



State of Utah

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Lieutenant Governor

Department of
Environmental Quality

L. Scott Baird
Executive Director

DIVISION OF WATER QUALITY
Erica Brown Gaddis, PhD
Director

MEMORANDUM

Subject: Utah Division of Water Quality (DWQ)
Regulatory Guidance During COVID-19 Pandemic

Signed: Erica Brown Gaddis, PhD, Director 

Date: March 31, 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 is issued in coordination with EPA's Memo dated March 26, 2020, on the subject of [COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program](#). This guidance balances the UDEQ's obligation to safeguard Utah's land, air and water resources and enforce environmental laws with the disruption caused by the spread of COVID-19. In this national emergency, UDEQ wants to clearly communicate its priorities to regulated sources and the public and support the efforts to contain the virus. **All elements of EPA's March 26, 2020 guidance memo as applicable to Utah's environmental regulatory programs will be implemented in response to a demonstrated need for administrative regulatory relief connected to mitigation efforts in place to curb the spread of COVID-19.**

UDEQ and its divisions recognize that the COVID-19 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.** However, UDEQ agencies will exercise enforcement discretion when it comes to potential violations during the COVID-19 Pandemic where a good faith effort to comply is demonstrated and documented.

In addition, this guidance does not exempt entities regulated by UDEQ divisions from city and county orders requiring the closing of non-essential businesses.

UDEQ and its divisions are limiting person-to-person contact. The UDEQ offices are open during regular business hours, however, 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 agency representatives by email as indicated on the agencies' website, the regulated entity's permit, or telephone at:

- 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 Water Quality (DWQ)

The EPA's March 26, 2020 guidance memo outlines EPA's approach to enforcement discretion for facilities that are permitted directly by EPA. DWQ maintains its authority to implement the Clean Water Act.

DWQ prefers to address regulatory compliance issues proactively by considering extensions to permit compliance dates, milestones in settlement agreements, and exercising enforcement discretion for other requirements on a case-by-case basis. This approach provides regulatory certainty to regulated entities and helps DWQ maintain knowledge of compliance issues that are being experienced by the regulated community. DWQ will consider extensions to compliance dates and will exercise enforcement discretion with respect to potential violations caused by and during the COVID-19 Pandemic. **Requests will be evaluated based on the reasonableness of the request, connection to the COVID-19 Pandemic, good faith efforts to comply, potential impact to water quality and public health, and local and state health directives that affect the movement and availability of individuals.** Approval reviews will be expedited and decisions will be provided to regulated entities in writing.

General Requirements

Requests for administrative relief: Entities seeking compliance deadline extensions or variances should make a request in writing by email to their assigned permit writer or designated DWQ staff member as detailed in this memorandum.

Documentation: Entities must document all disruptions or instances of non-compliance caused by the COVID-19 Pandemic. Entities must also document and support the reasons

why non-compliance resulted from the COVID-19 Pandemic and all efforts the entity has made to reach compliance. This documentation will guide DWQ's decisions to provide extensions, variances, and enforcement discretion.

Electronic Submission: Required reports, applications and general correspondence will be accepted by email or electronic submissions for programs detailed below.

Wet Signatures: Digital signatures will be accepted on required submissions as long as the submission can be tied to the individual signing the document through an email or cover letter or through a digital signature authentication service and are accompanied by the required certification in Utah Administrative Code R317-8-3.4.

Permitting and Inspections:

Inspections: DWQ inspectors shall practice social distancing as much as practicable while conducting inspections/field work. If feasible, employees will complete inspection work remotely using available technology tools. DWQ inspectors are required to complete a COVID-19 pre-screening questionnaire prior to conducting any field work.

Permitting: DWQ continues to conduct business as usual through teleworking, including review and issuance of permits, inspections, and related correspondence. In an effort to reduce the spread of COVID-19 and limit person-to-person contact, DWQ requests that the regulated community submit all permit related materials electronically at: <https://deq.utah.gov/water-quality/water-quality-electronic-submissions>

Stormwater Program:

Stormwater at Construction Sites

DWQ has established the following guidance regarding construction site stormwater management and inspections during the COVID-19 Pandemic. This will ensure the protection of water quality:

1. Operators should be prepared to stabilize a site to prevent erosion and sediment loss in the event of a need to shut down operations, install and maintain BMPs, and be prepared to stabilize disturbed surfaces.
2. The requirements of the stormwater permits are not suspended due to a site shutdown. If an operator plans to shut down, temporary stabilization measures must be taken to prevent erosion and sediment loss during the down period. Once temporary stabilization measures are in place and documented, reduced inspections can occur per Construction General Permit Part 4.4.
3. If a site is in active construction, both operator self-inspections and MS4 inspections should be performed per the CGP and MS4 permit-dictated schedule while following recommendations from health officials related to social distancing. For example, MS4s may consider reviewing SWPPPs online or via email with questions and follow up via email and phone.

Information and assistance for obtaining, renewing and terminating construction stormwater permit coverage can be found at: <https://deq.utah.gov/water-quality/updes-ereporting#construction>

MS4 and Industrial Facilities Stormwater

Permittees that need to extend a timeline for a Permit, audit, inspection, enforcement or monitoring requirement, should submit a request to Jeanne Riley, jriley@utah.gov in writing.

Pretreatment Program:

Facilities that have a need to extend a pretreatment permit timeline for a UPDES Permit, audit, inspection, or monitoring requirements, should submit a request to Jen Robinson jenrobinson@utah.gov in writing.

Approved pretreatment programs should require notice from industrial users of any closures that amount to a change in normal operating procedures and should document the closure and the time period of the closure in the industrial user's file. If industrial users are continuing operations, approved pretreatment programs should continue to sample using proper social distancing measures.

If a potential violation is occurring and the industrial user refuses to allow inspection or sampling, the approved pretreatment program should contact the Division and must follow the enforcement response plan to correct the violation.

Individual Discharge Permits:

DWQ continues to issue, inspect, and manage individual discharge permits in both the UPDES and Ground water programs. Entities with concerns about compliance requirements and timelines established in individual permits should contact the DWQ assigned permit writer and/or Dan Hall at dhall@utah.gov. DWQ inspectors continue to conduct inspections for individual facilities both remotely and in person. DWQ inspectors will communicate with individual facilities ahead of scheduled inspections. DWQ will conduct field inspections while practicing proper social distancing, hygiene, and after completing DEQ's COVID-19 pre-screening questionnaire.

Effluent Compliance Monitoring

As of the date of this memo, all public and private laboratories in Utah continue to operate and offer services for wastewater and water quality samples. In the event that a facility cannot complete effluent compliance monitoring because of a lack of laboratory capacity, the facility should communicate with the Division, via the assigned permit writer and/or Dan Hall at dhall@utah.gov. DWQ has identified several mechanisms by which compliance monitoring can continue in the event of reduced laboratory resources in the state.

1. Many facilities have in-house laboratory capabilities that can be used to conduct at least partial monitoring of effluent.
2. The Division has identified facilities around the state that have more comprehensive monitoring capabilities. DWQ will work with facilities to identify another facility in the area that may be able to temporarily assist with laboratory resources.
3. DWQ will work with affected facilities to provide temporary changes to monitoring requirements, on a case-by-case basis.

Enforcement and Compliance Deadlines:

DWQ continues to conduct regular compliance activities for regulated programs. Entities that need to extend a timeline in a Notice of Violation, Settlement Agreement, or other enforcement or compliance requirement should submit a request to the assigned DWQ staff member with a copy to the Director, Erica Gaddis at egaddis@utah.gov.

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