



PRESS RELEASE

Attorney General Frosh Urges Court to Halt Trump EPA’s Non-Enforcement of Federal Environmental and Public Health Laws

BALTIMORE, MD (June 9, 2020) – Maryland Attorney General Brian E. Frosh joined a coalition of nine states [in urging a U.S. District Court](#) to halt an Environmental Protection Agency (EPA) policy that has effectively waived industry compliance with pollution monitoring and reporting requirements—cornerstones of federal environmental and public health laws—due to COVID-19. This action follows a [lawsuit](#) that the coalition brought against the EPA on May 13, challenging the policy for being overly-broad, lacking transparency and accountability, and likely resulting in increased pollution by industry and a corresponding harm to public health and the environment.

“Trump’s EPA has announced that it will not do its job. We are asking the Court to order them back to work,” said Attorney General Frosh. “Failing to enforce environmental regulations will harm public health, especially in those communities already disproportionately suffering from the effects of COVID-19.”

In a preliminary injunction motion filed with the U.S. District Court for the Southern District of New York yesterday, the coalition argues that a halt to the EPA non-enforcement policy is necessary to prevent the increased pollution it incentivizes from occurring while the court considers the coalition’s claims.

On March 26, the EPA issued the non-enforcement policy, which applies retroactively to March 13, and has no end date. The policy states that the EPA will not take enforcement action against companies that violate existing reporting and monitoring requirements for laws like the Clean Air, Clean Water, and Safe Drinking Water Acts, provided that the companies link COVID-19 to their non-compliance. The policy also makes it optional for parties to report such non-compliance to the EPA.

The coalition recognizes the immense challenges posed by the COVID-19 pandemic and its response. However, the coalition argues that it was arbitrary and capricious for the EPA to adopt an “across the board” guarantee of non-enforcement without considering how it will affect public health. Further, as a number of states have demonstrated, there are reasonable alternatives to such a blanket waiver that would strike a better balance between regulatory flexibility and the agency’s mandate to protect public health and the environment.

The coalition's motion argues that the EPA failed to consider the potential impacts of increased pollution from industry's noncompliance with monitoring and reporting requirements on public health. The results of this policy could be particularly troubling for communities located near industrial facilities. These communities, which are frequently low-income and minority, bear a greater burden from increased pollution than the general public. Importantly, the EPA has adopted the non-enforcement policy at a time when low-income and minority communities are also suffering disproportionately from COVID-19 and as emerging evidence increasingly shows that exposure to air pollution corresponds with more serious cases of COVID-19.

Joining Attorney General Frosh in the preliminary injunction motion are the attorneys general of California, Illinois, Michigan, Minnesota, New York, Oregon, Virginia, and Vermont.