

U.S. EPA Issues COVID-19 Enforcement Policy

Hinshaw Alert | 1 min read

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There was a temporary policy issued March 26, 2020 by the United States Environmental Protection Agency (EPA), which explicitly provides a vehicle for companies and facilities to avoid penalties for non-compliance violations caused by the challenges of responding to the Coronavirus pandemic. The EPA has published that it will not seek penalties for violations of routine compliance monitoring, integrity testing, sampling, laboratory analysis, training, and reporting or certification obligations where the cause of the non-compliance is COVID-19.

This enforcement discretion policy is also being applied to administrative enforcement agreements and consent decree obligations such that stipulated penalties should not apply. The policy does require documentation and memorialization of the inability to comply because of the virus. While the policy is effective retroactively to March 13, 2020 it does not presently apply to CERCLA and RCRA corrective action enforcement documents.

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