

April 16, 2020

The Honorable Letitia James
Office of the Attorney General
The Capitol
Albany, NY 12224-0341

Re: Urgent Action Needed in Response to EPA Memo Suspending Environmental Enforcement

Dear Attorney General James,

We the undersigned, urge you to take sue the US Environmental Protection Agency (EPA) in response to the March 26th memo, COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program, which suspends the enforcement of foundational environmental protection laws. In issuing this policy, which suspends the enforcement of these laws, the EPA is breaching its public duty and puts New Yorkers public health at risk. The enforcement policy is arbitrary, and institutes a policy not tailored or proportional to the situational circumstances of COVID-19. We don't want you to submit petitions to the EPA or write letters to the Trump Administration. We strongly urge you to sue in federal court, and compel the EPA to do its job. This policy to suspend enforcement for an undefined period of time is a direct assault on New Yorkers public health and safety.

According to the memo, the policy sets new guidelines for routine compliance monitoring and reporting required by regulated entities for an undetermined period of time during the COVID-19 pandemic. This guideline states that the EPA will not issue fines for violations of certain air, water and hazardous-waste-reporting requirements.

In order to operate a large industrial facility, a company must acquire permits to pollute. The limits on how much pollution a company is allowed to put into the air, water and soil, how often a company reports what they pollute, and how they measure the level of toxins are set by the federal government. Companies must self report to the enforcement agencies, and if found to be emitting above the limit or if testing protocol isn't consistent with regulation, they can be found in violation of the law, forced to make changes and/or pay fines.

A regulated entity's compliance with routine monitoring, testing and reporting requirements are vital for the health, safety and dignity of our communities and the environment. Reporting allows the federal and state government, as well as community groups, to take swift action to remedy toxic emissions and accidents at factories, power plants and other industrial facilities regulated by environmental protection laws.

The memo also relaxes the requirements for companies that have entered into a settlement agreements or consent orders. Settlement agreements and consent orders are entered into if a company has already violated the law, and is either paying a fine or taking steps to correct the action. These corrections come with strict timelines and clear objectives. By removing penalties

the EPA is giving companies a free pass and potentially exposing communities to environmental harm where remedial measures are in place.

Federal enforcement has been crucial for us to achieve monumental reductions in exposure of toxins for residents of New York State, especially those living in overburdened environmental justice communities. The need for strict adherence to environmental regulations is even more important now. A recent study of Harvard University's T.H. Chan School of Public Health found Coronavirus patients in areas that had high levels of air pollution before the pandemic are more likely to die from the infection than patients, living in cleaner parts of the country.

This policy is just one more example of how the Trump administration is using a national crisis to benefit corporate shareholders, and cause greater harm to our people, in a way that will result in more illness, cancer and death.

Your office has been an incredible defender of the safety, health and rights of people in New York State by taking action against the Trump Administration in the past. We urge your office to take swift action again and respond to this policy to force the EPA to reinstate enforcement oversight and reestablish penalties when polluters violate any requirements of environmental regulations. If you would like to discuss this further, please contact Rebecca Newberry, Executive Director of Clean Air Coalition at 716-523-1264 or Rebecca@cacwny.org.

Sincerely,

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Cc:

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