



State of Utah

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Department of
Environmental Quality

L. Scott Baird
Executive Director

DIVISION OF DRINKING WATER
Marie E. Owens, P.E.
Director

MEMORANDUM

Subject: Utah Division of Drinking Water (DDW)
Regulatory Guidance During COVID-19 Pandemic

Signed: Marie E. Owens, Director 

Date: April 1, 2020

I. Guidance Applicable to All Utah Department of Environmental Quality Divisions

Under the authority of the Executive Director of the Utah Department of Environmental Quality (UDEQ) and each individual UDEQ Director, the following guidance has been issued in coordination with the U. S. Environmental Protection Agency's (EPA) Memo dated March 26, 2020, on the subject of COVID-19 Implications for the EPA's Enforcement and Compliance Assurance Program. This guidance balances the UDEQ's obligation to safeguard Utah's people and its land, air and water resources and enforce environmental laws with the disruption caused by the spread of COVID-19. In this national emergency, the UDEQ wants to clearly communicate its priorities to regulated entities and the public and support the efforts to contain the virus. All elements of the EPA's March 26, 2020 guidance memo as applicable to Utah's environmental regulatory programs will be implemented on a case-by-case basis in response to a demonstrated need for administrative regulatory relief connected to mitigation efforts in place to curb the spread of COVID-19.

The UDEQ and its divisions recognize that the pandemic may impact some facilities' ability to comply with environmental laws, permits, and other requirements. Staff shortages, service provider interruptions, and other restrictions may change regular operations. We want to remind all regulated facilities that all applicable requirements are effective during this time and none are suspended. This guidance document is not an authorization to violate any applicable environmental laws and does not constitute a variance from compliance obligations. In addition, this guidance does not exempt entities regulated by UDEQ divisions from city and county orders requiring the closing of non-essential businesses. This guidance does not create any enforceable

legal rights. However, UDEQ agencies intend to act reasonably in the exercise of their enforcement discretion when it comes to potential violations during the COVID-19 pandemic where a good faith effort to comply is demonstrated and documented.

The UDEQ and its divisions are limiting person-to-person contact. The UDEQ is open for business but many UDEQ employees are working from home during this critical time. Public meetings, hearings and public outreach activities are currently suspended or being implemented via remote technology. To conduct business, please contact individual UDEQ agencies:

- Waste Management and Radiation Control: (801) 536-0200
- Air Quality: (801) 536-4000
- Water Quality: (801) 536-4300
- Drinking Water: (801) 536-4200
- Division of Environmental Response and Remediation: (801) 536-4100

II. Guidance Applicable to the Utah Division of Drinking Water

The EPA COVID-19 Compliance Memo outlines the EPA's approach to enforcement discretion for facilities that are permitted directly by the EPA. The Director of the Division of Drinking Water (DDW) maintains authority to enforce the statutes for which the Director is responsible. EPA continues to rely on DDW to take the lead role in implementing all aspects of the State Drinking Water Act in Utah. As such, DDW fully concurs with the following statements from the EPA:

Public water systems have a heightened responsibility to protect public health because unsafe drinking water can lead to serious illnesses and access to clean water for drinking and hand washing is critical during the COVID-19 pandemic. Accordingly, [we have] heightened expectations for public water systems. The EPA expects operators of such systems to continue normal operations and maintenance as well as required sampling to ensure the safety of our drinking water supplies. [We also expect] laboratories performing analysis for water systems to continue to provide timely analysis of samples and results.

DDW recognizes that the pandemic may create additional difficulties in complying with sampling, monitoring, facility repair, and other requirements. Staff shortages, service provider interruptions, and other restrictions may challenge regular operations. **We want to remind public drinking water systems that all applicable DDW requirements remain effective during this time and none are suspended. This guidance is not an authorization to violate any applicable environmental laws.**

EPA strongly encourages public water systems to consult with the state ... without delay if issues arise that prevent the normal delivery of safe drinking water and encourages states to continue to work closely with the EPA on measures to address the potential impacts of COVID-19.

The Director is not granting variances to compliance requirements; however, the Director intends to act reasonably in the exercise of the Director's enforcement discretion when it comes to potential violations during the COVID-19 pandemic on a case-by-case basis when a system specifically requests in writing and documents that the discretion requested is directly related to COVID-19 challenges. EPA and DDW will continue to consider the circumstances, including the COVID-19 pandemic, when determining whether any enforcement response is appropriate for public water systems. The Director will consider the following prioritization suggested by EPA when evaluating these requests.

In the event of worker shortages in the water sector, [we] consider continued operation of drinking water systems to be the highest priority. In anticipation of worker shortage and laboratory capacity problems, the EPA considers the following tiers of compliance monitoring to assure the safety of our drinking water supplies and prioritize prevention of acute risks. Of highest priority is monitoring required under National Primary Drinking Water Regulations to protect against microbial pathogens. Additional priorities include nitrate/nitrite and Lead and Copper Rule monitoring followed by contaminants for which the system has been non-compliant.

DDW is limiting person-to-person contact. Our office remains functioning and our employees are working remotely and ready to assist during regular business hours Monday through Friday 8:00 AM to 5:00 PM. Public meetings and hearings are currently suspended. Our meetings are now primarily through virtual meetings or video conferencing. Please contact DDW by telephone at (801) 536-4200 or by email to conduct business.

OPERATIONAL GUIDANCE

Public Water Systems maintain and provide a safe and reliable drinking water supply. This is an essential service. Water operators are frontline personnel and should be prepared to address impacts to water supply due to any interruptions related to coronavirus. DDW is advising all water systems to take the following critical preparation actions found on a list maintained and updated at the following location:

<https://documents.deq.utah.gov/drinking-water/covid-19-drinking-water-preperation-action-document-032720-pdf.pdf>

Additionally, more comprehensive details and resources are available at:

<https://deq.utah.gov/drinking-water/coronavirus-response-resources-for-utahs-drinking-water-system-owners-and-operators>)

ONSITE INSPECTIONS / SANITARY SURVEYS

Inspections, sanitary surveys, and other onsite assessments continue to be essential to ensure a water system is operating correctly and to check for physical and operational deficiencies. DDW staff is legally authorized to visit and inspect all drinking water facilities in the state. Water systems are not allowed to prohibit entry by a DDW inspector. However, DDW recognizes and supports all efforts to limit transmission of disease during this time. DDW inspectors shall practice social distancing as much as practicable while conducting inspections/field work. If feasible, employees may complete inspection work remotely using available technology tools. DDW inspectors are required to complete a COVID-19 pre-screening questionnaire prior to conducting any field work.

PERMITTING

DDW continues to conduct business as usual through teleworking. Review and issuance of plan approval, operating permits, and source protection plans for drinking water facilities and sources will be done expeditiously. In an effort to reduce the spread of COVID-19 and to limit person-to-person contact, the division is requesting the water systems submit plan review items electronically to ddwpmf@utah.gov and bernieclark@utah.gov. The intent of construction inspections of approved projects may be achieved through submitting videos and photos.

For general plan approval and source protection questions please visit DDW's website at: <https://deq.utah.gov/drinking-water/general-plan-approval-process>
<https://deq.utah.gov/drinking-water/source-protection-division-drinking-water>

DDW will be utilizing electronic media to the greatest extent possible. All correspondence, reviews, and final documents to water systems and consultants will be sent by email.

RULE COMPLIANCE

All sampling and reporting deadlines remain the same. Please remember that compliance is based on the date the samples are taken, and it is the water systems responsibility to provide the data to DDW. During the time of social distancing it is appropriate to pick representative sampling locations not in resident homes. Operators should contact the rule manager for distribution samples when the normal compliance sample locations need to change for any reason. Please contact Sitara Federico sfederico@utah.gov for Total Coliform sample site changes and Luke Treutel ltreutel@utah.gov for Lead/Copper sample site changes.

March 31, 2020 is the deadline for monthly and quarterly sampling and reporting requirements. Data may be provided to DDW by emailing ddwreports@utah.gov, or a certified laboratory may submit data to DDW using the compliance portal. All first quarter and monthly compliance data must be received by DDW on April 10, 2020. To report quarterly chlorine residuals please use the online form at mrsl.utah.gov.

OPERATOR AND BACKFLOW CERTIFICATION

Water system operators and cross-connection control administrators can, and are encouraged to, earn continuing education units through on-line training. CEU applications can be submitted to DDW through the Online Portal or via email. CEU applications will be reviewed and DDW's records updated as timely as possible.

Online certification exams may be available through the Rural Water Association of Utah. Please contact the RWAU directly for instructions. Please follow all social distancing suggestions when taking exams. Exam reviews and question challenges are currently discontinued, but will resume when it is deemed safe to do so.

FUNDING ASSISTANCE

Drinking water systems can still apply for financial assistance through the DWSRF program. The application is available on the DDW website at:

<https://documents.deq.utah.gov/drinking-water/construction/DDW-2017-001668.zip>

Completed applications can be submitted via email to hpattee@utah.gov or ebrawley@utah.gov.

The April 15, 2020 Drinking Water Board Meeting has been canceled. The next scheduled meeting is June 9, 2020. SRF applications for the June meeting are due no later than April 10, 2020. If a funding request is urgent, please reach out to the application team to request an expedited review.

If an emergency situation arises, please contact DDW as quickly as possible for assistance. If the emergency situation is related to COVID-19, begin tracking expenses immediately with rigorous documentation for possible FEMA reimbursement.