



USA: EPA ANNOUNCES PLANS TO STRENGTHEN ENVIRONMENTAL JUSTICE BY IMPROVING ENFORCEMENT EFFORTS

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On January 19, 2011, the U.S. Environmental Protection Agency (“EPA” or “Agency”) announced plans to step up its enforcement efforts to prevent environmental violations. Cynthia Giles, EPA’s Assistant Administrator for Enforcement and Compliance Assurance, said that the Agency plans to focus more attention on preventative measures--such as compliance-- that will reduce the incidence of community exposure to pollutants and help further the EPA’s goal of achieving environmental justice (“EJ”).

EJ is a key priority for EPA Administrator Lisa Jackson. Minority communities frequently complain of the disproportionate environmental burdens placed on residents. To date, much of the Agency’s emphasis has been on increasing the dialogue between EJ communities and industry to ensure that stakeholders have a voice in the process. By focusing on preventative measures -- such as compliance -- EPA is now going a step further by reducing communities’ -- including EJ communities -- potential exposure to pollutants.

One enforcement tool that the Agency will likely rely on even more heavily to reduce the incidence of community exposure to pollutants is Clean Air Act Section 114 Requests. Section 114 of the Clean Air Act authorizes the EPA to seek information about potential investigations before a violation occurs, with the goal of preventing future violations. While the increased enforcements efforts will affect many industries, one particular example is old coal-fired power plants. Phillip Brooks, the Director of EPA’s Air Enforcement Division, acknowledged that the Agency’s increased use of Section 114 Requests, combined with an aggressive enforcement policy, will result in the closure of old coal-fired power plants because it is often not economically feasible to make all of the necessary upgrades to bring a plant into compliance with current standards.

In addition to the new preventative focus and more aggressive enforcement efforts, Assistant Administrator Giles stated that the EPA will continue to target its other six priority areas, including: (1) keeping sewage and untreated stormwater out of waterways; (2) preventing animal waste from large farm operations from contaminating groundwater; (3) protecting communities from toxic air pollution; (4) investigating new source review violations at power plants, cement kilns, and glass and acid manufacturers; (5) targeting pollution emissions from mining and mineral processing operations; and (6) ensuring natural gas, coal mining, and petroleum operations compliance with environmental laws.

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