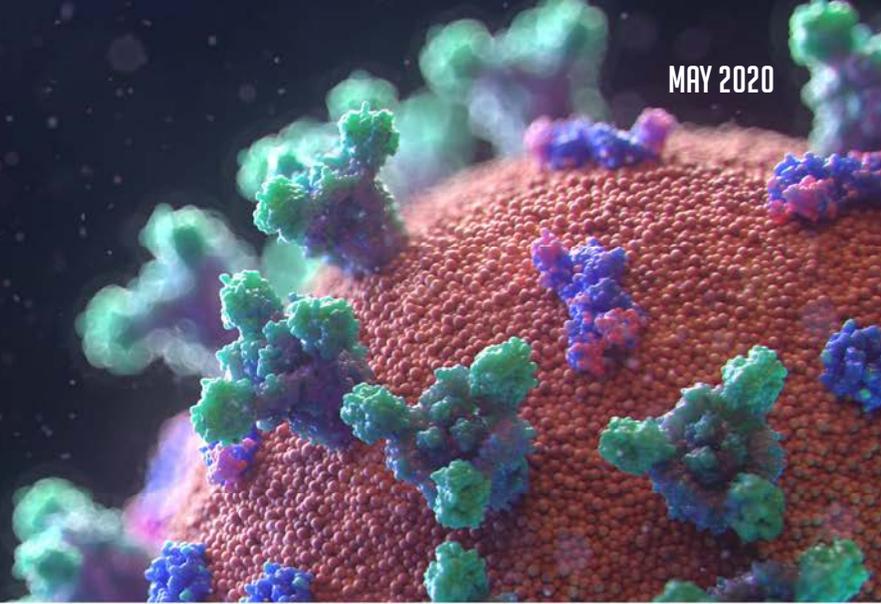


COMPLIANCE IN A PANDEMIC



It's been said that handshakes are a thing of the past. Whether true or not, it's just another common social interaction that has been completely abandoned during the past few months. The global COVID-19 pandemic has impacted our lives in many ways and changed the way people interact with each other. Social interactions are an inescapable necessity in business, and businesses the world over have been implementing things such as plexiglass barriers and six-feet-apart tape marks. But when it comes to storm water pollution prevention, how can California industrial facilities remain compliant with the Industrial General Permit requirement, while prioritizing staff and contractor safety during a pandemic?

Every industrial facility in California has been impacted by COVID-19.

True, not all have been impacted to the same extent. Many "non-essential" facilities have ceased operations in compliance with their local government. Other facilities have adapted standard operating procedures to protect their staff while continuing industrial operations. Our staff at WGR has transitioned to working mostly from home, and we have implemented new procedures for our field inspectors. Some of these procedures are applicable in any facility:



- Maintain a minimum of 6 feet distance between individuals that you come into contact with.
- Be vigilant to avoid touching your face, especially with potentially compromised hands or materials.
- When performing field inspections and person-to-person interaction is likely (based on the inspector's best professional judgment), the inspector must wear a mask.

In our personal experience conducting field inspections during the pandemic lockdown, most clients prefer our inspectors to sign in by phone instead of a physical sign-in at the front desk. All industrial facilities we have visited that are still operating require their workers to wear a face mask or alternative form of face covering, and to use gloves while working. In light of recent announcements of California moving into "Phase II" of the coronavirus response, we are hopeful that many industrial

facilities which have been shut down are able to resume work, albeit with some modified standard operating procedures.

How are industrial facilities remaining compliant with the IGP?

Monthly visual observations and storm water sampling are a large part of IGP compliance. **Storm water sampling** gives facilities an idea of any potential pollutants

being discharged from the facility. **Monthly visual observations** help facilities keep track of each drainage area, check for any Non-Storm Water Discharges (NSWD), and the condition of present Best Management Practices (BMPs).

How does a facility go about obtaining samples and conducting visual observations during pandemic conditions?

No need to worry—the California State Water Board and USEPA understand. These regulatory agencies have stated that facilities reporting noncompliance due to COVID-19 will not be penalized if the agency deems the reason for noncompliance is truly COVID-19. Does this mean that you are off the hook for the remainder for this reporting year? Not quite. The agency may request documentation for explaining how COVID-19 created or contributed to the noncompliance violation. Your facility should apply all noncompliance reporting procedures described in the IGP. If none apply and COVID-19 is the true source of noncompliance, include those reasonings in your sampling events and visual observations records.

Online video conference services are a great tool to help remain compliant with the IGP. When a facility is in the process of obtaining permit coverage and needs to set up a meeting, why not try meeting online? Video conference services are starting to become common practice in all industries. The goal is to limit the amount of in-person social interaction while still moving forward with business and, in our case, remain compliant with the IGP. Any personnel involved in the implementation of the Storm Water Pollution Prevention Plan (SWPPP) are required to receive the proper training. This training can be done by utilizing online video conference services. WGR has recently utilized Zoom by offering online meetings and even online training events including pilot testing a three-day-long online training class.

How does the future of storm water compliance look like? This is a difficult question to answer due to the fact that information is constantly changing. This pandemic has forced all businesses to learn and adapt new forms of operating in a short amount of time. Online interaction will likely continue as the pandemic slows down. Things such as online conferences and meetings may become more normalized. The idea of remotely working from home may become more of a common practice, and online learning will become a staple for education and learning. FaceTime calls for Storm Water Pollution Prevention Plan development don't seem far fetched any longer. Labs may regularly offer contactless pickup of storm water samples to help protect both their customers and employees out in the field. We had asked McCampbell Analytical to see how this pandemic has impacted regular operations for them. During this pandemic, McCampbell operates on a case by case basis. Some clients prefer contactless pickups of their water samples, others still prefer handing it directly to the individual. **But how might a contactless pickup impact the Chain of Custodies (COC)?** For McCampbell, it doesn't impact this process at all. As long as the client relinquishes the sample and the sample is left in a secure location, with the proper date and time, business still continues as usual.

Moving forward, we will likely see the continuation of social distancing practices even as states begin to reopen. Limits on the amount of people within a given location will be enforced, and PPE including face masks and gloves will become more common within the work place and most likely will be more readily available for employees who need them. It's probably safe to assume there will be a surge in public health and cleanliness, and people will be more intentional about washing their hands. Businesses may need to implement a more rigorous cleaning schedule out of consideration for their customers' health and well-being. Will the handshake return as the culturally acceptable greeting, or remain socially inappropriate? That remains to be seen, but hopefully this virus will not eliminate all forms of human interaction that allow us to connect with each other.



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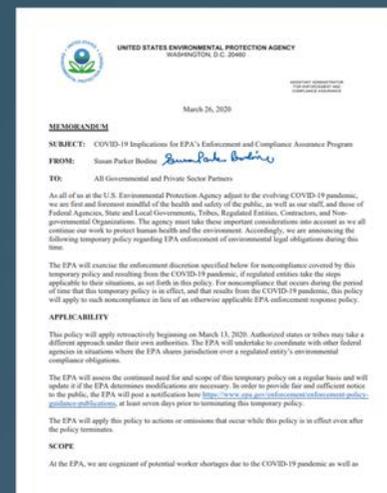
"To Do List" for May

- ☁ Update your safety and cleaning standard operating procedures.
- ☁ If the opportunity presents itself, try having an online meeting rather than meeting in person.
- ☁ Stay safe and stay healthy!

Are you compliant during COVID?

In regards to remaining compliant during COVID-19, as mentioned earlier in the article, the EPA released a memorandum in regard to enforcement and compliance of environmental obligations. This memorandum was released on March 26th, 2020, and goes in-depth on how the EPA will be enforcing environmental laws during this time. Changes to the memorandum will be made on an as needed basis and offers a little bit of flexibility to facilities under the IGP.

This applies to any or all facilities that operate and considered environmental law in any capacity within their facility. Specifically speaking those under the IGP should read this memorandum to get a better understanding of how the EPA is responding to COVID-19 and how this can potentially impact how your facility will be enforcing its environmental procedures.



<https://www.epa.gov/sites/production/files/2020-03/documents/oecamemooncovid19implications.pdf>

For your ease of reference, we've included this memo and the State Water Board's COVID memo in the next few pages.

Please contact us if you have any questions ...

The Rain Events

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(562) 799-8510 ext. 1003

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This is a message from the State Water Resources Control Board

Updated as of March 20, 2020

Compliance with Water Board Requirements During the Coronavirus 2019 (COVID-19) Emergency

The State Water Resources Control Board and the nine California Regional Water Quality Control Boards (the Water Boards) are continuing their efforts to protect public health, safety, and the environment consistent with all federal, state, and local public health directives and guidelines related to COVID-19.

Please be aware that timely compliance by the regulated community with all Water Board orders and other requirements (including regulations, permits, contractual obligations, primacy delegations, and funding conditions) is generally considered to be an essential function during the COVID-19 response. As a result, the Water Boards consider compliance with board-established orders and other requirements to be within the essential activities, essential governmental functions, or comparable exceptions to shelter-in-place directives provided by local public health officials.

If there is a specific Water Board order or requirement that cannot be timely met because it would be inconsistent with current governmental directives or guidelines related to COVID-19, the entity responsible for compliance with the Water Board order or requirement must notify the applicable Water Board immediately. The notification shall be via electronic mail to the applicable Water Board using the appropriate email address identified below, and shall include:

- the specific Water Board order, regulation, permit, or other requirement that cannot be timely met,
- the inconsistent COVID-19 directive or guideline,
- an explanation of why the responsible entity cannot timely meet the Water Board order or requirement, and
- any action that the entity will take in lieu of complying with the specific Water Board order or requirement.

Water Board staff will do their best to respond within 24/48 hours.

Please note that more specific directions for certain types of Water Board orders and other requirements may also be provided.

Contacts for the Water Boards

State Water Board – Stormwater – stormwater@waterboards.ca.gov

North Coast Water Board – r1_stormwater@waterboards.ca.gov

San Francisco Bay Water Board – r2stormwater@waterboards.ca.gov

Central Coast Water Board – r3_stormwater@waterboards.ca.gov

Los Angeles Water Board – r4_stormwater@waterboards.ca.gov

Central Valley Water Board (Redding) – r5r_stormwater@waterboards.ca.gov

Central Valley Water Board (Sacramento)

– r5s_stormwater@waterboards.ca.gov

Central Valley Water Board (Fresno) – r5f_stormwater@waterboards.ca.gov

Lahontan Water Board (South Lake Tahoe)

– r6a_stormwater@waterboards.ca.gov

Lahontan Water Board (Victorville) – r6b_stormwater@waterboards.ca.gov

Colorado River Basin Water Board – r7_stormwater@waterboards.ca.gov

Santa Ana Water Board – r8_stormwater@waterboards.ca.gov

San Diego Water Board – r9_stormwater@waterboards.ca.gov

On March 19, 2020, Governor Newsom issued Executive Order N-33-20 directing all residents immediately to heed current State public health directives to stay home, except as needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as the State Public Health Officer may designate as critical to protect health and well-being of all Californians.

In accordance with this order, the State Public Health Officer has designated the following list of “Essential Critical Infrastructure Workers” to help state, local, tribal, and industry partners as they work to protect communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security.

HEALTHCARE / PUBLIC HEALTH

Sector Profile

The Healthcare and Public Health (HPH) Sector is large, diverse, and open, spanning both the public and private sectors. It includes publicly accessible healthcare facilities, research centers, suppliers, manufacturers, and other physical assets and vast, complex public-private information technology systems required for care delivery and to support the rapid, secure transmission and storage of large amounts of HPH data.

Essential Workforce

- Workers providing COVID-19 testing; Workers that perform critical clinical research needed for COVID-19 response.
- Health care providers and caregivers (e.g., physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, speech pathologists and diagnostic and therapeutic technicians and technologists).
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.).
- Workers in other medical facilities (including Ambulatory Health and Surgical, Blood Banks, Clinics, Community Mental Health, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Long Term Care, Organ Pharmacies, Procurement Organizations, Psychiatric, Residential, Rural Health Clinics and Federally Qualified Health Centers, cannabis retailers).
- Manufacturers, technicians, logistics and warehouse operators, and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, [personal care/hygiene products](#), and tissue and paper towel products.

information technology equipment (to include microelectronics and semiconductors) for critical infrastructure

- Workers responding to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, and other critical infrastructure categories and personnel
- Workers supporting the provision of essential global, national and local infrastructure for computing services (incl. cloud computing services), business infrastructure, web-based services, and critical manufacturing
- Workers supporting communications systems and information technology used by law enforcement, public safety, medical, energy and other critical industries
- Support required for continuity of services, including janitorial/cleaning personnel

OTHER COMMUNITY-BASED GOVERNMENT OPERATIONS AND ESSENTIAL FUNCTIONS

Essential Workforce

- Critical government workers, as defined by the employer and consistent with Continuity of Operations Plans and Continuity of Government plans.
- County workers responsible for determining eligibility for safety net benefits
- The Courts, consistent with [guidance](#) released by the California Chief Justice
- Workers to ensure continuity of building functions
- Security staff to maintain building access control and physical security measures
- Elections personnel
- Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks
- Trade Officials (FTA negotiators; international data flow administrators)
- Weather forecasters
- Workers that maintain digital systems infrastructure supporting other critical government operations
- Workers at operations centers necessary to maintain other essential functions
- Workers who support necessary credentialing, vetting and licensing operations for transportation workers
- Workers who are critical to facilitating trade in support of the national, state, and local emergency response supply chain
- Workers supporting public and private childcare establishments, pre-K establishments, K-12 schools, colleges, and universities for purposes of distance learning, provision of school meals, or care and supervision of minors to support essential workforce across all sectors

- Workers and instructors supporting academies and training facilities and courses for the purpose of graduating students and cadets that comprise the essential workforce for all identified critical sectors
- Hotel Workers where hotels are used for COVID-19 mitigation and containment measures, including measures to protect homeless populations.
- Construction **Workers who support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing construction)**
- **Workers** such as plumbers, electricians, exterminators, and other service providers who provide services **that are necessary to maintaining the** safety, sanitation, **construction material sources,** and **essential operation of construction sites and construction projects** (including those that support such projects to ensure the availability of needed facilities, transportation, energy and communications; and support to ensure the effective removal, storage, and disposal of solid waste and hazardous waste)
- Commercial Retail Stores, that supply essential sectors, including convenience stores, pet supply stores, auto supplies and repair, hardware and home improvement, and home appliance retailers
- Workers supporting the entertainment industries, studios, and other related establishments, provided they follow covid-19 public health guidance around social distancing.
- Workers critical to operating Rental Car companies that facilitate continuity of operations for essential workforces, and other essential travel
- Workers that provide or determine eligibility for food, shelter, in-home supportive services, child welfare, adult protective services and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including family members)
- **Professional services,** such as legal or accounting services, **when necessary to assist in compliance with legally mandated activities and critical sector services**
- Faith based services that are provided through streaming or other technology
- Laundromats and laundry services
- **Workers at animal care facilities that provide food, shelter, veterinary and/or routine care and other necessities of life for animals.**

CRITICAL MANUFACTURING

Sector Profile

The Critical Manufacturing Sector identifies several industries to serve as the core of the sector: Primary Metals Manufacturing, Machinery Manufacturing, Electrical Equipment, Appliance, and Component Manufacturing, Transportation Equipment Manufacturing Products made by these manufacturing industries are essential to many other critical infrastructure sectors.

Essential Workforce



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

March 26, 2020

MEMORANDUM

SUBJECT: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

FROM: Susan Parker Bodine *Susan Parker Bodine*

TO: All Governmental and Private Sector Partners

As all of us at the U.S. Environmental Protection Agency adjust to the evolving COVID-19 pandemic, we are first and foremost mindful of the health and safety of the public, as well as our staff, and those of Federal Agencies, State and Local Governments, Tribes, Regulated Entities, Contractors, and Non-governmental Organizations. The agency must take these important considerations into account as we all continue our work to protect human health and the environment. Accordingly, we are announcing the following temporary policy regarding EPA enforcement of environmental legal obligations during this time.

The EPA will exercise the enforcement discretion specified below for noncompliance covered by this temporary policy and resulting from the COVID-19 pandemic, if regulated entities take the steps applicable to their situations, as set forth in this policy. For noncompliance that occurs during the period of time that this temporary policy is in effect, and that results from the COVID-19 pandemic, this policy will apply to such noncompliance in lieu of an otherwise applicable EPA enforcement response policy.

APPLICABILITY

This policy will apply retroactively beginning on March 13, 2020. Authorized states or tribes may take a different approach under their own authorities. The EPA will undertake to coordinate with other federal agencies in situations where the EPA shares jurisdiction over a regulated entity's environmental compliance obligations.

The EPA will assess the continued need for and scope of this temporary policy on a regular basis and will update it if the EPA determines modifications are necessary. In order to provide fair and sufficient notice to the public, the EPA will post a notification here <https://www.epa.gov/enforcement/enforcement-policy-guidance-publications>, at least seven days prior to terminating this temporary policy.

The EPA will apply this policy to actions or omissions that occur while this policy is in effect even after the policy terminates.

SCOPE

At the EPA, we are cognizant of potential worker shortages due to the COVID-19 pandemic as well as

the travel and social distancing restrictions imposed by both governments and corporations or recommended by the Centers for Disease Control and Prevention to limit the spread of COVID-19. The consequences of the pandemic may affect facility operations and the availability of key staff and contractors and the ability of laboratories to timely analyze samples and provide results. As a result, there may be constraints on the ability of a facility or laboratory to carry out certain activities required by our federal environmental permits, regulations, and statutes. These consequences may affect reporting obligations and milestones set forth in settlements and consent decrees. Finally, these consequences may affect the ability of an operation to meet enforceable limitations on air emissions and water discharges, requirements for the management of hazardous waste, or requirements to ensure and provide safe drinking water. These are very distinct situations that the EPA plans to manage differently, as described below.

The enforcement discretion described in this temporary policy do not apply to any criminal violations or conditions of probation in criminal sentences. Appropriate consideration of potential criminal liability is discussed separately, below.

This policy does not apply to activities that are carried out under Superfund and RCRA Corrective Action enforcement instruments. Such matters will be addressed in a separate communication.

This policy does not apply to imports. We also are especially concerned about pesticide products entering the United States, or produced, manufactured, distributed in the United States, that claim to address COVID-19 impacts. The agency expects to focus on ensuring compliance with requirements applicable to these products to ensure protection of public health. Information relating to FIFRA import requirements can be found here: <https://www.epa.gov/compliance/importing-and-exporting-pesticides-and-devices>. This website will be updated to provide information on how to submit information via email, as may be necessary during the COVID-19 pandemic.

Finally, we realize that the general statements contained in this policy may not address every potential civil violation that may arise as a result of COVID-19. As such, the EPA may provide additional enforcement guidance applicable to specific programs on an ongoing basis and the EPA's self-disclosure program remains available.¹

ENFORCEMENT DISCRETION

I. Civil Violations

A. General conditions

All enforcement discretion set forth in this temporary policy is conditioned on the following.

1. Entities should make every effort to comply with their environmental compliance obligations.

¹ Regulated entities who voluntarily discover, promptly disclose, expeditiously correct, and take steps to prevent recurrence of potential violations may be eligible for a reduction or elimination of any civil penalties that otherwise might apply. Most violations can be disclosed and processed via the EPA's automated online "eDisclosure" system (*see* <https://www.epa.gov/compliance/epas-edisclosure>). To learn more about the EPA's violation disclosure policies, including conditions for eligibility, please review the EPA's Audit Policy website at <https://www.epa.gov/compliance/epas-audit-policy>. Many states also offer incentives for self-policing; please check with the appropriate state agency for more information.

2. If compliance is not reasonably practicable, facilities with environmental compliance obligations should:
 - a. Act responsibly under the circumstances in order to minimize the effects and duration of any noncompliance caused by COVID-19;
 - b. Identify the specific nature and dates of the noncompliance;
 - c. Identify how COVID-19 was the cause of the noncompliance, and the decisions and actions taken in response, including best efforts to comply and steps taken to come into compliance at the earliest opportunity;
 - d. Return to compliance as soon as possible; and
 - e. Document the information, action, or condition specified in a. through d.

B. Routine compliance monitoring and reporting by regulated entities

The consequences of the pandemic may constrain the ability of regulated entities to perform routine compliance monitoring,² integrity testing,³ sampling,⁴ laboratory analysis,⁵ training,⁶ and reporting or certification.⁷

Entities should use existing procedures to report noncompliance with such routine activities, such as pursuant to an applicable permit, regulation or statute. If no such procedure is applicable, or if reporting is not reasonably practicable due to COVID-19, regulated entities should maintain this information internally and make it available to the EPA or an authorized state or tribe upon request. In general, the EPA does not expect to seek penalties for violations of routine compliance monitoring, integrity testing, sampling, laboratory analysis, training, and reporting or certification obligations in situations where the EPA agrees that COVID-19 was the cause of the noncompliance and the entity provides supporting documentation to the EPA upon request.

After this policy is no longer in effect, the EPA expects full compliance going forward. In general, absent exigent circumstances, the EPA does not plan to ask facilities to “catch-up” with missed monitoring or reporting if the underlying requirement applies to intervals of less than three months. For other monitoring or reports, such as those required on a bi-annual or annual basis, when this policy is no longer in effect, the EPA expects facilities to take reasonable measures to resume compliance activities as soon as possible, including conducting late monitoring or submitting late reports. In some programs, there are sections or codes in the reporting form in which a facility may indicate why it has not conducted the required sampling and monitoring, and the EPA encourages facilities to include such information when submitting any late reports.

Many training classes are offered on-line and such on-line training generally should not be affected by

² If affected by COVID-19, this category may include, for example, CEMS and stack tests, relative accuracy test audits, LDAR monitoring, fence line monitoring, RICE readings and monitoring, tank and piping inspections, assessments, or stormwater inspections.

³ If affected by COVID-19, this category may, for example, include tank integrity testing (e.g., API 653) for compliance with certain “good air pollution control practices.”

⁴ If affected by COVID-19, this category may include, for example, effluent sampling and testing, as well as cooling tower sampling.

⁵ If affected by COVID-19, this category may include, for example, laboratory holding times and turn-around times.

⁶ If affected by COVID-19, this category may include, for example, SPCC training, hazardous waste trainings, CAA section 129 renewals, and other annual re-certifications.

⁷ If affected by COVID-19, this category may include, for example, reports and certifications associated with delayed activities described above, and late reports under permit or other regulatory obligations, including TRI and greenhouse gas inventory reporting.

travel and social distancing constraints. If practicable, sectors mandated to function with certified operators should maintain normal certification and training practices. If not practicable due to the COVID-19 pandemic, the EPA believes that it is more important to keep experienced, trained operators on the job, even if a training or certification is missed.

If a submission to the EPA requires a “wet” signature of a responsible official, the EPA will accept a digital or other electronic signature. The mere inability to obtain a “wet” signature will not be considered a justification for failure to make a paper submission or certification. We strongly encourage the regulated community use the EPA’s approved electronic reporting mechanisms. For enforcement purposes, the EPA also will accept emailed submissions even if a paper original is required.

C. Settlement agreement and consent decree reporting obligations and milestones

1. With respect to **EPA administrative settlement agreement** reporting obligations and milestones, if, as a result of COVID-19, parties to such settlement agreements anticipate missing enforceable milestones set forth in those documents, parties should utilize the notice procedures set forth in the agreement, including notification of a force majeure, as applicable. For EPA administrative settlement agreements, the EPA intends to treat routine compliance monitoring, integrity testing, sampling, laboratory analysis, training, and associated reporting or certification obligations in the manner described above and will generally not seek stipulated or other penalties for noncompliance with such obligations. The notification should provide the information required by the agreement, which typically will include steps taken to minimize the effects and duration of any noncompliance caused by COVID-19, as well as the information specified under subpart A, above. EPA staff will review these notifications and may contact a party to seek adjustments to a proposed plan of action, pursuant to the agreement.
2. With respect to **consent decrees entered into with the EPA and the U.S. Department of Justice**, these documents are agreements and court orders. EPA staff will coordinate with DOJ to exercise enforcement discretion with regard to stipulated penalties for the routine compliance obligations described in paragraph 1 and will also consult with any co-plaintiffs to seek agreement to this approach. Courts retain jurisdiction over consent decrees and may exercise their own authority. Parties should utilize the notice procedures set forth in the consent decree, including notification of a force majeure, as applicable, with respect to any noncompliance alleged to be caused by COVID-19.
3. Parties should proceed as proposed in their notice to the EPA (and to DOJ for consent decrees) unless and until contacted by the agency (if an EPA administrative settlement) or DOJ (if a judicial consent decree).

D. Facility operations

The EPA expects all regulated entities to continue to manage and operate their facilities in a manner that is safe and that protects the public and the environment.

1. Facilities should contact the appropriate implementing authority (EPA region, authorized state, or tribe) if **facility operations impacted by the COVID-19 pandemic may create an acute risk or an imminent threat to human health or the environment**. Even in authorized programs, the EPA strongly encourages facilities, states, and tribes to consult with their EPA regional office on acute risks and imminent threats. If an entity contacts the EPA due to noncompliance that could result in an acute risk or an imminent threat to human health or the environment, the EPA will act as follows.

- a. The EPA's first step will be to consult with the state or tribe, if an authorized program, to discuss measures to minimize or prevent the acute or imminent threat to health or the environment from the COVID-19-caused noncompliance. State or tribal permits or regulations may have provisions that address the situation and result in a return to compliance. Consultation with authorized states or tribes will proceed in accordance with the July 11, 2019 memorandum on [*Enhancing Effective Partnerships Between EPA and States in Civil Enforcement and Compliance Assurance Work*](#).
 - b. In cases where the EPA implements the program directly:
 - i. The EPA regional office will evaluate whether an applicable permit, statutory, or regulatory provision addresses the situation. The EPA's Office of Enforcement and Compliance Assurance (OECA) will work with program offices on nationwide issues that may arise.
 - ii. If there is no permit/regulatory provision that addresses the situation, the EPA will work with the facility to minimize or prevent the acute or imminent threat to health or the environment from the COVID-19-caused noncompliance and obtain a return to compliance as soon as possible.
 - iii. The EPA will inform the relevant state or tribe of any acute threats and actions taken in response to the noncompliance.
 - iv. The EPA will consider the circumstances, including the COVID-19 pandemic, when determining whether an enforcement response is appropriate.
2. If a facility suffers from **failure of air emission control or wastewater or waste treatment systems or other facility equipment** that may result in exceedances of enforceable limitations on emissions to air or discharges to water, or land disposal, or other unauthorized releases, the facility should notify the implementing authority (EPA regional office or authorized state or tribe) as quickly as possible. The notification also should include information on the pollutants emitted, discharged, discarded, or released; the comparison between the expected emissions or discharges, disposal, or release and any applicable limitation(s); and the expected duration and timing of the exceedance(s) or releases. The EPA will consult with authorized states or tribes, as applicable, in accordance with the July 11, 2019 memorandum on [*Enhancing Effective Partnerships Between EPA and States in Civil Enforcement and Compliance Assurance Work*](#) to determine the appropriate response. Where the EPA implements the program directly, the EPA will evaluate whether the risk posed by the exceedance, disposal, or release is acute or may create an imminent threat to human health or the environment and will follow the steps set forth under paragraph 1.b. above.
 3. If facility operations result in **noncompliance are not already addressed by the EPA above**, regulated entities should take the steps identified under Part I.A. The EPA will consider the circumstances, including the COVID-19 pandemic, when determining whether enforcement response is appropriate.
 4. If a facility is a **generator of hazardous waste** and, due to disruptions caused by the COVID-19 pandemic, is unable to transfer the waste off-site within the time periods required under RCRA to maintain its generator status, the facility should continue to properly label and store such waste and take the steps identified under Part I.A., above. If these steps are met, as an exercise of enforcement discretion, the EPA will treat such entities to be hazardous waste generators, and not treatment, storage and disposal facilities. In addition, as an exercise of enforcement discretion, the EPA will treat Very Small Quantity Generators and Small Quantity Generators as

retaining that status, even if the amount of hazardous waste stored on site exceeds a regulatory volume threshold due to the generator's inability to arrange for shipping of hazardous waste off of the generator's site due to the COVID-19 pandemic.

5. If a facility is an **animal feeding operation**, and, due to disruptions caused by the COVID-19 pandemic, is unable to transfer animals off-site and, solely as a result of the pandemic, meets the regulatory definition of concentrated animal feeding operation (CAFO), as an exercise of enforcement discretion, the EPA will not treat such animal feeding operations as CAFOs (or will not treat small CAFOs as medium CAFOs, or medium CAFOs as large CAFOs). To receive this enforcement discretion an operation must take the steps identified under Part I.A, above.

E. Public water systems regulated under the Safe Drinking Water Act

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 handwashing is critical during the COVID-19 pandemic. Accordingly, the EPA has 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. The EPA expects laboratories performing analysis for water systems to continue to provide timely analysis of samples and results. States play the lead role on drinking water issues, but the EPA also has important drinking water enforcement and oversight responsibilities, including direct implementation responsibilities in some locations.

In the event of worker shortages in the water sector, the EPA will 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. States may wish to adopt similar priorities.

The EPA is working closely with our federal partners, states, and other organizations to ensure resources and personnel are available to assist facilities facing staffing and contractor challenges during this period of COVID-19 response and the Office of Water plans to launch a website with this information. Accordingly, the EPA strongly encourages public water systems to consult with the state and EPA regional offices 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 EPA also encourages certified drinking water laboratories to consult with the state and the EPA if issues arise that prevent laboratories from conducting analyses of drinking water contaminants.

The EPA will consider the circumstances, including the COVID-19 pandemic, when determining whether any enforcement response is appropriate at public water systems acting in accordance with this subpart.

F. Critical infrastructure

In situations where a facility is essential critical infrastructure, the EPA may consider a more tailored short-term No Action Assurance, with conditions to protect the public, if the EPA determines it is in the

public interest. Such determinations are made by the OECA Assistant Administrator on a case-by-case basis. The EPA will consider essential the facilities that employ essential critical infrastructure workers as determined by guidance issued by the Cybersecurity and Infrastructure Security Agency.

II. State Oversight

The EPA will continue State Review Framework reviews, and other state program oversight, as practicable, taking into consideration priority work in response to COVID-19. Until such time as dictated by travel and social distancing restrictions, the EPA believes states should take into account the safety and health of their inspectors and facility personnel and use discretion when making decisions to conduct routine inspections, notwithstanding any applicable compliance monitoring strategy. The EPA will take the COVID-19 pandemic into consideration in any review of a state compliance and enforcement program, such as the State Review Framework.

III. EPA Actions

During the pendency of the current COVID-19 exigency, the EPA expects to focus its resources largely on situations that may create an acute risk or imminent threat to public health or the environment, to ensure protection against such risks or threats. All ongoing enforcement matters are continuing.

IV. Accidental Releases

Nothing in this temporary policy relieves any entity from the responsibility to prevent, respond to, or report accidental releases of oil, hazardous substances, hazardous chemicals, hazardous waste, and other pollutants, as required by federal law, or should be read as a willingness to exercise enforcement discretion in the wake of such a release.

V. Criminal Violations

The considerations described above apply to the vast majority of people and businesses who are making good faith efforts to comply with their obligations in this difficult time. Federal environmental statutes generally authorize criminal penalties for knowing conduct that violates the law. In screening cases to determine when to seek prosecutorial assistance from DOJ, the EPA will distinguish violations that facilities know are unavoidable as a result of COVID-19 restrictions from violations that are the result of an intentional disregard for the law. EPA's Criminal Investigative Division remains vigilant and is prepared to pursue violators who demonstrate a criminal *mens rea*.

This temporary policy makes EPA offices and the EPA's governmental and private sector partners, as well as the general public, aware of how the EPA intends to exercise its enforcement discretion with respect to certain compliance situations during the exigencies of the COVID-19 pandemic. This memorandum does not alter any provision of any statute or regulation that contains legally binding requirements, and it is not itself a regulation.



COVID-19 INDUSTRY GUIDANCE: Office Workspaces

May 7, 2020

[covid19.ca.gov](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Industry-Guidance-Office-Workspaces.aspx)



OVERVIEW

On March 19, 2020, the State Public Health Officer and Director of the California Department of Public Health issued an order requiring most Californians to stay at home to disrupt the spread of COVID-19 among the population.

The impact of COVID-19 on the health of Californians is not yet fully known. Reported illness ranges from very mild (some people have no symptoms) to severe illness that may result in death. Certain groups, including people aged 65 or older and those with serious underlying medical conditions, such as heart or lung disease or diabetes, are at higher risk of hospitalization and serious complications. Transmission is most likely when people are in close contact with an infected person, even if that person does not have any symptoms or has not yet developed symptoms.

Precise information about the number and rates of COVID-19 by industry or occupational groups, including among critical infrastructure workers, is not available at this time. There have been multiple outbreaks in a range of workplaces, indicating that workers are at risk of acquiring or transmitting COVID-19 infection. Examples of these workplaces include long-term care facilities, prisons, food production, warehouses, meat processing plants, and grocery stores.

As stay-at-home orders are modified, it is essential that all possible steps be taken to ensure the safety of workers and the public.

Key prevention practices include:

- ✓ physical distancing to the maximum extent possible,
- ✓ use of face coverings by employees (where respiratory protection is not required) and customers/clients,
- ✓ frequent handwashing and regular cleaning and disinfection,
- ✓ training employees on these and other elements of the COVID-19 prevention plan.

In addition, it will be critical to have in place appropriate processes to identify new cases of illness in workplaces and, when they are identified, to intervene quickly and work with public health authorities to halt the spread of the virus.

Purpose

This document provides guidance for businesses operating in office workspaces to support a safe, clean environment for employees. The guidance is not intended to revoke or repeal any employee rights, either statutory, regulatory or collectively bargained, and is not exhaustive, as it does not include county health orders, nor is it a substitute for any existing safety and health-related regulatory requirements such as those of Cal/OSHA.¹ Stay current on changes to public health guidance and state/local orders, as the COVID-19 situation continues. Cal/OSHA has more safety and health guidance on their [Cal/OSHA Guidance on Requirements to Protect Workers from Coronavirus webpage](#). CDC has additional guidance [for businesses and employers](#).



Worksite Specific Plan

- Establish a written, worksite-specific COVID-19 prevention plan at every office location, perform a comprehensive risk assessment of all work areas, and designate a person at each office workspace to implement the plan.
- Identify contact information for the local health department where the facility is located for communicating information about COVID-19 outbreaks among employees.
- Train and communicate with employees and employee representatives on the plan.
- Regularly evaluate the office workspace for compliance with the plan and document and correct deficiencies identified.
- Investigate any COVID-19 illness and determine if any work-related factors could have contributed to risk of infection. Update the plan as needed to prevent further cases.
- Identify close contacts (within six feet for 10 minutes or more) of an infected employee and take steps to isolate COVID-19 positive employee(s) and close contacts.
- Adhere to the guidelines below. Failure to do so could result in workplace illnesses that may cause operations to be temporarily closed or limited.



Topics for Employee Training

- Information on [COVID-19](#), how to prevent it from spreading, and which underlying health conditions may make individuals more susceptible to contracting the virus.
- Self-screening at home, including temperature and/or symptom checks using [CDC guidelines](#).
- The importance of not coming to work if employees have a frequent cough, fever, difficulty breathing, chills, muscle pain, headache, sore throat, recent loss of taste or smell, or if they or someone they live with have been diagnosed with COVID-19.

- To seek medical attention if their symptoms become severe, including persistent pain or pressure in the chest, confusion, or bluish lips or face. Updates and further details are available on [CDC's webpage](#).
- The importance of frequent handwashing with soap and water, including scrubbing with soap for 20 seconds (or using hand sanitizer with at least 60% ethanol or 70% isopropanol when employees cannot get to a sink or handwashing station, per [CDC guidelines](#)).
- The importance of physical distancing, both at work and off work time (see Physical Distancing section below).
- Proper use of face coverings, including:
 - Face coverings do not protect the wearer and are not personal protective equipment (PPE).
 - Face coverings can help protect people near the wearer, but do not replace the need for physical distancing and frequent handwashing.
 - Employees should wash or sanitize hands before and after using or adjusting face coverings.
 - Avoid touching eyes, nose, and mouth.
 - Face coverings should be washed after each shift.



Individual Control Measures and Screening

- Provide temperature and/or symptom screenings for all workers at the beginning of their shift and any personnel entering the facility. Make sure the temperature/symptom screener avoids close contact with workers to the extent possible. Both screeners and employees should wear face coverings for the screening.
- Encourage workers who are sick or exhibiting symptoms of COVID-19 to stay home.
- Employers should provide and ensure workers use all required protective equipment. Employers should consider where disposable glove use may be helpful to supplement frequent handwashing or use of hand sanitizer; examples are for workers who are screening others for symptoms or handling commonly touched items.
- Face coverings are strongly recommended when employees are in the vicinity of others. Workers should have face coverings available and wear them when at work, in offices, or in a vehicle during work-related travel with others. Face coverings must not be shared.

- Employers must take reasonable measures to remind workers that they should use face coverings.



Cleaning and Disinfecting Protocols

- Perform thorough cleaning on high traffic areas such as break rooms and lunch areas, and areas of ingress and egress including stairways, stairwells, escalators, handrails, and elevator controls. Frequently disinfect commonly used surfaces including doorknobs, toilets, and handwashing facilities.
- Require employees to clean and disinfect personal work areas often and supply the necessary cleaning products. Provide time for workers to implement cleaning practices before and after shifts. If cleaning is assigned to the worker, they must be compensated for that time.
- Adjust or modify hours to provide adequate time for regular thorough cleaning and disinfection of office spaces.
- Avoid sharing phones, other work supplies, or office equipment wherever possible. Never share PPE.
- Where such items must be shared, disinfect between shifts or uses, whichever is more frequent, including the following: shared office equipment such as copiers, fax machines, printers, telephones, keyboards, staplers, surfaces in reception areas, shared work stations, etc., with a cleaner appropriate for the surface.
- Ensure that sanitary facilities stay operational and stocked at all times and provide additional soap, paper towels, and hand sanitizer when needed.
- When choosing cleaning chemicals, employers should use product approved for use against COVID-19 on the [Environmental Protection Agency \(EPA\)-approved](#) list and follow product instructions. Use disinfectants labeled to be effective against emerging viral pathogens, diluted household bleach solutions (5 tablespoons per gallon of water), or alcohol solutions with at least 70% alcohol that are appropriate for the surface. Provide employees training on manufacturer's directions and Cal/OSHA requirements for safe use. Workers using cleaners or disinfectants should wear gloves as required by the product instructions.
- Consider installing portable high-efficiency air cleaners, upgrading the building's air filters to the highest efficiency possible, and making other modifications to increase the quantity of outside air and ventilation in offices and other spaces.



Physical Distancing Guidelines

- Implement measures to ensure physical distancing of at least six feet between workers and customers. This can include use of physical partitions or visual cues (e.g., floor markings or signs to indicate to where employees should stand).
- Utilize telework options and modified work schedules.
- Redesign office spaces, cubicles, etc. and decrease the capacity for conference and meeting to ensure workspaces allow for six feet between employees.
- Close or restrict common areas, using barriers, or increasing physical distance between tables/chairs where personnel are likely to congregate and interact, such as kitchenettes and break rooms, and discourage employees from congregating in high traffic areas such as bathrooms, hallways, and stairwells.
- Establish directional hallways and passageways for foot traffic, if possible, to eliminate employees from passing by one another.
- Designate separate routes for entry and exit into office spaces to help maintain social distancing and lessen the instances of people closely passing each other.
- Limit the number of individuals riding in an elevator and ensure the use of face coverings. Post signage regarding these policies.
- Utilize work practices, when feasible and necessary, to limit the number of employees at the office at one time. This may include scheduling (e.g. staggering start/end times), establishing alternating days for onsite reporting, returning to the office workspace in phases, or continued use of telework when feasible.
- Stagger employee breaks, within compliance with wage and hour regulations, to maintain physical distancing protocols.
- Discontinue nonessential travel and encourage distance meetings via phone and internet.
- Require employees to avoid handshakes and similar greetings that break physical distance.
- Dedicate staff to direct guests to meeting rooms upon entry to office space rather than congregating in lobbies or common areas.
- Install production transfer-aiding materials, such as shelving and bulletin boards, to reduce person-to-person production hand-offs.

¹Additional requirements must be considered for vulnerable populations. Employers must comply with all [Cal/OSHA](#) standards and be prepared to adhere to its guidance as well as guidance from the [Centers for Disease Control and Prevention \(CDC\)](#) and the [California Department of Public Health \(CDPH\)](#). Additionally, employers must be prepared to alter their operations as those guidelines change.



Storm Water Contest...

Each month, we invite our readers to participate in a contest to test their knowledge of the Industrial General Permit and show their storm water compliance program. We enter all submittals to our monthly newsletter question into a drawing and one person is selected at random to receive a \$25 gift card. Last Month's question was:

Where can the list of Total Maximum Daily Loads (TMDLs) be found in the Industrial General Permit?

Congratulations, Rob Chapler, you're correct! Rob answered that the list of TMDLs can be found in Attachment E in the unofficial amended draft of the Industrial General Permit, which will be effective on July 1, 2020. Rob gets a \$25 Doordash gift card—go show some love to your local restaurants, Rob!

Storm Water Contest...

ARE YOU REQUIRED TO COLLECT STORM WATER SAMPLES DURING THE COVID-19 PANDEMIC?

We need industrial storm water sleuths to help us with this month's question. Submit your answers by Friday, May 29th. Email your answer to jteravskis@wgr-sw.com. One winner will be selected by a random drawing to receive a \$25 gift card to Doordash so that you can support your local restaurants!



NEW ORIGINAL SERIES: COMING MAY 2020

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UNDOING DAMAGE FROM MAN AND NATURE

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