

USEPA's Temporary Policy Suspending Enforcement Terminates August 31, 2020

By Brett D. Heinrich and Dana B. Mehlman

July 2, 2020

On June 29, 2020, USEPA issued a [memorandum on a termination addendum](#) to the COVID-19 temporary enforcement policy. **USEPA has selected August 31, 2020, as the termination date for the temporary enforcement policy**, as 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.

Since the issuance of the COVID-19 Implications for USEPA's Enforcement and Compliance Assurance Program on March 26, 2020, new federal guidelines and directives have been issued to support both the public health response and economic recovery efforts. In addition, 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.

The USEPA recognizes that states and businesses are on differing schedules for reopening. As such, as states and businesses reopen, there will be a period of adjustment as regulated entities plan how to effectively comply with both environmental legal obligations as well as public health guidelines regarding actions suggested to stem the transmission and spread of COVID-19.

The USEPA has determined that it is now appropriate to expressly include a provision that covers termination of the temporary policy, and to make changes to the policy as are necessary to reflect the impact of the changing circumstances on facility operations, worker shortages, and other public health constraints.

As stated in the temporary policy, entities should make every effort to comply with their environmental compliance obligations; the policy applies only to situations where compliance is not reasonably practicable as a result of COVID-19. USEPA anticipates that these situations should decrease over time.

The temporary enforcement policy terminates in its entirety at 11:59 PM Eastern Daylight Saving Time, August 31, 2020. This means that USEPA will not base any exercise of enforcement discretion on the temporary policy for any noncompliance that occurs after August 31, 2020. USEPA has reserved the right to terminate the temporary policy at any earlier time, and will provide notification at least seven (7) days in advance, if USEPA decides to terminate the temporary policy prior to August 31, 2020. In the event that the USEPA deadline changes, we will issue an update to this Alert.

VP has a full-service environmental practice that can assist companies with every aspect of environmental compliance. VP can also assist your company with crisis management planning and execution. Visit our [Coronavirus Task Force Page](#) for additional information about how you and your colleagues can address the multitude of transactional, regulatory, litigation, and employee relations issues that you are facing as a result of this public health crisis.

If you have questions about these mandates, please contact **Brett D. Heinrich** at +1 (312) 609 7799, **Dana B. Mehlman** at +1 (312) 609 7509 or any other Vedder Price attorney with whom you have worked.

[vedderprice.com](#)