American Comeback" Initiative (Feb. 4, 2025).

enforcement program shall prioritize deployment of its compliance assistance tools—including providing proactive outreach, technical assistance, and training to the regulated community—to facilitate compliance and increase understanding. The enforcement program will also promote voluntary compliance through self-reporting and voluntary audits to encourage regulated entities to proactively identify and correct compliance concerns ("find and fix").

2. State Partner Coordination. Congress has established a framework of cooperative federalism for most federal environmental laws. As such, OECA's enforcement efforts must be based on a clear federal interest. Authorized states have primary jurisdiction over many programs, and our activities must affirmatively demonstrate proper deference and support to state leads in most compliance and enforcement work. OECA shall work cooperatively with co-regulators to ensure consistency in compliance determinations and in enforcement of federal environmental law. OECA shall provide technical assistance, training, and collaborative tools to strengthen co-regulator capacity, align performance standards to prioritize compliance, and foster information exchange.

3. Open Communication. Open communication and genuine collaboration between the agency, states, Tribes, and regulated entities is vital to our compliance-first approach. For those programs administered by EPA and that are not authorized or approved for delegation to states, regional and headquarters managers shall communicate with their state manager counterparts to, for example, avoid overscheduling compliance assurance activities at a site. Similarly, for other compliance and enforcement activities for which a clear federal interest requires federal action in a state with delegated authority, collaboration and communication with state program leadership must occur to avoid duplicative activities and unnecessary contradictions.

   When interacting with regulated entities, inspectors and enforcement personnel must maintain open communication with regulated entities throughout the inspection and enforcement process. Personnel must communicate expectations clearly and in a timely manner, outline milestones and deliverables, and identify next steps after each milestone. Such an approach allows regulated entities to have a transparent view into the enforcement process and allows them full opportunity to take early, proactive steps to address findings. By operating in a "no surprises" framework, compliance can be accelerated by avoiding resource-intensive disputes over process and procedures.

   Operating in an open, two-way dialogue throughout an inspection or enforcement process focused on compliance first fosters and enhances mutual understanding of the technical, operational, and financial challenges inherent in achieving compliance by the regulated entity. This allows the agency to better tailor compliance assurance and potential corrective actions to the specific context of a regulated entity's operations, potentially making compliance solutions more effective and more economically feasible. Ultimately, maintaining open communication will establish trust and promote a sustainable self-reporting culture. Compliance solutions are always easier to approach when done in an environment that promotes communication to seek compliance, rather than focusing strictly on adversarial, punitive outcomes.

4. Finding of Violation. Expansive regulatory interpretations in the compliance and enforcement context can create regulatory uncertainty, reduce transparency, undermine program integrity, and erode public confidence. A finding of violation for noncompliance must be clear and unambiguous, well-tailored, and based on the "best reading" of the relevant statute and regulation.[4] Well-tailored and clear approaches to findings will make compliance quicker to achieve and reduce time and expense in litigating interpretations that seek to broaden statutory or regulatory requirements beyond plain meaning. In determining whether a finding of violation comports with the best reading, case teams should ensure proper consideration of canons of statutory construction, past practice, and current litigation related to the provision at issue underpinning the finding. The analysis must continue at all stages of case development, including during initial case evaluation, when additional evidence is gathered, and in discussions with counsel for regulated entities.

   Where a regulated entity raises concerns about how EPA has applied a statute or regulation to its specific case, or if a material ambiguity is otherwise identified, such questions must be elevated immediately for further analysis. Inspectors and enforcement staff, including attorneys, are not responsible for resolving an ambiguity or concern, but only for identifying and elevating the issue when raised by a regulated entity or otherwise identified. The decision on how to proceed in enforcing these provisions must be made at a national level to ensure national consistency of federal law. In regional cases, the Regional Counsel should consult with the relevant Office of General Counsel (OGC) and OECA offices in making these determinations. Whenever any uncertainty remains, the issue should be raised to the OECA immediate office.

   Finally, the regulated public must trust that identified noncompliance will be fairly and consistently approached across EPA programs and regions. To reduce ambiguity and promote consistency in the handling of air, water, and waste or chemical violations by EPA, OECA will work to develop and create consolidated criteria across all media that clearly define specific categories of violations for formal enforcement, informal enforcement, and field warnings (other action)[5] in one document, in coordination with OGC. Related tools and existing program-specific enforcement response policies,[6] together with the best reading of each requirement, shall inform the basis for consolidating violation categories across all programs into a unitary guidance document for EPA to determine the appropriate level of enforcement for noncompliance identified by EPA during its inspections or investigations.

---

[4] This is in accordance with Exec. Order No. 14219, *Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative* (Feb. 19, 2025) and related Supreme Court precedent. *See e.g., Loper Bright Enters., Inc. v. Raimondo*, 603 U.S. 369 (2024); *Corner Post, Inc. v. Bd. of Governors of the Fed. Reserve Sys.*, 603 U.S. 799 (2024).

[5] Current definitions for enforcement categories are at New Definitions for Key Terms and Action Categories for EPA's Enforcement Program Tools (June 13, 2024).

[6] *See e.g.*, *Enforcement Policy, Guidance & Publication*, U.S. Env't Prot. Agency, https://www.epa.gov/enforcement/enforcement-policy-guidance-publications (last updated on June 27, 2025) and *Enforcement Response Policies and Guidance*, U.S. Env't Prot. Agency, https://www.epa.gov/enforcement/enforcement-response-policies-and-guidance (last updated on June 17, 2025).

Creation of this document will make enforcement practices across the agency more consistent, while improving transparency and accessibility for the public and regulated community. Until this document is developed, case teams should continue to follow current practices, informed by the principles set out in this document.

5. Compliance Requirements and Injunctive Relief. Firm, consistent, and swift enforcement is an essential cornerstone of OECA's compliance assurance program. To the extent compliance assurance or informal enforcement is unable to achieve rapid compliance or is inapplicable, formal enforcement may be necessary.[7] Throughout the formal enforcement process, achieving timely compliance in the most efficient, most economical, and swiftest means possible must be the primary focus of the negotiation and litigation strategy.

   Injunctive provisions shall be based on the best, most defensible interpretation of the law. The preference is for relief that is well-tailored to address specific violations, achieves compliance quickly, and is based on clear legal remedies and requirements. Settlements and orders must reflect a clear nexus to the governing statute and implementing regulations, thereby avoiding expansive interpretations that could lead to unnecessary regulatory or litigation uncertainty or unwarranted burdens on responsible parties.

   Injunctive relief outside clear regulatory or statutory requirements may be appropriate in limited, case-specific circumstances. Such relief often raises nationally significant issues and should be sought only with approval from the OECA Assistant Administrator.[8] The April 26, 2021, EPA Memorandum, "Using All Appropriate Injunctive Relief Tools in Civil Enforcement Settlements," describes several expansive remedies. The 2021 memorandum is overly broad in its approach and therefore is rescinded.[9] It discusses several "tools," including advanced monitoring, third party audits, independent third-party verification/monitoring, electronic reporting, and enhanced public reporting of compliance data. Imposing monitoring and reporting requirements that exceed regulatory parameters is generally not appropriate. When a specific case circumstance requires monitoring and reporting obligations, those requirements should remain within the clear boundaries of the law and directly tied to identified noncompliance at the site. Third-party audits, third-party verification, or third-party monitoring must be carefully considered, often raise nationally

[7] Certain circumstances may demand an immediate formal enforcement response. For instance, violations that present an emergency coupled with significant harm to human health and the environment may require immediate civil administrative or judicial enforcement remedies to address an ongoing threat. Other serious, blatant, or knowing and repetitive noncompliance suggesting a lack of internal institutional environmental controls and complete disregard of law may also present a situation mandating firm and immediate enforcement. Additionally, failures or refusals to respond to reasonable agency requests for information or records necessary to determine compliance status, including barring inspector access to sites or facilities, may necessitate immediate civil administrative or judicial enforcement remedies.

[8] The Office of Civil Enforcement's *Nationally Significant Issue Update* memo may be updated, as necessary.

[9] For example, the 2021 memorandum charges case teams to consider expansive relief in all cases to *independently* "deliver benefits to all individuals and communities." The benefit to be obtained is timely compliance, and any injunctive relief that are intended to address continuing noncompliance must be well-tailored to efficiently achieving compliance consistent with the law and facts of the case.

significant issues, and shall be subject to approval by the OECA Assistant Administrator prior to initiating negotiation on such remedy with a regulated entity.[10]

Additionally, the 2021 memorandum discusses measures to "address past harm to communities caused by noncompliance or otherwise benefit communities impacted by noncompliance," such as mitigation, supplemental environmental projects (SEPs), and stipulated remedies.[11] OECA's policies concerning SEPs and the use of mitigation and stipulated remedies have been controversial and subject to debate over the years. Until additional guidance is issued, any proposed settlement that could include mitigation (in cases that involved nationally significant issues), or a stipulated remedy should be brought to the OECA Assistant Administrator for approval prior to initiating negotiation on such remedies with a regulated entity.[12] Until additional guidance on the use of SEPs in settlement agreements is issued, no settlement shall include a SEP.

6. Reasoned Decision Making. Decisions on noncompliance determinations and the appropriate means for achieving compliance must be based on rational, transparent, and logical decision making. Our decision making must be such that regulated entities and other stakeholders, through our open communication and reasoned processes, can easily understand and follow how we made our enforcement decision. Our analysis should apply the "*LEAPS*" factors: law, evidence, analysis, programmatic impact, and stakeholder impact. Decisions should consider the ***l**aw* to ensure our finding, determination, and proposed injunctive relief is within the most defensible, clearest interpretation of the agency's statutory and regulatory authority. Decisions must also be based on the best ***e**vidence* to ensure noncompliance determinations are supported by clear, unequivocal facts. Careful ***a**nalysis* of the available evidence must ensure that gold standard science[13] and facts support the determination. Actions must also consider ***p**rogrammatic* impacts to ensure we are not causing mission creep and expanding regulatory requirements through overly broad inspections and enforcement. Agency programs include permitting, monitoring, inspection, and enforcement. Impacts to other divisions, groups, and functions within EPA must be considered. Finally, decisions must consider ***s**takeholder* impacts, including states and Tribal entities. For example, we must act swiftly to limit actions from third parties who, through citizen suit litigation, unfairly impact policy through abusive litigation tactics. Application of these "*LEAPS*" factors will help ensure sound and responsive decisions.

[10] The Office of Civil Enforcement's *Nationally Significant Issue Update* memo may be updated, as necessary.

[11] Stipulated remedies include a settlement term that requires the implementation of a specified project in the event of any future violation of the settlement agreement. Stipulated remedies in this context do not include stipulated penalties.

[12] The Office of Civil Enforcement's *Nationally Significant Issue Update* memo may be updated, as necessary.

[13] *See* Exec. Order No. 14303, Restoring Gold Standard Science (May 23, 2025).

IV. Implementation and Applicability

This policy is effective immediately and applies to all civil enforcement staff and all ongoing and future enforcement and compliance assurance matters. It shall be immediately integrated into all operations, compliance assurance activities, and enforcement cases.

This document is intended for internal management purposes only. It is not a regulation, does not change or substitute for any applicable regulation, and does not create or impose any legally binding obligations or rights on EPA or regulated entities. It is intended to improve the internal management of EPA and is not intended to, and does not create, any right or benefit, substantive or procedural, enforceable at law or in equity, against the agency, its offices or employees, or any other person.

cc: Sean Donahue, General Counsel
Office of General Counsel

John W. Busterud, Assistant Administrator
Office of Land and Emergency Management