EPA Announces Termination Date for the COVID-19 Temporary Enforcement Policy

JULY 2, 2020

On June 29, 2020, the U.S. Environmental Protection Agency (EPA) announced it will be terminating its controversial temporary enforcement policy on August 31, 2020. Through its termination addendum, EPA issued a new "Termination" section to the March 26, 2020, temporary enforcement policy memorandum, which states that the policy will be terminated in its entirety at 11:59 PM Eastern Daylight Saving Time on August 31, 2020. Thus, for any noncompliance occurring after August 31, 2020, EPA will not base any exercise of enforcement discretion on the COVID-19 temporary enforcement policy. While the temporary enforcement policy will no longer be a basis for enforcement discretion after this date, EPA may still exercise enforcement discretion on a case-by-case basis.

The termination addendum also states that EPA may terminate the temporary enforcement policy at an earlier date on either a state or national basis, depending on how COVID-19 progresses and how state and federal governments adjust public health orders and guidelines. In the event EPA decides to terminate the temporary enforcement policy, whether in whole or in part or whether on a national or state basis, prior to August 31, 2020, EPA will provide notification at least seven days in advance.

Please do not hesitate to contact Eleni Kouimelis (312-558-5133, ekouimel@winston.com) or your Winston relationship attorney, with questions about the termination addendum.

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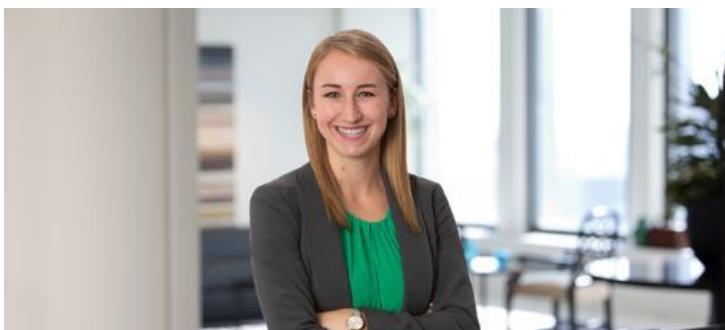
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