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Enforcement: Environmental Integrity Project May 25, 2016 Letter to U.S. Environmental Protection Agency Inspector General Requesting a Review of Clean Air Act High Priority Violation Policy Revisions

Arkansas Environmental, Energy, and Water Law Blog

06/01/2016

The Environmental Integrity Project and other organizations (collectively “EIG”) sent a May 25th letter to the United States Environmental Protection Agency (“EPA”) Inspector General (“IG”) asking that he review :

... recent changes to EPA’s enforcement policy defining high priority violations of the Clean Air Act. Under the revised policy announced on August 15, 2014, by the Office of Enforcement and Compliance Assurance, OECA, violations would have to persist for at least seven days to be considered a high priority for enforcement action.

The formal name of the policy is *Timely and Appropriate Enforcement Response to High Priority Violations – Revision 2014 (“Policy”)*.

EPA states in the policy that it considers all violations important. However, the agency said high priority violations are a subset of violations of regulations authorized by the Clean Air Act that warrant additional scrutiny to ensure that state, local, territorial and tribal agencies respond to such violations in an appropriate manner and, if needed, have access to federal assistance. The policy was revised in an August 25, 2014 memorandum and can be found here <https://www.epa.gov/sites/production/files/2015-01/documents/hvpolicy2014.pdf>

EIG argues in its May 25th letter that EPA’s revision:

... would exclude very large emission spikes that result from malfunctions or other events and threaten air quality in neighborhoods, simply because they do not last more than a week.

The organization notes its concern about the impact of what it characterizes as “upset” emissions have on the health and well-being of neighborhoods downwind. They include a chart that is stated to identify the number of people living within three miles of each of fourteen plants reporting large emission events in 2015 lasting less than a week.

The letter asks that the IG address the following questions:

1. What is OECA's basis for assigning a low priority to episodes that release large amounts of carcinogens or other dangerous pollutants in less than seven days? What impact will that have on the drafting and enforcement of new standards to eliminate loopholes for emissions caused by malfunctions, maintenance, startup, and shutdown?
2. Does OECA's decision to exclude emission events lasting less than a week comply with the environmental justice criteria posted on its website?
3. Has the enforcement response by EPA or TCEQ to these violations – however they are classified – adequately reflected their potential for harm or helped to deter repetition of these incidents?

[Click here to download a copy of the letter.](#)