



# Understanding EPA's Enforcement and Compliance Policy During the COVID-19 Pandemic

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Hella Bidad, Natasha Brunstein, Jayni Hein & Alisa White

On March 26, 2020, the U.S. Environmental Protection Agency ("EPA") issued a new enforcement and compliance policy ("Policy") in light of COVID-19 that applies to a wide array of regulated entities and facilities.<sup>1</sup> EPA stated that it issued this temporary Policy due to potential worker shortages and social distancing restrictions that could affect the availability of key staff, facility operations, and laboratories.<sup>2</sup> This issue brief summarizes the new EPA Policy, describes its significance, and clarifies its contours. The Policy opens the door to potentially problematic and harmful actions, especially on a short-term basis.

## Overview of the Enforcement and Compliance Policy

The Policy applies to five major areas of EPA action: (1) routine compliance monitoring and reporting by regulated entities, (2) settlement agreement and consent decree reporting obligations and milestones, (3) facility operations, (4) public water systems, and (5) critical infrastructure.<sup>3</sup> In all five areas, the Policy gives EPA discretion to consider present circumstances, including COVID-19, to determine if enforcement is appropriate.<sup>4</sup> The Policy applied retroactively beginning on March 13, 2020, and does not have a set termination date.<sup>5</sup>

# Epa Compliance And Enforcement Answer 201 5

**Adam Sowatzka, Richard E. Glaze**



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*Department of Housing and Urban Development--independent Agencies Appropriations for 1989: Environmental Protection Agency* United States. Congress. House. Committee on Appropriations. Subcommittee on HUD-Independent Agencies,1988    Federal Register ,2013-07    Index to Legal Periodicals & Books ,2005    **Environmental Litigation** Janet S. Kole,Stephanie Nye,1999    **California. Court of Appeal (2nd Appellate District). Records and Briefs** California (State)., Received document entitled APPENDIX OF EXHIBITS    **Environmental Law Reporter** ,2002

**Washington Administrative Code** ,2015    **EPA Publications Bibliography** ,1977    **EPA Compliance and Enforcement Answer Book 2015** Adam Sowatzka,Richard E. Glaze,2014 The U S Environmental Protection Agency enforces an extensive array of federal environmental laws and regulations and it delegates enforcement authority to state environmental officials as well These laws may affect not only major manufacturing operations like chemicals and automobiles but also small businesses and operations such as hospitals universities farms and municipal governments Failure to comply may subject firms and their officers and employees to federal and state administrative proceedings civil lawsuits and criminal prosecutions To help firms and individuals comply with the law and deal effectively with the EPA this new book provides in convenient question and answer format a brief overview of the main federal environmental laws and it then focuses in detail on the practical aspects of compliance and enforcement Is state enforcement less stringent than federal enforcement What does a typical permit provide What are the enforcement consequences of failing to comply with monitoring and reporting requirements How does EPA set its enforcement priorities What triggers an EPA inspection What is the first thing that should be done when an inspector arrives What is an environmental crime Can a corporate officer be prosecuted for the conduct of an employee What is an administrative compliance order What is a notice of violation What is the role of the Department of Justice in environmental enforcement What does imminent and substantial endangerment mean What is economic benefit and why does EPA seek to recover it as part of the penalty calculation Is compliance with the language of the permit a defense How does bankruptcy affect enforcement actions by EPA What are the benefits of implementing an environmental management system How does one make a voluntary disclosure under EPA s audit policy Can a citizen suit be brought if EPA or a state is pursuing an enforcement action for the same conduct These questions and hundreds of others are answered clearly and succinctly by Adam Sowatzka and Richard E Glaze Jr based on the expertise they have gained both as lawyers for the government and as private practitioners advising clients regarding environmental compliance As pointed out in the Foreword by Fred L Burnside Former Director U S EPA Office of Criminal Enforcement Forensics and Training EPA s enforcement programs have evolved and today the government utilizes a wide range of resources to investigate enforcement matters including inspectors criminal investigators regulatory experts sampling technicians chemists agency enforcement attorneys and civil and criminal prosecutors Companies and corporate officials

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## **Table of Contents Epa Compliance And Enforcement Answer 201 5**

1. Understanding the eBook Epa Compliance And Enforcement Answer 201 5
  - The Rise of Digital Reading Epa Compliance And Enforcement Answer 201 5
  - Advantages of eBooks Over Traditional Books
2. Identifying Epa Compliance And Enforcement Answer 201 5
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Epa Compliance And Enforcement Answer 201 5
  - User-Friendly Interface
4. Exploring eBook Recommendations from Epa Compliance And Enforcement Answer 201 5
  - Personalized Recommendations
  - Epa Compliance And Enforcement Answer 201 5 User Reviews and Ratings
  - Epa Compliance And Enforcement Answer 201 5 and Bestseller Lists

5. Accessing Epa Compliance And Enforcement Answer 201 5 Free and Paid eBooks
  - Epa Compliance And Enforcement Answer 201 5 Public Domain eBooks
  - Epa Compliance And Enforcement Answer 201 5 eBook Subscription Services
  - Epa Compliance And Enforcement Answer 201 5 Budget-Friendly Options
6. Navigating Epa Compliance And Enforcement Answer 201 5 eBook Formats
  - ePub, PDF, MOBI, and More
  - Epa Compliance And Enforcement Answer 201 5 Compatibility with Devices
  - Epa Compliance And Enforcement Answer 201 5 Enhanced eBook Features
7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Epa Compliance And Enforcement Answer 201 5
  - Highlighting and Note-Taking Epa Compliance And Enforcement Answer 201 5
  - Interactive Elements Epa Compliance And Enforcement Answer 201 5
8. Staying Engaged with Epa Compliance And Enforcement Answer 201 5
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Epa Compliance And Enforcement Answer 201 5
9. Balancing eBooks and Physical Books Epa Compliance And Enforcement Answer 201 5
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Epa Compliance And Enforcement Answer 201 5
10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
11. Cultivating a Reading Routine Epa Compliance And Enforcement Answer 201 5
  - Setting Reading Goals Epa Compliance And Enforcement Answer 201 5
  - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Epa Compliance And Enforcement Answer 201 5
  - Fact-Checking eBook Content of Epa Compliance And Enforcement Answer 201 5
  - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

#### 14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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