

Watchdog questions pandemic enforcement policy

Kevin Bogardus, E&E News reporter Published: Thursday, June 18, 2020

EPA's internal watchdog said the agency's discretionary enforcement policy during the COVID-19 pandemic threatens its mission of protecting the environment.

The EPA Office of Inspector General said in a [report](#) released yesterday that the agency has implemented a temporary policy that pulls back several routine monitoring and enforcement actions. The watchdog office said that instead EPA "must maintain a robust enforcement program to address environmental violations and promote deterrence" and noted that the IG's prior work found that enforcement at EPA has declined over time.

"Additional reduction in enforcement activity places the EPA's regulatory mission at greater risk and threatens the Agency's overall mission to protect human health and the environment," said the report.

EPA pushed back against the IG's contention.

"During these unprecedented times, EPA has continued its unrelenting commitment to protecting human health and the environment. It is unfortunate that the IG is choosing to make uninformed comments that denigrate the great work that EPA staff has continued to carry out during the public health emergency," EPA spokeswoman Molly Block told E&E News.

That [policy](#), released in March, gives EPA discretion on pursuing enforcement against polluters because of the pandemic. EPA can choose not to demand fines and penalties, but businesses have to document why the virus was the cause of their noncompliance ([E&E News PM](#), March 26).

The policy has come under scrutiny from Democratic lawmakers and has already attracted litigation.

The IG's concerns about the temporary enforcement policy were included in its report about challenges EPA faces from the virus outbreak.

It's part of a larger [report](#) put together by the Pandemic Response Accountability Committee, which oversees more than \$2 trillion in relief spending in response to the pandemic, on how agencies are dealing with the virus. Overall, 37 IG offices contributed to the study.

Also as part of its report, the EPA IG office said the agency's problems with communicating health risks to the public may continue or rise because of the pandemic. It cited a recent **management alert** on facilities that emit ethylene oxide. The cancer-causing chemical is used for medical sterilization, and its makers could ramp up production due to the outbreak.

In addition, less enforcement by EPA may result in new health risks that the public will need to know about. "The lessened regulatory oversight noted above may produce environmental or public health risks requiring additional communication to affected communities," said the report.

Block with EPA said the temporary enforcement policy doesn't curtail monitoring and enforcement actions.

"That policy addresses situations where noncompliance is unavoidable as a result of steps taken to curtail the transmission and spread of COVID-19," she said.

EPA has been busy with enforcing environmental laws as the pandemic took hold in the United States. From March 16 to June 5, the agency has opened 78 criminal enforcement cases, charged 24 defendants and started 215 civil enforcement actions, according to EPA.

The IG report also said states, tribes, territories and local utilities — the ones often implementing the nation's environmental laws — are facing "resource strain" because of the pandemic and may need additional support from EPA.

EPA's inspector general also reviewed risks to the agency's own operations due to COVID-19.

EPA has to ensure its employees in the field, like inspectors and on-scene coordinators, have personal protective equipment and adapt their safety protocols for the virus. In addition, the agency has to implement cleaning and social distancing guidelines at more than 150 EPA facilities as its workforce returns to the office during the pandemic.

EPA employees have been teleworking since March to avoid spreading the virus. Remote work has burdened the agency's IT staff and raises the risk of security breaches, the report said.

EPA has begun a phased reopening process for its headquarters and several of its regional offices. Staff is encouraged to telework during the reopening's initial phases before returning to the office. EPA employee unions have protested the move to reopen, saying it puts workers at risk from COVID-19.

Further, EPA has to also ensure its contractors are reimbursed for their personnel's paid leave due to the pandemic, as required by the coronavirus relief package. The agency has said those funds will come from program offices, "which would impact program funding," but EPA hasn't established guidance yet on the policy, according to the report.

EPA's response to the pandemic is already under review by the agency's IG. The watchdog office has announced several audits, including how the agency is protecting its emergency response staff from the virus, according to a notice released earlier this week (*Greenwire*, June 16).