

Attorneys General of New York, Massachusetts, Washington, California, Connecticut, Delaware, Hawaii, Illinois, Maryland, Minnesota, Oregon, Rhode Island, and Vermont

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Via Certified Mail and Electronic Mail (Zeldin.Lee@epa.gov; Pritzlaff.Craig@epa.gov)

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Craig Pritzlaff, Acting Assistant Administrator
U.S. Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

RE: Dec. 5, 2025 Memorandum, “Reinforcing a ‘Compliance First’ Orientation for Compliance Assurance and Civil Enforcement Activities”

Dear Administrator Zeldin and Acting Assistant Administrator Pritzlaff:

The Attorneys General of New York, Massachusetts, Washington, California, Connecticut, Delaware, Hawaii, Illinois, Maryland, Minnesota, Oregon, Rhode Island, and Vermont submit this letter to express strong opposition to the memorandum issued by the Environmental Protection Agency (“EPA”) Office of Enforcement and Compliance Assurance on December 5, 2025 with the subject line “Reinforcing a ‘Compliance First’ Orientation for Compliance Assurance and Civil Enforcement Activities,” (“Pritzlaff Memo”),¹ and to highlight specific concerns regarding EPA’s implementation of the policy set forth therein.

EPA purports to reinforce “prioritizing environmental compliance across all [EPA] enforcement activities in the most efficient, most economical, and swiftest means possible,” but in practice the Pritzlaff Memo significantly curtails environmental enforcement and delays industry compliance. Although cloaked in compliance-based language, the Pritzlaff Memo aligns EPA policy with the current administration’s general stance on nonenforcement, which it announced before the President took office² and reinforced on day one.³ EPA’s recently issued

¹ Memorandum from Craig J. Pritzlaff, Acting Ass’t Adm’r, on Reinforcing a “Compliance First” Orientation for Compliance Assurance and Civil Enforcement Activities to OECA Office Directors and Deputies et al., (Dec. 5, 2025), <https://perma.cc/VBZ5-3RQD> [hereinafter “Pritzlaff Memo”].

² Elon Musk & Vivek Ramaswamy, *Elon Musk and Vivek Ramaswamy: The DOGE Plan to Reform Government*, WALL STREET J. (Nov. 20, 2024), <https://www.wsj.com/opinion/musk-and-ramaswamy-the-doge-plan-to-reform-government-supreme-court-guidance-end-executive-power-grab-fa51c020?mod=Searchresults&pos=2&page=1>.

³ See Pritzlaff Memo, *supra* note 1, at 2, Section II (“Compliance assurance and enforcement activities must properly consider Executive Orders and guidance from the Administrator,” including “Exec. Order No. 14192, Unleashing Prosperity Through Deregulation (Jan. 31, 2025) . . . Exec. Order No. 14260, Protective [sic] American Energy from State Overreach (Apr. 8, 2025) . . . Exec. Order No. 14261, Reinvigorating America’s Beautiful Clean Coal Industry and Amending Executive Order 14241 (Apr. 8, 2025).”)

enforcement and compliance assurance annual results report (“2025 Enforcement Report”), discussed below, confirms this approach—the report misleadingly touts an increase in enforcement but in reality, EPA cherry picks favorable metrics while taking credit for cases negotiated and settlement agreements reached during the Biden Administration.⁴ The Pritzlaff Memo thus formalizes this administration’s consistent stance on environmental enforcement: to prioritize the interests of favored industries while ignoring the effects of pollution on public health and the environment.

The Pritzlaff Memo is expressly at odds with the prioritization of public health and the environment. Congress guaranteed nationwide protection from pollution when it passed federal environmental laws. While states may protect public health and the environment within their own borders, even states that devote significant resources to enforcement cannot protect themselves from upstream and cross-boundary pollution. The Pritzlaff Memo abandons Congress’s guarantee, and implementation will create and exacerbate environmental sacrifice zones where already overburdened communities bear the brunt of unaddressed environmental violations with nary a consideration given to these effects.⁵

The Pritzlaff Memo implements novel, rigid requirements to immediately elevate *every* concern raised by a regulated entity about how EPA has applied a statute or regulation to its case, regardless of merit. This devalues agency expertise and provides polluting industries with a roadmap to delay enforcement of *and compliance with* foundational environmental laws. And the Pritzlaff Memo’s unnecessary restraints on the lawful use of injunctive relief and other demonstrably effective enforcement tools ensure the adverse effects of environmental violations will go unaddressed. The Pritzlaff Memo also departs from longstanding EPA policies and practices that focus on achieving compliance but understand the need for—and implement—safeguards against abuse by the regulated community. Consistent enforcement is a necessary backstop to deter noncompliance and must apply to all violations, not just those that “present an emergency coupled with significant harm to human health and the environment” or involve “serious, blatant, knowing and repetitive noncompliance suggesting a lack of internal institutional environmental controls and complete disregard of law.”⁶ EPA’s goal should be to deter such instances through a strong enforcement practice as part of its overall compliance assurance program, not to allow violations to go unaddressed until a serious emergency arises.

As explained in more detail below, the Pritzlaff Memo suffers from a myriad of readily apparent flaws, and its policy significantly harms our states’ interests in consistent, robust, and

⁴ See EPA, ENFORCEMENT AND COMPLIANCE ASSURANCE ANNUAL RESULTS FOR FISCAL YEAR 2025 (Feb. 26, 2026), <https://perma.cc/JQ49-WCSY> [hereinafter “EPA 2025 ENFORCEMENT REPORT”].

⁵ Molly K. Barker, Christine A. Jochim, David L. Rieser, K&L Gates LLP, *Navigating EPA’s New Enforcement Playbook: How ‘Compliance First’ Policy Reshapes Risk for Regulated Entities*, NAT’L L. REV. (Jan. 13, 2026), <https://perma.cc/35CB-EUMM> (“Inevitably, patchwork enforcement could lead to fragmented corrective action requirements due to divergent priorities or policies, increased compliance costs and legal fees due to heightened complexity of seeking multiple agency sign-offs rather than a unified agency resolution, and inefficient operations”).

⁶ Pritzlaff Memo, *supra* note 1, at 5, n.7.

transparent federal enforcement that prioritizes protection of public health and the environment. First, the Pritzlaff Memo creates new bureaucratic bottlenecks by disregarding the expertise of EPA career staff, requiring unnecessary layers of review for routine matters, and ultimately delaying compliance and increasing environmental harm. Second, these harms will disproportionately affect already overburdened communities and vulnerable populations that EPA fails to so much as mention, while also restricting the use of certain remedies that could provide relief in those communities. Third, the Pritzlaff Memo dismisses and/or ignores longstanding EPA policies and practices that encourage voluntary compliance without compromising the integrity and enforceability of federal environmental law or abandoning the Agency’s responsibility to protect public health and the environment.

Finally, the Pritzlaff Memo plainly attempts to further the current administration’s aggressive nonenforcement and deregulatory agenda. But if EPA believes, as it states, that “[f]irm, consistent, and swift enforcement is an essential cornerstone of [EPA’s] compliance program,”⁷ it must immediately rescind the Pritzlaff Memo. Despite the Pritzlaff Memo’s purported prioritization of State partner coordination as one of six foundational factors for the “compliance-first operating framework,” EPA’s shift away from uniform federal enforcement will create uncertainty for all stakeholders, including our state agencies and the regulated community, and cause irreversible harm to the environment and public health. To fulfill its statutory obligations, EPA must continue to promote fair and robust enforcement as a central part of its compliance assurance program to hold polluters accountable, protect public health and the environment in communities across America, and ensure that companies who meet their legal obligations are not at a competitive disadvantage to those who break the law.

I. The Pritzlaff Memo creates political bottlenecks that will stall enforcement.

The Pritzlaff Memo creates new bureaucratic bottlenecks that will dramatically slow industry compliance. EPA staff within the Office of Enforcement and Compliance Assurance (“OECA”) and across the regional offices, like career staff across the federal government, have always elevated novel legal arguments or difficult ambiguities to the appropriate level to ensure national consistency of federal law. The Pritzlaff Memo now requires staff to immediately elevate *every* “concern about how EPA has applied a statute or regulation to its specific case” raised by a regulated entity regardless of merit.⁸ Rather than focusing on the best reading of the statutes and regulations it administers,⁹ EPA has created a playbook for favored industries to

⁷ Pritzlaff Memo, *supra* note 1, at 5.

⁸ *Id.* at 4.

⁹ The Agency’s reliance on *Loper Bright Enterprises, Inc. v. Raimondo*, 603 U.S. 369 (2024), to justify its elevation requirement is misplaced. Under *Loper Bright*, which overturned the longstanding doctrine of agency deference established in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), the Supreme Court made clear that courts must use their independent judgment to determine the best reading of a statute. The best readings of many of the statutes and regulations administered by EPA have been well-settled by federal courts and *Loper Bright* did not disturb those decisions.

unilaterally stall enforcement processes, incentivizing polluting entities to raise meritless concerns rather than comply with well-settled law.¹⁰

Moreover, the Pritzlaff Memo disregards Agency expertise. It states that “[i]nspectors and enforcement staff, including attorneys, are not responsible for resolving an ambiguity or concern, but only for identifying and elevating the issue when raised by a regulated entity or otherwise identified.”¹¹ Like many of the current administration’s actions, the elevation requirement overtly marginalizes one of EPA’s most valuable assets: its dedicated, long-term public servants. Career attorneys and enforcement officers have substantial expertise in how to apply well-settled law to a large variety of different factual circumstances. In enforcement negotiations, polluting entities regularly raise as many concerns and counterarguments as possible, regardless of their viability or likelihood of success. EPA career staff are well-practiced in resolving straightforward issues, dispensing with meritless arguments, and elevating novel and/or complex issues to the appropriate level of management when necessary. As discussed in Section IV below, many EPA employees have also been fired, forced out, or otherwise left the Agency since President Trump took office in 2025, but many dedicated and talented career attorneys and enforcement officers remain. EPA enforcement policies must recognize rather than marginalize their experience and expertise.

The Pritzlaff Memo’s elevation requirement is also inconsistent with its purported goal to achieve compliance in the swiftest, most efficient means possible. Ignoring established caselaw to prioritize novel legal interpretations and shifting individual case-level decisions to a small cadre of political appointees results in inefficient bureaucratic bottlenecks that delay compliance and unlawfully politicizes the protection of public health. The current administration’s adherence to a similar, unofficial policy since day one has already created such bottlenecks and contributed to the dwindling number of judicial enforcement cases.¹²

President Trump and his current administration profess to hate bureaucracy, yet the Pritzlaff Memo enshrines one of its signature hallmarks: mandating additional, often useless layers of review into every enforcement action in which the regulated entity raises a legal argument—that is, into *every* enforcement action. The result: fewer enforcement actions and ultimately decreased compliance with well-settled law.

¹⁰ Law firms were quick to begin advising their clients to expect issues to be elevated to the highest political levels. *See, e.g.*, John R. Bobka, Todd S. Mikolop, & Malcom C. Weiss, *EPA Issues ‘Compliance First’ Enforcement Policy*, (Dec. 22, 2025), <https://perma.cc/N5XA-HRV9> (“OECA’s practice since the beginning of this administration has been to resolve such issues at the highest levels of OECA”).

¹¹ Pritzlaff Memo, *supra* note 1, at 4.

¹² For premise that this has been an unofficial policy since day one, *see supra*, note 8. For discussion of dwindling judicial enforcement cases, *see* Section IV, *infra*.

II. The Pritzlaff Memo wholly fails to acknowledge its public health and environmental effects.

Despite its obvious effect of delaying compliance, the Pritzlaff Memo includes *zero* discussion of potential adverse effects on the environment, people, or communities, instead focusing solely on improving communication and coordination with favored industries. But as discussed below, the policy it implements will have significant negative environmental and public health effects. By stalling enforcement efforts, allowing violations to continue unaddressed for longer periods of time, and removing incentives for industry to disclose and avoid future violations, the Pritzlaff Memo will predictably result in increased emissions and discharges of harmful pollutants into the air people breathe, the water they drink, and the environment in which they live, work, and go to school.

The Pritzlaff Memo also fails to acknowledge that the negative effects of its implementation will not be distributed evenly across the country. Evidence-based studies and the documented lived experiences of community members consistently demonstrate that environmental harms from industrial activities disproportionately affect communities of color,¹³ Indigenous people and Tribal Nations,¹⁴ low-income communities,¹⁵ rural and unincorporated communities,¹⁶ people with disabilities,¹⁷ and communities in which a high proportion of residents speak a language other than English.¹⁸ Environmental pollution also affects different populations differently. Vulnerable populations, including people with preexisting health

¹³ Christopher W. Tessum et al., *PM_{2.5} Polluters Disproportionately and Systemically Affect People of Color in the United States*, 7 SCI. ADVANCES 1 (2021); see also UNITED CHURCH OF CHRIST COMM’N FOR RACIAL JUST., TOXIC WASTES AND RACE IN THE UNITED STATES: A NATIONAL REPORT ON THE RACIAL AND SOCIO-ECONOMIC CHARACTERISTICS OF COMMUNITIES WITH HAZARDOUS WASTE SITES (1987), <https://perma.cc/6L8E-E4GW>; UNITED CHURCH OF CHRIST JUST. & WITNESS MINISTRIES, TOXIC WASTES AND RACE AT TWENTY, 1987–2007 (2007), <https://perma.cc/SM6W-A7DD>.

¹⁴ U.N. Special Rapporteur Victoria Tauli-Corpuz, *End of Mission Statement by the United Nations Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz of Her Visit to the United States of America*, OHCHR (Mar. 3, 2017), <https://perma.cc/UQ6P-CSFK>.

¹⁵ Ihab Mikati et al., *Disparities in Distribution of Particulate Matter Emission Sources by Race and Poverty Status*, 108 AM. J. PUB. HEALTH 480 (2018), <https://pubmed.ncbi.nlm.nih.gov/29470121/>; Qian Di et al., *Air Pollution and Mortality in the Medicare Population*, 376 NEW ENG. J. MED. 2513 (2017), <https://pubmed.ncbi.nlm.nih.gov/28657878/>.

¹⁶ Monica Sanders, *Understanding Environmental Justice in Rural Communities*, FORBES (Aug. 26, 2024, 9:30 AM ET), <https://perma.cc/9EKS-564U>; Cristina Gomez-Vidal & Anu Manchikanti Gomez, *Invisible and Unequal: Unincorporated Community Status as a Structural Determinant of Health*, 285 SOC. SCI. & MED. 1 (2021), <https://perma.cc/2UVF-SQA5>.

¹⁷ Jayajit Chakraborty, *Disparities in Exposure to Fine Particulate Air Pollution for People with Disabilities in the US*, 842 SCI. OF THE TOTAL ENV’T 1 (2022); NAS, CONSTRUCTING VALID GEOSPATIAL TOOLS FOR ENVIRONMENTAL JUSTICE 38–39 (2024).

¹⁸ Kelvin C. Fong et al., *The Intersection of Immigrant and Environmental Health: A Scoping Review of Observational Population Exposure and Epidemiologic Studies*, 130 ENV’T HEALTH PERSPS. 1 (2022), <https://perma.cc/X36G-VTSX>; Yoshira Ornelas Van Horne et al., *Toward Language Justice in Environmental Health Sciences in the United States: A Case for Spanish as a Language of Science*, 131 ENV’T HEALTH PERSPS. 1 (2023), <https://perma.cc/3XNF-E8ZM>.

conditions,¹⁹ workers subject to occupational exposures,²⁰ children,²¹ and the elderly²² often experience more significant health effects from similar exposures.

Disproportionate adverse effects are also more likely to occur in communities already overburdened by pollution, thus exacerbating existing disparities in environmental and public health outcomes with potentially fatal consequences. EPA's COVID-19 enforcement policy provides a stark example. On March 26, 2020, EPA adopted a civil enforcement policy, stating that the Agency "does not expect to seek penalties for violations of routine compliance monitoring, integrity testing, sampling" and other testing and reporting requirements where COVID-19 was self-reported as the cause of the noncompliance.²³ Researchers later confirmed that counties with more industrial facilities experienced increases in air pollution after EPA issued its COVID-19 enforcement policy, and that increased pollution led to statistically significant increases in COVID-19 cases and deaths, particularly in counties with a greater number of Black residents.²⁴

The same will be true here. The Pritzlaff Memo similarly deprioritizes penalties and notices of violation, instead purporting to "promote voluntary compliance through self-reporting and voluntary audits."²⁵ But the Agency fails to acknowledge that the similarities between the Pritzlaff Memo and its COVID-19 policy are likely to result in similar effects, and also fails to mitigate the potentially significant health risks posed by its implementation.²⁶

Indeed, EPA not only ignores foreseeable, significant, and disproportionate health and environmental effects in the Pritzlaff Memo, it also actively discourages staff from remedying those adverse effects. Specifically, the Pritzlaff Memo discourages the use of injunctive relief,

¹⁹ Dr. Ruth A. Etzel, *How Environmental Exposures Influence the Development and Exacerbation of Asthma*, 112 PEDIATRICS 1, 223–39 (2003); Dr. Min Hyung Ryu et al., *COPD Exposed to Air Pollution: A Path to Understand and Protect a Susceptible Population*, 165 AMERICAN COLLEGE OF CHEST PHYSICIANS (CHEST) 4, 836–46 (2024).

²⁰ Maeve MacMurdo et al., *Occupational Exposure to Ambient Air Pollution: At-Risk Worker Groups, Regulatory and Research Needs*, An Official American Thoracic Society Workshop Report, 22 ANNALS OF THE AMERICAN THORACIC SOC. 11, 1619–32 (2025), <https://academic.oup.com/annalsats/article/22/11/1619/8444106>.

²¹ Dr. Mary Chesney & Dr. Karen Duderstadt, *Children's Rights, Environmental Justice, and Environmental Health Policy in the United States*, 36 J. OF PEDIATRIC HEALTH CARE 1, 3–11 (2022), <https://www.sciencedirect.com/science/article/abs/pii/S0891524521002017>.

²² Marzia Simoni et al., *Adverse Effects of Outdoor Pollution in the Elderly*, 7 J. THORACIC DISEASE 1, 34–35 (2015), <https://perma.cc/YGK6-TR22>.

²³ Memorandum from Susan Parker Bodine, Ass't Adm'r for Enforcement and Compliance Assurance, on COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program to All Governmental and Private Sector Partners (Mar. 26, 2020), <https://perma.cc/H5WN-7MPS>.

²⁴ Claudia L. Persico & Kathryn R. Johnson, *The Effects of Increased Pollution on COVID-19 Cases and Deaths*, 107 J. OF ENV'TL ECON. & MGMT. 102431 (2021), <https://www.sciencedirect.com/science/article/pii/S0095069621000140#:~:text=We%20also%20find%20that%20the%20se.in%20deaths%20from%20COVID-19.>

²⁵ Pritzlaff Memo, *supra* note 1, at 3.

²⁶ Nine States Attorneys General, including several signatories to this letter, challenged EPA's COVID-19 enforcement policy as *ultra vires*, arbitrary and capricious, and in violation of the Administrative Procedure Act's rulemaking requirements. *New York et al., v. EPA*, No. 1:20-cv-03714 (S.D.N.Y.). The case was dismissed without prejudice after EPA terminated the policy on August 31, 2020.

mitigation, and supplemental environmental projects (“SEPs”)²⁷—all critical tools EPA has historically implemented to remedy the effects of environmental violations on the environment and people. The Pritzlaff Memo states, without evidence or justification, that injunctive relief and mitigation are “generally not appropriate” and bars the use of SEPs outright.²⁸ The Pritzlaff Memo further requires the Assistant Administrator for OECA, a high-level political appointee, to approve any injunctive relief “outside clear regulatory or statutory requirements.”²⁹ But the statutes and regulations EPA administers that authorize the Agency to seek injunctive and other equitable relief, do not—and could not—prescribe specific relief because no two cases will require exactly the same remedy. The Clean Water Act, for example, authorizes the Agency to seek “appropriate relief,” relying on EPA expertise to determine what is required to ensure compliance and, if necessary, mitigate the harms resulting from the specific violations at issue.³⁰ The Clean Air Act also authorizes EPA, on a case-by-case basis, to ensure that remedies are appropriate to redress the harm caused by unlawful pollution and other environmental violations.³¹

The federal government and courts alike have recognized the importance of such tailored relief. In February 2026, in one of the few environmental enforcement cases the current administration has allowed to proceed, a federal court ordered DTE Energy Company and its subsidiaries to pay a significant civil penalty and establish a “Community Quality Action Committee” comprised of a company representative, public health and community advocates, and individuals affected by its pollution. In addition to the civil penalty, DTE Energy Company was ordered to spend \$20 million through the committee to fund community health projects aimed at mitigating pollution caused by its Clean Air Act violations that led to asthma and early deaths in the affected communities.³² The U.S. Department of Justice (“US DOJ”) requested on EPA’s behalf civil penalties and “injunctive relief requiring Defendants to bring the Facility into compliance” with the Clean Air Act. Nongovernmental plaintiffs requested—and the court ordered—the additional injunctive relief “to redress the harm the Defendants have caused the communities surrounding the facility.”³³

²⁷ SEPs, which are environmentally beneficial projects with a close nexus to the specific violations at issue, are proposed by the regulated entity and allow violators to mitigate the harms caused by their violations in a way that is most economically feasible. SEPs therefore can help federal enforcement officials achieve faster settlements through common-sense solutions that benefit both the regulated entity and affected communities. *See* Guidelines and Limitations for Settlement Agreements Involving Payments to Non-Governmental Third Parties, 89 Fed. Reg. 97,525, 97,536 (Dec. 9, 2024).

²⁸ Pritzlaff Memo, *supra* note 1, at 5.

²⁹ *Id.*

³⁰ *See* 33 U.S.C. § 1319(b).

³¹ *See* 42 U.S.C. § 7413(b).

³² *See United States et al. v. EES Coke Battery, LLC et al.*, Findings of Fact and Conclusions of Law, ECF No. 410, 22-cv-11191 (E.D. Mich. Feb. 17, 2026) (“Under the plain text of the [Clean Air Act], the Court has broad discretion to fashion a remedy for Defendants’ Clean Air Act violations.”).

³³ *Id.* at 33, 42.

In sum, the Pritzlaff Memo ignores the predictable harms it creates, and then hampers EPA's ability to remedy those harms, further entrenching public health and environmental disparities in our states' most vulnerable communities. EPA's existing self-disclosure policies incentivize compliance while providing important safeguards to preserve the deterrent effect of enforcement and prevent recurrence. The Pritzlaff Memo's failure to mention, much less explain why these policies are insufficient, belies EPA's true intent: to favor industry over fulfilling its mission to protect public health and the environment.

III. The Pritzlaff Memo ignores that policies to prioritize environmental compliance must be backed by robust enforcement.

The Pritzlaff Memo purports to “reinforce” a compliance first approach, but its deprioritization of enforcement except in the most extreme cases is incompatible with achieving swift and efficient compliance and carrying out the Agency's duty to protect public health and the environment. The Pritzlaff Memo will result in increased noncompliance and a higher likelihood of repeat offenses because in the absence of strong enforcement—even for first-time violators—the regulated community has little incentive to comply.

EPA has a long track-record of facilitating compliance by prioritizing compliance assistance, providing the regulated community with strong incentives to voluntarily report and correct noncompliance, and meaningfully engaging with members of the regulated community after violations are identified, which the Pritzlaff Memo fails to adequately address. For example, while the Pritzlaff Memo directs prioritization of “compliance assistance tools,” it ignores that a “Compliance Assistance Toolkit”³⁴ already exists. EPA has also long helped regulated entities achieve compliance by providing proactive, consistent, and considerable outreach to the regulated community³⁵ “to facilitate compliance and increase understanding,”³⁶ including but not limited to compliance advisories explaining EPA's regulatory requirements,³⁷ and sector-specific, web-based Compliance Assistance Centers that provide more detailed technical assistance to regulated entities.³⁸

Similarly, while the Pritzlaff Memo purports to “promote voluntary compliance through self-reporting and voluntary audits to encourage regulated entities to proactively identify and correct compliance concerns,” a so-called “find and fix” approach,³⁹ it ignores pre-existing EPA policies and practices, developed and implemented across decades of changing federal administrations, that successfully facilitate self-policing while also holding polluters

³⁴ Pritzlaff Memo, *supra* note 1, at 2–3.

³⁵ *Assisting Regulated Entities*, EPA (last updated Dec. 1, 2025), <https://perma.cc/DQF2-75QC> (describing various compliance-related resources EPA provides to regulated entities).

³⁶ Pritzlaff Memo, *supra* note 1, at 3.

³⁷ *Compliance Advisories and Enforcement Alerts*, EPA (last updated Sept. 30, 2025), <https://perma.cc/VCH2-UNMR>.

³⁸ *Compliance Assistance Centers*, EPA (last updated Aug. 21, 2025), <https://perma.cc/2BAK-Q545>.

³⁹ Pritzlaff Memo, *supra* note 1, at 2–3.

accountable; protecting the environment and public health in communities across America; and ensuring that members of the regulated community who meet their legal obligations are not at a competitive disadvantage to those who break the law. For example, the Pritzlaff Memo does not so much as mention EPA’s highly successful Audit Policy⁴⁰ nor make any attempt to explain why it is inadequate or how the Pritzlaff Memo will better promote industry compliance.

First issued by the Clinton Administration in 1995, EPA’s Audit Policy aims to “enhance protection of human health and the environment by encouraging regulated entities to voluntarily discover, promptly disclose and expeditiously correct violations of Federal environmental requirements.”⁴¹ The Bush Administration, in close consultation with US DOJ, states, public interest groups, and the regulated community, updated the Audit Policy in 2000 to, among other things, broaden its applicability.⁴² In 2015, the Obama Administration modernized its implementation by creating a centralized web-based eDisclosure portal to receive, automatically process, and quickly resolve certain types of routine, self-disclosed violations.⁴³ Implementation of the new portal resulted in a 75% increase in self-disclosures in the first two years, and in 2018, during President Trump’s first term, EPA highlighted the implementation of eDisclosure as “highly successful.”⁴⁴ The Biden Administration similarly embraced “self-disclosed violations policies,” including the Audit Policy.⁴⁵

The Audit Policy offers significant benefits to regulated entities that incentivize disclosure under its terms, including a 100% waiver of any “punitive” penalty the Agency could lawfully assess. In stark contrast to the Pritzlaff Memo, the Audit Policy includes important safeguards to deter violations and protect public health and the environment. For example, in order to benefit from the substantial reduction in civil penalties offered under the Audit Policy, disclosing entities must act to prevent recurrence of violations and to remedy any environmental harm that may have occurred. And certain categories of violations, including repeat violations, violations that result in actual harm to the environment, and violations that may present an imminent and substantial endangerment are excluded from eligibility for relief under the Audit Policy’s clearly defined terms. The Audit Policy also ensures violators cannot gain an economic advantage over their competitors by delaying investment in compliance and encourages

⁴⁰ *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*, 65 Fed. Reg. 19618 (Apr. 11, 2000).

⁴¹ *Id.*; *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*, 60 Fed. Reg. 19618 (Dec. 22, 1995).

⁴² 65 Fed. Reg. 19618.

⁴³ *Notice of eDisclosure Portal Launch: Modernizing Implementation of EPA’s Self-Policing Incentive Policies*, 80 Fed. Reg. 76476 (Dec. 9, 2015).

⁴⁴ *EPA Announces Renewed Emphasis on Self-Disclosed Violation Policies*, EPA (May 15, 2018), <https://perma.cc/W8G4-QDJ6>.

⁴⁵ *EPA’s Audit Policy Program: Frequently Asked Questions*, EPA (last updated Oct. 8, 2025), <https://perma.cc/DJ37-5RC7>.

regulated entities to develop effective compliance management systems to prevent recurrence that could result in additional harm to public health and the environment.⁴⁶

In yet another example, the Pritzlaff Memo fails to address Executive Orders dating back to the 1990s that require US DOJ to offer the opportunity to settle EPA matters referred for judicial enforcement prior to commencing judicial action.⁴⁷ EPA has long taken the same approach in administrative enforcement matters, offering regulated entities the opportunity to confer with the Agency and to settle to resolve agreed-on violations for significantly reduced penalties. In other words, meaningful engagement with the regulated community after violations are identified is already baked into EPA's enforcement DNA.

In addition, as discussed above in Section II, the Pritzlaff Memo entirely ignores the adverse effects of environmental violations on the environment, people, and communities. But ensuring compliance with federal environmental laws requires transparency and building public trust in the regulated community's ability to self-police and EPA's ability—and willingness—to take appropriate action to protect public health and the environment. States and the public, especially in those communities disproportionately affected by environmental violations, have a right to know what the Agency and the violator have done to correct those violations, prevent their recurrence, and address any harms to the environment and/or public health those violations caused. Formal settlement under the Audit Policy, as well as through administrative and judicial enforcement, provide for such public notice.⁴⁸ The Pritzlaff Memo, by contrast, keeps the Agency's responses, or lack thereof, to many environmental violations behind closed doors.

In short, compliance assistance, incentives to self-police, and open communication with the regulated community are critical components of a successful compliance assurance program but they must be buttressed by strong enforcement. EPA's longstanding approach to enforcement effectively achieves the purported goals of the Pritzlaff Memo (i.e., swift and efficient compliance) without compromising the integrity and enforceability of federal environmental laws or abandoning the Agency's responsibility to protect public health and the environment. The

⁴⁶ Under the Audit Policy, while disclosing entities that discover violations systemically are eligible for a 100% reduction in the “punitive” portion of the civil penalty amount the Agency could lawfully assess, the Agency generally will not reduce the amount of penalty to correct economic gain the entity has realized from its noncompliance (the “economic benefit”). See 65 Fed. Reg. 19620. The Agency appropriately limits the complete waiver of the “punitive” portion of the penalty to disclosing entities that conduct environmental auditing or have in place a compliance management system. To encourage disclosure and correction of violations and development of environmental auditing systems, EPA still will reduce the “punitive” portion of the penalty by 75% where the disclosing entity does not detect the violation through systematic discovery but otherwise meets the requirements of the Audit Policy.

⁴⁷ Executive Order 12,988 – Civil Justice Reform, 61 Fed. Reg. 4729 (Feb. 5, 1996).

⁴⁸ See, e.g., *Proposed Consent Decrees and Draft Settlement Agreements*, EPA (last updated Oct. 6, 2025), <https://perma.cc/2CBX-L8WW> (explaining that EPA is committed to the fair and efficient resolution of environmental claims, and transparency for the American people and makes certain proposed settlements available for public review and comment after they have been approved by government decision-makers as part of that commitment); *Dockets, Decisions & Orders*, EPA (last updated Nov. 20, 2025), <https://perma.cc/ADN7-6YHB> (making EPA administrative enforcement settlements accessible to the public).

Pritzlaff Memo, on the other hand, casts aside—with no explanation—proven compliance mechanisms, punishes regulated entities that invest in meeting their compliance obligations, and abandons the communities that bear the often devastating and long-term effects of environmental violations.

IV. The Pritzlaff Memo unlawfully furthers the current administration’s aggressive nonenforcement and deregulatory agenda.

The Agency’s eagerness to abandon or replace longstanding, proven enforcement mechanisms is consistent with the current administration’s “break first, ask questions later” approach to deregulation. Lacking any reasoned basis for departing from longstanding policy, the Pritzlaff Memo simply furthers the President’s broader deregulatory agenda, consistent with repeated demonstrations that it will not enforce laws that do not serve its interests or that inconvenience industry.⁴⁹ Since the start of President Trump’s second term, EPA has launched “the biggest deregulatory action in U.S. history.”⁵⁰ The Agency has repealed numerous regulations, as well as the 2009 endangerment finding, the central legal and scientific determination that underpins many of the nation’s climate pollution rules. Alongside this deregulatory push, the current administration has unlawfully eliminated critical scientific and regulatory oversight functions. Less than a week after President Trump’s second inauguration, he fired the EPA Inspector General. Days later, the President dismissed every member of the Agency’s Science Advisory Board, which Congress created to furnish outside expertise to EPA on a range of technical and scientific topics. And more than 3,000 EPA employees have been fired or driven out of the Agency since inauguration day.⁵¹ This unprecedented loss of dedicated civil servants has left EPA under-resourced.

EPA’s 2025 Enforcement Report attempts to present a different picture, but a closer look reveals EPA’s misrepresentation of its enforcement record and a continued decrease in environmental enforcement against favored industries. The current administration expressly takes credit for settlements that occurred under the Biden Administration’s watch, which accounts for the first three-plus months of fiscal year 2025. The 2025 Enforcement Report highlights a settlement with Toyota subsidiary Hino Motors, Ltd., which was resolved with a criminal penalty of over \$500 million, \$525 million in combined state and federal civil penalties, and over \$300 million in injunctive relief.⁵² The Biden Administration and the State of California negotiated and reached agreement with Hino to resolve its civil and criminal claims, with the plea deal entered and the consent decree lodged on January 15, 2025, meaning both agreements were finalized *well before* President Trump took office on January 20, 2025.⁵³ This case,

⁴⁹ See, e.g., Musk & Ramaswamy, *supra* note 2.

⁵⁰ *EPA Launches Biggest Deregulatory Action in U.S. History*, EPA (March 12, 2025), <https://perma.cc/4H7U-LVUE>.

⁵¹ *Workforce Changes*, OPM (last visited Feb. 18, 2026), <https://data.opm.gov/explore-data/analytics/workforce-changes> (select “Environmental Protection Agency” under “Federal workforce changes by agency”).

⁵² EPA 2025 ENFORCEMENT REPORT, *supra* note 4 at 8.

⁵³ See Notice of Lodging of Proposed Consent Decree Under the Clean Air Act, 90 Fed. Reg. 7705 (Jan. 22, 2025) (Consent Decree lodged in Eastern District of Michigan in *United States et al. v. Hino Motors, LTD.*, 25-cv-10144).

negotiated and resolved by the Biden Administration, accounts for 69% of all civil penalties in fiscal year 2025.⁵⁴

Worse still, EPA's 2025 Enforcement Report fails to mention EPA's post-inauguration efforts to *weaken* the Hino Motors settlement by removing already agreed to requirements that Hino address the most severe public health harms from its illegal air pollution emissions. After the Biden administration lodged its consent decree and went through public notice and comment, the Trump DOJ on behalf of EPA moved to enter a revised consent decree that omitted language requiring Hino to "use best efforts to select mitigation projects 'in a manner that takes into consideration areas disproportionately burdened by adverse human health effects and environmental impacts.'"⁵⁵ The consent decree requires mitigation of "no less than 41,941 tons of oxides of nitrogen ('NOx'), 376 tons of particulate matter ('PM'), 6,199 tons of carbon dioxide ('CO2'), and 135 tons of nitrous oxide ('N2O')," but Hino is no longer required to prioritize mitigation projects in communities where families experienced the most harmful effects of that pollution.⁵⁶

The total number of judicial cases settled in 2025 since President Trump took office has also decreased sharply: by approximately 64% compared to the Biden Administration, by approximately 65% compared to President Trump's first term, and by approximately 78% compared to President Obama's second term.⁵⁷ And the majority of settlements since the start of President Trump's second term resolved cases that were initiated before he took office. Indeed, all but six of the consent decrees entered during fiscal year 2025 were lodged with the court before President Trump took office on January 20, 2025.⁵⁸ The decline in environmental enforcement cannot be explained away by commensurate declines in environmental violations. To the contrary, as a single example, EPA's own enforcement data shows that approximately 39,000 facilities permitted under the Clean Water Act have current violations and more than 13,000 of those have current violations EPA identifies as "significant."⁵⁹ New judicial enforcement actions are also at a historic low in the first year of President Trump's second term. In fiscal year 2025, US DOJ filed only 16 civil complaints in federal court on EPA's behalf, down 76% from the first year of the Biden Administration, 81% from the first year of Trump's first term, and 87% from the first year of President Obama's second term.⁶⁰ Organizations such

⁵⁴ EPA 2025 ENFORCEMENT REPORT, *supra* note 4 at 28. Using the same calculations, the Hino case, which was negotiated and resolved before President Trump took office, would account for nearly 87% of all criminal penalties in fiscal year 2025.

⁵⁵ United States' Unopposed Motion to Enter Revised Consent Decree, United States et al. v. Hino Motors, Ltd. et al., 25-cv-10144 ECF No. 7 (May 9, 2025).

⁵⁶ *Id.*

⁵⁷ *Declining Environmental Enforcement in Trump's Second Term*, Env'tl Integrity Project (Feb. 5, 2026), <https://perma.cc/P5RD-NSTS>. *see also* *America's Vanishing Environmental Enforcement: Federal enforcement 2015-2025*, Earthjustice (last visited Mar. 4, 2026), <https://docs.google.com/spreadsheets/d/1h5qGe4fYuJmAVwBivOvuYwfSOxzZfVLy/edit?gid=1151867053#gid=1151867053> (federal civil environmental enforcement data assembled by Earthjustice).

⁵⁸ *See e.g.*, Notice of Lodging of Proposed Consent Decree Under the Clean Water Act, 90 Fed. Reg. 7709 (Jan. 22, 2025) (Consent Decree lodged in District of Idaho on January 15, 2025 in *United States v. City of Driggs, Idaho, et al.*, 22-cv-00444).

⁵⁹ *Environmental Compliance History Online: Facility Search Results*, EPA (search results obtained Feb. 18, 2026), <https://echo.epa.gov/facilities/facility-search/results>.

⁶⁰ *Declining Environmental Enforcement in Trump's Second Term*, *supra* note 57 at 6; *see also* *America's Vanishing Environmental Enforcement: Federal enforcement 2015-2025*, EARTHJUSTICE (last visited Mar. 4, 2026),

as the Environmental Integrity Project and Earthjustice report a decline in new judicial enforcement, in judicial settlements, and in civil penalties, and an uptick in administrative settlements involving no penalties and a decline in judicial settlements involving significant injunctive relief.⁶¹

Other federal agencies have implemented policies similar to the Pritzlaff Memo that either expressly or implicitly curtail enforcement. For example, the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (“PHMSA”), Office of Pipeline Safety, recently issued a new enforcement policy that allows industry to decide for itself when federal safety rules are too inconvenient to follow.⁶² The PHMSA Office of Pipeline Safety is responsible for prescribing and enforcing federal safety standards for pipeline facilities that transport natural gas, crude oil, and petroleum products, but the policy gives pipeline operators authority to defer any required safety activity if it “adversely impact[s] the transportation of energy . . . including by increasing energy prices . . . reducing the domestic supply of affordable and reliable energy, or impairing the integrity and expansion of the nation’s energy infrastructure.”⁶³ Just as the Office of Pipeline Safety is tasked with protecting communities from unsafe pipeline operation—not allowing pipeline companies to decide when price concerns excuse them from safety rules—EPA is tasked with protecting human health and the environment from polluters, not giving them a priority seat at the table.

The current administration’s consistent efforts to delay or forestall enforcement are plainly unlawful. The President must faithfully implement the law⁶⁴ and lacks inherent authority to stay or suspend its enforcement.⁶⁵ Even where agencies have authority to exempt or otherwise waive regulatory restrictions, that power is cabined by statute.⁶⁶ Yet the current administration continues to claim broad authority to waive any law or regulation it, or its preferred industries, disfavors. Executive mandates to dramatically weaken or forestall environmental enforcement based on vague, untested legal theories demonstrate the current administration’s brazen

<https://docs.google.com/spreadsheets/d/1h5qGe4fYuJmAVwBivOvuYwfSOxzZfVLY/edit?gid=1151867053#gid=1151867053> (federal civil environmental enforcement data assembled by Earthjustice).

⁶¹ *Id.*

⁶² NOTICE OF LIMITED ENFORCEMENT DISCRETION AND STATEMENT OF POLICY FOR ISSUING SPECIAL PERMITS IN RESPONSE TO NATIONAL ENERGY EMERGENCY, DEP’T OF TRANSP. (Jan. 12, 2026), <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2026-01/Notice%20of%20Limited%20Enforcement%20Discretion%20and%20Statement%20of%20Policy%20for%20Issuing%20Special%20Permits%20in%20Response%20to%20National%20Energy%20Emergency.pdf>.

⁶³ *Id.* at 2.

⁶⁴ *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 637–39 (1952) (“[w]hen the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter.”)

⁶⁵ *See Clean Air Council v. Pruitt*, 862 F.3d 1, 9 (D.C. Cir. 2017) (rejecting claim that EPA has “inherent authority” to stay a rule); *Verizon v. FCC*, 740 F.3d 623, 632 (D.C. Cir. 2014) (“it is ‘axiomatic’ that ‘administrative agencies may act only pursuant to authority delegated to them by Congress.’” (alteration and citation omitted))

⁶⁶ For example, under section 112 of the Clean Air Act, the President can exempt stationary sources from compliance with hazardous air pollutant (HAP) standards for no more than two years and only when the control technology needed to meet the standard is unavailable, the exemption is in the interest of national security, and the President reports to Congress on each such exemption. 42 U.S.C. § 7412(i)(4). *See also Alabama Power Co. v. Costle*, 636 F.2d 323, 356, 358 (D.C. Cir. 1979) (rejecting “blanket exemption” that “falls well beyond the agency’s exemption authority.”)

commitment to subjugate legislative commands to protect public health, safety, and the environment to the interests of regulated entities.

Conclusion

Timely and effective environmental enforcement, supplemented and not supplanted by compliance assistance, is essential to protecting human health, safeguarding our natural resources, and providing a level playing field for regulated entities. Yet now, under the guise of “compliance first,” EPA moves sharply away from demonstrably effective compliance and enforcement mechanisms and the Agency’s mission. EPA’s intentional nonenforcement of duly enacted federal environmental laws constitutes an unlawful abandonment of its statutory obligations and its duty to protect public health and welfare and the environment. When regulated entities are allowed to repeatedly violate the law before the EPA takes action and are not required to mitigate the harms resulting from their noncompliance, it is communities—especially those already overburdened by pollution—who pay the price, while industry lines their pockets at their expense.

Accordingly, we call on EPA to immediately rescind the Pritzlaff Memo and revert to its prior practice that more effectively balances compliance and enforcement, recognizes the need for injunctive relief and mitigation tailored to redress the harms caused by environmental violations, and appropriately considers public health and the disproportionate effects of pollution on overburdened communities.

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