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April 15, 2020

Via Electronic Mail (wheeler.andrew@epa.gov)

Andrew Wheeler, Administrator
U.S. Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

RE: EPA Enforcement Policy, “COVID-19 Implications for EPA’s Enforcement and Compliance Assurance Program”

Dear Administrator Wheeler:

As the chief law enforcement officers of our States, we are greatly concerned by the Environmental Protection Agency’s recent issuance of a nationwide policy significantly curtailing enforcement of our nation’s bedrock environmental and public health laws, *COVID-19 Implications for EPA’s Enforcement and Compliance Assurance Program* (March 26, 2020). Although it is appropriate for EPA to consider whether safeguards that businesses are taking against the coronavirus impact their ability to comply with those laws, the agency cannot—in the midst of a public health crisis—lose sight of its mission to protect public health and the environment. Because the policy turns a blind eye to the impacts on our communities of more pollution and lesser accountability, we strongly urge EPA to rescind it.

Although there are a number of problems with the policy (including its overbroad scope, retroactivity, and lack of expiration date),¹ we are particularly

¹ See also Letter from California Attorney General Xavier Becerra to Assistant Administrator Susan Parker Bodine (April 9, 2020) (detailing additional concerns), available at: <https://oag.ca.gov/system/files/attachments/press-docs/CA%20Attorney%20General%20Letter%20re%20EPA%20COVID-19%20Policy%204.9.2020.pdf>.

concerned about the agency's lack of consideration of the policy's potential impact on public health, especially the health of low income and minority communities who are greater risk of suffering adverse outcomes from COVID-19. For example, EPA states in the policy that it will not take enforcement action against companies that violate existing reporting and monitoring requirements under numerous environmental laws, provided that the companies draw a nexus between COVID-19 and their noncompliance. Absent any requirement to provide EPA, states, tribes, or the public with notice of such noncompliance, fence line communities could be exposed to harmful pollution without adequate warning. This is made more troubling by EPA's statement in the policy that it may forego enforcement even in situations where a polluter's noncompliance presents an imminent threat to public health or the environment. The policy also ignores the connection between air pollution and cardiovascular and respiratory conditions (*e.g.*, asthma), which may increase risk of serious harms—including premature death—for individuals who contract the COVID-19 virus.

In light of these concerns, we call on EPA to rescind the policy. EPA can provide guidance to companies without putting the health of our communities at even greater risk than they are already facing. In the meantime, we will continue to enforce our state environmental laws in a reasonable manner, and stand ready to hold regulated entities accountable under critical federal environmental laws if EPA will not.

Sincerely,



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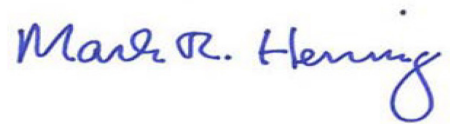
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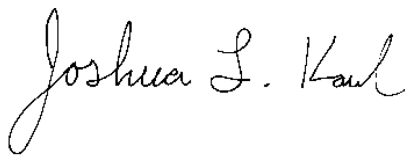
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