



State of Utah

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Lieutenant Governor

Department of
Environmental Quality

L. Scott Baird
Executive Director

DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL
Ty L. Howard
Director

MEMORANDUM

SUBJECT: Utah Division of Waste Management and Radiation Control (WMRC) Regulatory Guidance During COVID-19 Pandemic

SIGNED: Ty L. Howard, Director

ORIGINAL DATE: March 27, 2020

UPDATED: 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 is 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 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 sources 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 basis¹ 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**

¹ "Case-by-case basis" means a Director with enforcement authority under a given statute will exercise the enforcement discretion explicitly or implicitly granted him by that statute. The Director will make enforcement decisions based, in part, on the documentation and demonstration facility representatives make of their good faith effort to comply.

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. This guidance does not create any enforceable legal right. However, Directors intend to act reasonably in exercising the agency's enforcement discretion concerning potential violations during the COVID-19 pandemic where a good faith effort to comply is demonstrated and documented, on a case-by-case basis.

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

The 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 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 Waste Management and Radiation Control

The EPA COVID-19 Compliance Memo outlines the EPA's approach to enforcement discretion for facilities that are permitted directly by the EPA. The WMRC Director maintains authority to enforce the statutes for which the Director is responsible.

In addition, for radioactive active materials, uranium mills and low level radioactive wastes, this guidance is in concert with current actions undertaken by the Nuclear Regulatory Commission to address the national health crisis.

General Requirements:

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

Requests for administrative relief: A person subject to WMRC regulation who seeks compliance deadline extensions should make a request in writing by email to the assigned WMRC permit writer or staff member as detailed in this memorandum.

Documentation: A person subject to WMRC regulation must document any disruptions or instances of non-compliance caused by the pandemic. The person must document and support the reasons why non-compliance happened due to COVID-19 and all efforts the person has made to comply or return to compliance. This will help WMRC determine where enforcement discretion should be exercised.

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

Wet Signatures Not Required: 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.

Priorities: We request all regulated facilities to do everything possible to continue safe and environmentally responsible operations by:

- Fully operating all pollution control equipment and applying other measures to reduce pollution;
- Implementing best management practices;
- Monitoring, testing, and reporting to show compliance with permit limits and other requirements.

Fee Payments: WMRC encourages the regulated community to pay all applicable fees through an online payment portal at: https://secure.utah.gov/cart/wmrc_cart/products.html

SOLID AND HAZARDOUS WASTE AND USED OIL RECYCLING

WMRC expects all facilities that are operating normally to complete all periodic monitoring, testing and reporting requirements as specified in their permit.

Deadlines to conduct periodic monitoring, testing or reporting or to submit other reports required by permits, regulations or other authorizations are extended to 30 days after the Governor declares an end to the COVID-19 pandemic. This applies only insofar as a facility does not have appropriate personnel available to conduct monitoring and/or submit the reports on time. Documentation must be maintained and made available to WMRC upon request demonstrating reasons why the facility was not able to comply with the applicable requirements. Please contact the Solid Waste or Hazardous Waste / Used Oil Recycling sections at (801) 536-0200 with any questions.

Corrective Action Projects: These projects will continue as necessary in coordination with appropriate division project management staff. If changes become necessary, the facility must coordinate with its assigned project manager and the changes will be addressed on a case-by-case basis.

Permitting Actions: WMRC continues to conduct division business through teleworking arrangements. Review and issuance of permits to commercial and industrial facilities in Utah 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 regulated community to submit permit applications or other permit-related materials electronically.

For general permitting questions please visit our website at:
<https://deq.utah.gov/division-waste-management-radiation-control>

WMRC will be utilizing electronic media to the greatest extent possible. All correspondence, reviews, and final documents to sources, consultants, and EPA will be sent by email. WMRC will use the email as a receipt and time stamp for submittals and return receipt requirements.

RADIATION SOURCES AND URANIUM MILLS

These facilities are not addressed by the EPA's Memo. They are regulated according to State Rule that follows closely along the Nuclear Regulatory Commission regulations. WMRC will work with radioactive material source licensees on a case-by-case basis as the need arises to help accommodate exigent circumstances.

All facilities that are operating normally should complete all periodic monitoring, testing and reporting requirements as specified in their permit.

Deadlines to conduct periodic monitoring, testing or reporting or to submit other reports required by license, rule or regulations may be extended on a case-by-case basis after consultation and approval by the RAM/UMill section. This applies only insofar as a facility does not have appropriate personnel available to conduct monitoring and/or submit the reports on time. Documentation must be maintained and made available to WMRC upon request demonstrating reasons why the facility was not able to comply with the applicable requirements. Please contact Phil Goble at (801) 536-0200 with any questions.

X-RAY PROGRAM

X-ray facilities are not addressed by the EPA's Memo. They are regulated according to State Rule. WMRC will work with x-ray registrants on a case-by-case basis as the need arises to help accommodate exigent circumstances.

WMRC tracks all registered x-ray facilities and the dates that inspections are due. All inspections that are canceled or not able to be performed due to the COVID-19 pandemic will be tracked and inspections will be re-scheduled and performed at some future date.

WMRC will continue to bill for registrations and inspections. WMRC expects that all registration and inspection fees will be paid as required. If hardships are encountered due to COVID-19 closures, please contact the Division to coordinate possible alternate arrangements. WMRC encourages x-ray registrants to pay all applicable fees through an online payment portal at:

https://secure.utah.gov/cart/wmrc_cart/products.html

All Mammography Quality Standards Act inspections performed by WMRC inspectors have been suspended by the Food and Drug Administration (FDA). Facilities with valid certificates can continue to work even after their certificates expire. At some future date the FDA will renew certificates. It is unknown at this time if facilities that are not inspected this year will be rescheduled or if this year's inspection will simply be skipped. The FDA is currently working on guidance.

Please contact Tom Ball, Lisa Mechem, or Ryan Abbott at (801) 536-0200 with any questions.