



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

September 28, 2023

MEMORANDUM

SUBJECT: EPA's Climate Enforcement and Compliance Strategy

FROM: David M. Uhlmann

A handwritten signature in blue ink, appearing to read "D. Uhlmann", is written over the name "David M. Uhlmann".

TO: OECA Office Directors and Deputies
Enforcement and Compliance Assurance Directors and Deputies
Superfund and Emergency Management Division Directors and Deputies
Land, Chemicals, and Redevelopment Division Directors and Deputies
Regional Counsel and Deputies

During his first week in office, President Biden issued Executive Order (EO) 14008 calling on all federal agencies to implement a whole of government approach to tackling the climate crisis.¹ EPA Administrator Regan subsequently made addressing the climate crisis the top cross-cutting goal in EPA's Strategic Plan.² With this memorandum, I am directing all EPA enforcement and compliance offices to address climate change, whenever appropriate, in every matter within their jurisdiction.

The climate crisis continues to accelerate: this year will be the warmest on record, with more billion-dollar weather events during the first eight months of the year than in any prior calendar year in the United States.³ Wildfires are no longer geographically limited, bringing death, catastrophic property damage, and unhealthy air to greater proportions of the country.⁴ Sea levels and ocean temperatures are rising dramatically.⁵ If we fail to take decisive action by the end of this decade, searing heat, widespread drought, destructive storms, and coastal flooding will become even more commonplace.

To meet the urgency of this moment, I am requiring that EPA's enforcement and compliance program: (1) prioritize enforcement and compliance actions to mitigate climate change; (2) include climate adaptation and resilience in case conclusions whenever appropriate; and (3) provide technical assistance to achieve climate-related solutions and build climate change capacity among EPA staff and our state and local partners. These requirements apply across all EPA enforcement and compliance activities, including criminal, civil, federal facilities, and cleanup enforcement.

¹ [Executive Order 14008](#), Tackling the Climate Crisis at Home and Abroad, Jan. 27, 2021.

² [FY 2022-2026 EPA Strategic Plan](#) (Mar. 2022).

³ See NOAA, National Centers for Environmental Information, [U.S. Billion-Dollar Weather and Climate Disasters](#) (2023); NASA, Global Climate Change, [NASA Announces Summer 2023 Hottest on Record](#), Sept. 14, 2023.

⁴ See NOAA, National Centers for Environmental Information, [Summary Stats](#); EPA, [Why Wildfire Smoke is a Health Concern](#).

⁵ See NASA, Global Climate Change, [NASA Study: Rising Sea Level Could Exceed Estimate for U.S. Coasts](#), Nov. 15, 2022; NOAA, Understanding Climate, [Climate Change: Ocean Heat Content](#), Sept. 6, 2023.

EPA’s Climate Enforcement and Compliance Strategy builds on the announcement last month of EPA’s first-ever climate enforcement initiative.⁶ The climate enforcement initiative targets methane emissions from oil and gas facilities and landfills as well as illegal importation of hydrofluorocarbons (HFCs). The strategy announced today goes further and requires EPA’s enforcement and compliance program to fairly and vigorously enforce the full array of EPA’s climate rules, including, but not limited to, greenhouse gas (GHG) reporting requirements and limits on other climate pollutants such as carbon dioxide and nitrous oxide. As new climate rules are developed, they will be prioritized as well.

This strategy fulfills a commitment made last year in the Climate Adaptation Implementation Plan⁷ developed by the Office of Enforcement and Compliance Assurance (OECA). In that document, OECA promised to “issue a policy statement requiring consideration of climate change in all civil enforcement case resolutions and adoption of climate-related solutions where appropriate.”⁸ The strategy announced today requires that all EPA enforcement and compliance staff embrace climate-related solutions, whenever appropriate, including at federal facilities and cleanup sites, so that entities in both criminal and civil enforcement matters factor climate mitigation, adaptation, and resilience into their operations.

In addition to calling for federal agencies to tackle the climate crisis, EO 14008 required federal agencies to deliver environmental justice. While climate change is a global problem, the impacts of climate change disproportionately affect communities already overburdened by pollution and with less access to the resources needed to adapt to and recover from climate change. Our charge is to protect human health and the environment for all Americans; it is therefore imperative that we consider climate justice as we factor climate change considerations into our enforcement and compliance activities.⁹

EPA’s climate rules promise meaningful reductions in GHG emissions to stave off the worst effects of climate change. Whether EPA achieves those GHG reductions will depend upon the strength of the climate rules, the efforts of the regulated community to comply with those rules, and the willingness of the Agency to take swift enforcement action against violators. To protect communities from climate change that already is occurring, EPA also will need to include climate adaptation and resilience whenever possible in criminal, civil, and administrative settlements. Each of these requirements, as well as the capacity-building efforts that will make them possible, are discussed in greater detail below.

1. Prioritize Enforcement and Compliance Activities to Reduce Emissions of Greenhouse Gases

In August 2023, EPA included Mitigating Climate Change as one of six National Enforcement and Compliance Initiatives (NECIs) for FY 2024-2027. As part of this NECI, which fits within the broader climate enforcement and compliance strategy announced today, EPA will focus resources on reducing emissions of the highest impact climate super-pollutants (methane and HFCs).

First, EPA will seek greater compliance with new source performance standards at oil and gas facilities and landfills, the second and third largest sources of methane emissions.¹⁰ By addressing large, unlawful emissions events from oil and gas facilities, known as super-emitter events, EPA can significantly reduce nationwide methane emissions. Second, EPA will use criminal and civil enforcement authorities to ensure compliance with the American Innovation and Manufacturing Act (AIM) Act,¹¹ which phases

⁶ [OECA FY 2024 – 2027 National Enforcement and Compliance Initiatives](#), Aug. 17, 2023.

⁷ [OECA Climate Adaptation Implementation Plan](#), Oct. 2022.

⁸ *Id.* at 22.

⁹ See EPA, [Environmental Justice in Enforcement and Compliance Assurance](#).

¹⁰ See EPA, [Inventory of U.S. Greenhouse Gas Emissions and Sinks](#), Apr. 13, 2023.

¹¹ See EPA, [Enforcement of the American Innovation and Manufacturing Act of 2020](#).

down production and consumption of HFCs by 85% by 2036, consistent with the Kigali Amendment to the Montreal Protocol. A global HFC phasedown is expected to avoid up to 0.5 °C of global warming by 2100. Third, as EPA adopts new climate rules, enforcement of those requirements also may be included in this initiative.

In addition to the Mitigating Climate Change initiative, EPA's enforcement and compliance program will prioritize enforcement actions to reduce emissions of other GHGs by addressing illegal activity related to carbon dioxide, nitrous oxide, and volatile organic compound (VOC) emissions. This could include actions in a broad array of sectors where both civil and criminal investigations can assess, for example, gas flaring, emissions from storage tanks and wastewater treatment systems, incineration/combustion operations, and compliance with the Greenhouse Gas Reporting Rule. EPA also will continue pursuing civil and criminal violations of the Clean Air Act's Renewable Fuel Standards to protect the integrity and climate objectives of the program.¹²

Enforcement staff should ensure consistent consideration of climate change during the case development process and incorporate relevant climate mitigation considerations in administrative actions, civil referrals, consent decree approval requests, and referrals for criminal prosecution sent to the Department of Justice. Enforcement staff should consider clean renewable energy solutions, green infrastructure cleanup responses, and other climate mitigation remedies throughout all case resolution efforts, including through Supplemental Environmental Projects (SEPs)¹³ in civil cases and Community Service Projects in criminal cases. Clean and renewable energy opportunities, including but not limited to, wind, solar, and vehicle electrification, may be incorporated as mitigation or SEPs in civil cases or as restitution in criminal cases or through other settlement tools.

2. Incorporate Climate Adaptation and Resilience Principles into All Enforcement and Compliance Activities

Consistent with EPA's legal authorities, we must take concrete steps to enhance adaptation and resilience within the regulated community by considering climate change adaptation and resilience concepts in all enforcement and compliance activities. The dramatic impacts of changing climate patterns and extreme weather events should be considered across all aspects of our work.

EPA's enforcement and compliance program will build climate resilience into our agreed upon case resolutions; for example, by considering relevant climate risks in enforcement matters, raising these climate risks to regulated entities early in negotiations, and including, where appropriate, injunctive relief that will be resilient to projected impacts of climate change. OECA will be releasing guidance shortly about these and other sustainability efforts.

Enforcement and compliance teams should consider targeting investigations at facilities presenting the highest risks from climate change impacts, which may include considering how frequently the geographic area is impacted by catastrophic weather events each year. For example, the Safe Drinking Water Act requires certain community water systems to develop risk and resilience assessments and emergency response plans that assess the risks posed to systems by natural hazards and ensure systems

¹² See EPA, [Civil Enforcement of the Renewable Fuel Standards](#).

¹³ [Issuance of the 2015 Update to the 1998 U.S. Environmental Protection Agency Supplemental Environmental Projects Policy](#) (Mar. 10, 2015).

are resilient and can detect and lessen the impacts of such risks.¹⁴ These requirements are essential for preserving the critical infrastructure needed to supply safe drinking water that can withstand climate change. Violations of requirements under other laws may also provide opportunities for injunctive relief that results in increased resilience to future impacts from climate change, thereby reducing risk of future harm to the environment or a community.

Enforcement staff should ensure consistent consideration of climate change in the case development process and incorporate relevant climate adaptation and resilience considerations in administrative actions, civil referrals, consent decree approval requests, and criminal cases referred to the Department of Justice. Enforcement staff should appropriately anticipate and prepare for future extreme weather events when developing case resolutions by including injunctive relief in regulatory settlements that will be resilient to the projected impacts of climate change. Case teams may incorporate greener cleanup¹⁵ provisions in Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Resource Conservation and Recovery Act (RCRA) settlements, as well as green infrastructure provisions in Clean Water Act settlements to help with flood control and mitigating climate change via creation of carbon sinks.

3. Provide Technical Assistance and Build Climate Change Capacity Among EPA Staff and State and Local Partners

OECA will provide technical assistance and training to EPA staff and state and local partners as we continue to develop the necessary capacity and tools to support integrating climate change considerations into enforcement and compliance activities. In addition, OECA will continue to provide technical assistance to drinking water and wastewater systems to help them return systems to compliance, build operator capacity, and ensure ongoing sustainable, clean, and safe water that can withstand climate change. We will promote the use of tools for incorporating climate risk into infrastructure planning, such as the Climate Resilience Evaluation and Awareness Tool.¹⁶

In addition to providing external assistance, EPA will continue to develop and provide tools and training to enable enforcement and compliance staff to address climate change in all aspects of their work. Specifically, OECA's Climate Adaptation Network will expand the community of practice to help (i) build staff capacity and (ii) establish an electronic repository of climate mitigation, adaptation, and resilience approaches to serve as examples for consideration in future activities.

In the Clean Air Act 112(r) program, and, as appropriate, when using RCRA and CERCLA authorities, EPA enforcement and compliance staff shall, when appropriate, consider risks from natural hazards and climate change in inspection targeting and civil and criminal case investigations. EPA enforcement and compliance staff also will identify vulnerable facilities and situations and develop compliance assistance materials in cooperation with the Office of Land and Emergency Management to help the regulated community better plan for extreme weather events.

¹⁴ Safe Drinking Water Act § 1433, 42 U.S.C § 300i-2; *see also* [America's Water Infrastructure Act Section 2013: Risk and Resilience Assessments and Emergency Response Plans](#).

¹⁵ *See* EPA, [Greener Cleanups](#).

¹⁶ *See* EPA, [Climate Resilience Evaluation and Awareness Tool \(CREAT\)](#).

CONCLUSION

Climate change is an existential threat that creates substantial risks for public health and safety, infrastructure, and ecosystems. As we do with all EPA programs, we will emphasize transparency and accurate reporting of the environmental and human health benefits derived from our climate actions, including the GHG equivalent emission reductions achieved in each enforcement matter. Our efforts to reduce GHG emissions over the next decade and our climate resiliency programs will determine what kind of world we leave for future generations. The climate strategy announced today reflects that reality.

cc: Assistant Administrators
Regional Administrators