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**COVID-19  
PANDEMIC**

**2020**



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

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

June 29, 2020

**MEMORANDUM**

**SUBJECT:** COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program:  
Addendum on Termination

**FROM:** Susan Parker Bodine 

**TO:** All Governmental and Private Sector Partners

On March 26, 2020, I issued a memorandum entitled [\*COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program\*](#), a temporary policy regarding EPA's exercise of enforcement of environmental legal obligations during the COVID-19 public health emergency. Since that time, new federal guidelines and directives have been issued to support both the public health response and economic recovery efforts,<sup>1</sup> and many parts of the country have already taken steps to relax social distancing restrictions in parts or all of individual states, with the goal of returning to normal operations. As state and local restrictions are relaxed or lifted, so too may the restrictions that potentially impede regulatory compliance, reducing the circumstances in which the temporary policy may apply.

Some states are seeing an increase in COVID-19 cases following efforts to reopen, and as a result some states may pause reopening,<sup>2</sup> or modify their reopening protocols.<sup>3</sup> Similarly, some businesses are temporarily closing, after initially re-opening, to address COVID-19 infections. As states and businesses begin to re-open, there will be a period of adjustment as regulated entities plan how to effectively comply both with environmental legal obligations and with public health guidance from the Centers for Disease Control and Prevention or other agencies regarding actions suggested to stem the transmission and spread of COVID-19.

In light of these developments, it is now appropriate to expressly include a provision in the temporary policy that covers termination of the temporary policy, and to make such changes to the policy as are needed to reflect the impact of the changing circumstances on facility operations, worker shortages, and other constraints caused by the public health emergency. Accordingly, I am today revising the temporary policy to add the following new section. I have selected August 31, 2020, as the termination date for the

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<sup>1</sup> See, e.g., White House, [\*Guidelines for Opening Up America Again\*](#); Centers for Disease Control and Prevention, [\*Activities and Initiatives Supporting the COVID-19 Response and the President's Plan for Opening America Up Again\*](#) (May 2020); [\*Executive Order on Regulatory Relief to Support Economic Recovery\*](#) (May 19, 2020).

<sup>2</sup> For example, on June 11, 2020, the State of Oregon announced a [\*one-week statewide pause\*](#) on reopening following a noticeable increase in COVID-19 cases.

<sup>3</sup> On June 18, 2020, California issued [\*new guidance for the use of face coverings\*](#). On June 17, 2020, Arizona announced an [\*Enhanced COVID-19 Action Plan\*](#), which, among other things, authorized local governments to implement enhanced mitigation measures.

temporary policy because it reflects the appropriate balancing of the relevant factors; it recognizes that the circumstances surrounding the temporary policy are changing, but also ensures that there is adequate time to adjust to the changing circumstances. As stated in the temporary policy, entities should make every effort to comply with their environmental compliance obligations and the policy applies only to situations where compliance is not reasonably practicable as a result of COVID-19. These situations should become fewer and fewer.

## **VI. Termination**

This temporary policy terminates in its entirety at 11:59 PM Eastern Daylight Saving Time, August 31, 2020. This means that the EPA will not base any exercise of enforcement discretion on this temporary policy for any noncompliance that occurs after August 31, 2020.

In addition, the EPA may terminate this temporary policy (i.e., indicate it does not apply to future noncompliance) on a state or national basis, in whole or in part, at any earlier time, taking into account changing conditions in a state or region of the country, including as appropriate the expiration or lifting of “stay at home” orders in a state, the status of federal and/or state COVID-19 public health emergency guidelines, and/or other relevant factors or considerations.

In order to provide fair and sufficient notice to the public, the EPA will provide notification at least seven days prior, if it terminates this temporary policy prior to August 31, 2020, either nationally or at a more local level, in whole or in part.

Nothing herein limits the ability of the EPA to exercise enforcement discretion on a case-by-case basis regarding any noncompliance, including noncompliance caused by the COVID-19 public health emergency, before or after the temporary policy is terminated. This includes the situation in which a person or entity makes a reasonable attempt to comply with guidance from the Centers for Disease Control and Prevention or other agencies regarding actions suggested to stem the transmission and spread of COVID-19, which the person or entity reasonably deems applicable to its circumstances.

**From:** [Quintana, Edwin, EMNRD](#)  
**To:** [EMNRD-AllEmployees](#)  
**Subject:** RELEASE: State extends modified stay-home order  
**Date:** Friday, May 1, 2020 9:34:48 AM  
**Attachments:** [DOH PHO 4-29 \(essential businesses mass gatherings\) \(fv\).pdf](#)  
[EO 2020-026 \(renewing public health emergency\) \(fv\).pdf](#)  
[DOH PHO 4-30 \(polling places\) \(fv\).pdf](#)  
[DOH PHO 4\\_29 \(non-essential med procedures\) \(fv\).pdf](#)  
[image001.png](#)

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Office of the Governor  
**MICHELLE LUJAN GRISHAM**



April 30, 2020

## **State extends modified stay-home order**

### *New Mexico enters “Preparation Phase” for safe reopening*

SANTA FE – New Mexico state leadership on Thursday announced the extension of the state’s emergency public health order through May 15 as the COVID-19 pandemic remains a grave risk to residents of all ages and in all communities across New Mexico.

As of Thursday, there were 3,411 reported positive cases in the state of New Mexico and 123 reported fatalities associated with the virus. The highly contagious virus continues to spread in communities statewide, with particular emphasis in the northwestern part of the state.

Despite continued spread, New Mexico as a state has begun to flatten the curve, purchasing much-needed time to ramp up our healthcare system. Because of that hard work, we are entering the “Preparation Phase” for gradual, safe reopenings. With that objective, the amended public health order relaxes several restrictions to begin relieving economic pressure.

In short, physical distancing must be maintained to assure the spread of the virus is stunted in every part of the state.

“These changes do not make our fight against the virus any easier; in fact, New Mexicans’ obligation to our social contract only deepens as we enter the next phase,” said Gov. Michelle Lujan Grisham. “The best defense against this virus, until there is a vaccine, is physical distance from other people. We know those who are infected do not always show symptoms, and we know the virus does not care about county lines; we must all be vigilant. The progress we have made is tenuous – and it is subject to change. But when we reach a place, as we have, where our collective actions have begun to flatten the statewide curve, we can begin to make productive, safe decisions about alleviating some of the awful social and economic pressure this virus has brought down on us all. Today we are willing and able to do that. As we move forward, and as we make more careful decisions about relaxations, the data about this virus and its spread in our state will be our guide; public health remains first and foremost priority.

“But let me be clear: The reopening of New Mexico depends upon New Mexicans. Going out and congregating will worsen the spread of this disease. It will lead to more illness and likely death. A cavalier attitude toward individual activity is a grave danger to our collective health. We

cannot win this fight – we cannot prevent the illnesses and deaths of our neighbors all across the state – if we let our collective guard down. As a state, we have to prevent and manage the spread of this virus and provide for safe social and economic activity. Every day moving forward we will do both.”

To that end, the amended order, authorized by Health Secretary Kathy Kunkel and effective at 8 a.m. Friday, May 1, maintains the directive that New Mexicans remain at home except for outings essential to health, safety and welfare. The amended order similarly maintains that gatherings of more than five individuals are prohibited. Restaurants and dine-in outlets may provide only curbside and delivery service, as before. Grocers and other essential retail services must continue to operate at only 20 percent of their maximum capacity as determined by fire code.

The order allows for partial reopenings for business operations deemed non-essential to health, safety and welfare.

Non-essential retailers, beginning Friday, may provide curbside pickup and delivery services if permitted by their business license. Liquor licenses, for instance, do not allow for curbside or delivery service. Child care may now be extended to people operating non-essential businesses.

Additional changes include:

- State parks may reopen on a modified day-use-only basis, as staff is available. Camping and visitor centers are still closed. The Energy, Minerals and Natural Resources department will notify the public of the parks that will be open in the near future.
- Federally licensed firearm retailers may open by appointment only as needed conduct background checks and to allow individuals to take possession of firearms ordered online.
- Golf courses may open to golf only – no dine-in or retail service.
- Pet services – including adoption, grooming, daycare and boarding – are permitted to operate.
- Veterinarians are permitted to operate.

A separate public health order dated Thursday addresses New Mexico’s June 2 primary election by allowing polling locations to open with limits. The order says no more than four voters or 20 percent of capacity may be inside a polling place at a time; mobile voting units may have no more than two voters at a time.

A third public health order allows medical facilities to gradually resume non-essential but medically necessary procedures (including ambulatory and inpatient surgery) based on extensive guidelines from the Department of Health. The guidelines are designed to prevent a shortage of personal protective equipment and to safeguard the health of patients and healthcare workers.

At a remote news conference Thursday, the governor and state health officials outlined potential additional relaxations that could occur upon the expiration of the amended health order. These prospective relaxations -- which will be evaluated by the governor’s [Economy Recovery Council](#) and supported by findings of Cabinet-led subcommittees on specific industries – are dependent upon increasingly positive trends in COVID-19 illness and transmission data as determined by the state’s “gating criteria.”

Those criteria include: A mitigated spread of the virus as reflected in the effective rate of

transmission, to be measured by the state Medical Advisory Team; adequate and stable testing resources, to be measured by the Department of Health; effective contact-tracing plans and resources, to be measured by epidemiologists at the Department of Health; health care systems operating below staffed capacity for beds, ICU availability and ventilators, and sufficient personal protective equipment for health care workers and first responders, to be measured by the Department of Health and Medical Advisory Team.

Weekly modeling from the Medical Advisory Team will be regularly posted moving forward on the COVID-specific microsite, [cv.nmhealth.org](http://www.cvmodeling.nmhealth.org). Modeling data is available here: <http://www.cvmodeling.nmhealth.org>. That data along with slides from state officials' remote news conferences are available here: <http://www.cv.nmhealth.org/newsroom>.

The modified public health order and other orders referenced herein are attached to this news release.

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# State of New Mexico

Michelle Lujan Grisham  
*Governor*

## **EXECUTIVE ORDER 2020-026**

### **RENEWING THE STATE OF PUBLIC HEALTH EMERGENCY INITIALLY DECLARED IN EXECUTIVE ORDER 2020-004, OTHER POWERS INVOKED IN THAT ORDER, AND ALL OTHER ORDERS AND DIRECTIVES CONTAINED IN EXECUTIVE ORDERS TIED TO THE PUBLIC HEALTH EMERGENCY**

On December 31, 2019, several cases of pneumonia with an unknown cause were detected in Wuhan City, Hubei Province, China, and reported to the World Health Organization (“WHO”). The underlying virus giving rise to those reported instances of respiratory illness was later identified as a novel coronavirus disease which has been referred to “COVID-19.”

By the time the first COVID-19 cases had been confirmed in New Mexico, on March 11, 2020, COVID-19 had already spread globally and throughout the United States. At that time, more than 100,000 people had been infected globally and there were more than 1,000 cases in the United States, spread out over 39 states. The President of the United States declared a national state of emergency for COVID-19 on March 13, 2020.

On March 11, 2020, I issued Executive Order 2020-004, which declared a state of public health emergency under the Public Health Emergency Response Act and invoked powers provided by the All Hazards Emergency Management Act and the Emergency Licensing Act. That public health emergency was declared for a period of 30 days. The President approved a Major Disaster Declaration for the State of New Mexico on April 5, 2020. On April 6, 2020, I renewed and extended the public health emergency through April 30, 2020.

Cases of COVID-19 and deaths related to COVID-19 continue to proliferate at an alarming pace. The WHO reports more than 3 million worldwide infections and more than 200,000 related deaths. According to the United States Centers for Disease Control and Prevention (“CDC”), more than 1,000,000 people have been infected in the United States, including confirmed cases in every state, with more than 57,000 related deaths. The numbers of reported cases and deaths are continuing to increase exponentially throughout many parts of the world and in many parts of the United States. It is also highly likely that there are many unreported cases and deaths.

The numbers have also risen dramatically in our State since I declared a public health emergency. As of April 29, 2020, the New Mexico Department of Health reported at least 3,213 confirmed cases of COVID-19 in New Mexico and at least 112 related deaths. There are confirmed cases of COVID-19 in 30 of New Mexico’s 33 counties. Despite proactive measures taken by the State and our citizens, these numbers are increasing at a significant rate and COVID-19 is expected to continue its spread in New Mexico.

Public health organizations have implemented emergency measures intended to slow the spread of COVID-19. For example, on January 20, 2020, the CDC activated its Emergency Operations Center in response to the COVID-19 outbreak. The WHO declared a Public Health Emergency of International Concern shortly thereafter. Nearly all of our sister states have declared a state of emergency and implemented significant measures and deployed substantial resources to fight the spread of COVID-19.

New Mexico has taken aggressive measures to reduce the spread of COVID-19 and to mitigate its potentially devastating effects. I have been in frequent contact with federal and state agencies and officials who are coordinating their efforts and resources to fight COVID-19.



Various state agencies have been at the forefront of our State's response to COVID-19, particularly the New Mexico Department of Health.

Due to the continued spread of the COVID-19, it is necessary for all branches of State government to continue taking actions to minimize the spread of COVID-19 and to reduce its attendant physical and economic harms.

Therefore, for the reasons above, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and the laws of the State of New Mexico, hereby ORDER and DIRECT:

1. In consultation with the New Mexico Department of Health, I have determined that the statewide public health emergency proclaimed in Executive Order 2020-004, and renewed in Executive Order 2020-022, shall be renewed and extended through May 15, 2020.

2. All other powers invoked, directives, and orders contained in Executive Order 2020-004 remain in effect.

3. All other Executive Orders with a duration that was tied to the COVID-19 public health emergency shall continue with the same effect.

This Order supersedes any previous orders, proclamations, or directives in conflict. This Executive Order shall take effect immediately and shall remain in effect until May 16, 2020 unless renewed or until the Governor rescinds it.

ATTEST:

DONE AT THE EXECUTIVE OFFICE  
THIS 30TH DAY OF APRIL 2020

MAGGIE TOULOUSE OLIVER  
SECRETARY OF STATE

WITNESS MY HAND AND THE GREAT  
SEAL OF THE STATE OF NEW MEXICO

MICHELLE LUJAN GRISHAM  
GOVERNOR



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**PUBLIC HEALTH ORDER  
NEW MEXICO DEPARTMENT OF HEALTH  
CABINET SECRETARY KATHYLEEN M. KUNKEL**

**APRIL 30, 2020**

**Public Health Emergency Order Modifying Temporary Restrictions on Non-Essential  
Health Care Services, Procedures, and Surgeries**

**WHEREAS**, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 (“COVID-19”) that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and one country to another;

**WHEREAS**, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency as a precautionary tool to facilitate preparation and availability of resources to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus in our nation through its support of state and community-led preparedness and response efforts;

**WHEREAS**, on March 11, 2020, the New Mexico Department of Health confirmed the first cases of individuals infected with COVID-19 in New Mexico and additional cases have been confirmed each day since then;

**WHEREAS**, on March 11, 2020, Michelle Lujan Grisham, the Governor of the State of New Mexico, declared in Executive Order 2020-004 (“EO 2020-004”) that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked the All Hazards Emergency Management Act by directing all cabinets, departments and agencies to comply with the directives of the declaration and the further instructions of the Department of Health;

**WHEREAS**, the further spread of COVID-19 in the State of New Mexico poses a threat to the health, safety, wellbeing and property of the residents in the State due to, among other things, illness from the COVID-19, illness-related absenteeism from employment (particularly among public safety and law enforcement personnel and persons engaged in activities and businesses critical to the economy and infrastructure of the State), the potential for displacements of persons, and potential closures of schools or other places of public gathering;

**WHEREAS**, the United States Centers for Disease Control and Prevention (“CDC”) recommends the use of personal protective equipment (“PPE”)—including gloves, medical masks, goggles or a face shield, gowns, and in some cases respirators (N95 or FFP2 standard or equivalent) and aprons—for patients and health care workers as an essential part of treating and preventing the spread of COVID-19;

**OFFICE OF THE SECRETARY**

1190 St. Francis Dr., Suite N4100 • P.O. Box 26110 • Santa Fe, New Mexico • 87502  
(505) 827-2613 • FAX: (505) 827-2530 • [www.nmhealth.org](http://www.nmhealth.org)



**WHEREAS**, due to delayed deliveries of PPE from the Strategic National Stockpile, the high demand for PPE throughout the United States and globally, and other supply chain interference related to the COVID-19 pandemic, there is both a statewide and national shortage of PPE and the PPE supplies of New Mexico's hospitals, health care facilities, and first responders are critically low;

**WHEREAS**, local, national, and global health experts predict that the expected continued rise in cases of COVID-19 will strain the capacity and resources of health care providers, including available space and equipment in health care facilities and the availability of PPEs to health care professionals;

**WHEREAS**, in recent weeks the State of New Mexico has significantly increased its stockpile of PPE and has managed the rise in COVID-19 cases to such an extent as to lower the anticipated amount of PPE that will be needed and to allow a gradual easing of restrictions on non-essential medical procedures; and

**WHEREAS**, during a declared Public Health Emergency, the New Mexico Department of Health possesses legal authority pursuant to the Public Health Emergency Response Act to "utilize, secure or evacuate health care facilities for public use." NMSA 1978, § 12-10A-6(A)(1). The Department of Health is also permitted to "regulate or ration health care supplies" if "a public health emergency results in a statewide or regional shortage of health care supplies." § 12-10A-6(A)(2), (B). This authority permits the Department of Health to "control, restrict and regulate the allocation, sale, dispensing or distribution of health care supplies." § 12-10A-6(B). The Department of Health also has authority to "control and abate the causes of disease, especially epidemics" and to "maintain and enforce rules for the control of conditions of public health importance." NMSA 1978, § 24-1-3(C) & (Q).

**NOW, THEREFORE, I**, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, in accordance with the authority vested in me by the Constitution and the Laws of the State of New Mexico, and through the Public Health Emergency declared in EO 2020-004 and subsequently renewed thereafter, and by virtue of the Governor's direction under her power to "provide those resources and services necessary to avoid or minimize economic or physical harm until a situation becomes stabilized," NMSA 1978, § 12-10-4(B)(3), do hereby **ORDER** and **DIRECT** as follows:

1. All hospitals and other health care facilities, ambulatory surgical facilities, dental, orthodontic and endodontic offices in the State of New Mexico are prohibited from providing non-essential health care services, procedures, and surgeries, except under the conditions provided below.

2. Medical practitioners may gradually resume operations in compliance with guidelines provided by the New Mexico Department of Health. The guidelines shall be entitled "Reopening Guidelines: Medical Offices." The guidelines shall be publicly available on the Department of Health website and are subject to change as circumstances warrant.

3. Hospitals and ambulatory surgical facilities may gradually resume operations in compliance with guidelines provided by the New Mexico Department of Health. The guidelines shall be called “Medically Necessary Surgery and Procedural Guidelines.” The guidelines shall be publicly available on the Department of Health website and are subject to change as circumstances warrant.

4. To reopen or expand ambulatory or inpatient surgery, a facility **must affirm past compliance with all current Public Health Emergency Orders** and demonstrate the following:

**(I) The facility can continue to comply with Department of Health regulations and Public Health Emergency Order, including but not limited to:**

- a. Complying with the instructions in “Medically Necessary Surgery and Procedural Guidelines”
- b. Reporting daily to the Department via the HAvBED system regarding:
  - i. PPE supply
  - ii. Hospital bed availability of general medical/surgery beds, ICU beds, and ventilators by type
  - iii. Hospital capacity of behavioral health beds
- c. Cooperating with Department requirements for reporting of airway medication management pharmaceutical supplies
- d. Demonstrating full implementation of PPE conservation and decontamination strategies
- e. Reporting daily COVID testing activity via the Department’s website (where applicable)
- f. Using the Department’s Centralized Call Center for any transfers of COVID-19 patients
- g. Restricting visitors in healthcare settings during a state of emergency
- h. Maintaining an adequate staffing plan to support inpatient facilities as a first priority (where applicable)

**(II) The Facility has developed, enacted, and will monitor a plan to ensure that all employees, medical staff, and patients will be protected by the following COVID-19-related precautions:**

- a. The facility monitors employees, medical staff, and prospective surgical patients for symptoms of COVID-19
- b. The facility requires employees and medical staff to stay at home when they are sick
- c. The facility requires employees, medical staff, and prospective surgical patients wash their hands frequently
- d. The facility requires employees and medical staff to avoid touching their eyes, nose, and mouth with unwashed hands
- e. The facility requires employees, medical staff, and prospective surgical patients cover cough or sneeze with a tissue, then throw the tissue in the trash
- f. The facility requires strict adherence to cleaning and disinfection protocols
- g. The facility requires employees, medical staff, and prospective surgical patients to maintain a six-foot distance from others whenever possible
- h. The facility has implemented measures to avoid gatherings of more than five people whenever possible, including closing common waiting areas and cafeterias and/or creating barriers to maintain social distancing
- i. The facility has implemented measures to protect vulnerable populations by prioritizing methods to provide services to them without face-to-face contact when possible; “vulnerable populations” includes, at a minimum: adults over 64 years old, people with asthma, people with chronic lung conditions, people with immune deficiency and those receiving cancer treatment, people with serious heart disease, people with diabetes, on dialysis, people with severe obesity, people with chronic liver disease, people living in nursing facilities and other congregate settings, and people experiencing homelessness

5. For purposes of this Order, “non-essential health care services, procedures, and surgeries” include those which can be delayed without undue risk to the patient’s health. Examples of criteria to consider in distinguishing between essential and non-essential actions include: (a)

threat to a patient's life; (b) threat of permanent dysfunction of an extremity, including teeth, jaws, and eyes; (c) risk of metastasis or progression of staging; and (d) any other factors that will conserve medical resources without creating an undue risk of harm to patients. It is ultimately the role of the practitioner and the patient to determine what treatments and procedures are non-essential under these broad requirements and the determination will vary by patient and over time.

6. This Order's prohibition on non-essential health care services, procedures, and surgeries is not meant to apply to: (a) the provision of emergency medical care or any actions necessary to provide treatment to patients with emergency or urgent medical needs; (b) any surgery or treatment that would result in a patient worsening (e.g., removing a cancerous tumor or a surgery intended to manage an infection); and (c) the full suite of family planning services.

7. A person who willfully violates this Order may be subject to civil administrative penalties, including fines up to \$5,000 per violation, in addition to other civil or criminal penalties that may be available at law.

**I FURTHER DIRECT** as follows:

- (1) This Order shall be broadly disseminated in English, Spanish and other appropriate languages to the citizens of the State of New Mexico.
- (2) This Order declaring restrictions based upon the existence of a condition of public health importance shall not abrogate any disease-reporting requirements set forth in the New Mexico Public Health Act.
- (3) This Order shall remain in effect for the duration of the public health emergency first declared in Executive Order 2020-004 and any subsequent renewals of that public health emergency. This Order may be renewed consistent with any direction from the Governor.

**THIS ORDER** supersedes any other previous orders, proclamations, or directives in conflict, including the March 24, 2020 Public Health Emergency Order Imposing Temporary Restrictions on Non-Essential Health Care Services, Procedures, and Surgeries; Providing Guidance on those Restrictions; and Requiring a Report from Certain Health Care Providers. This Order shall take effect immediately and shall remain in effect for the duration indicated in the Order unless otherwise rescinded.

ATTEST:

DONE AT THE EXECUTIVE OFFICE  
THIS 30TH DAY OF APRIL 2020

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MAGGIE TOULOUSE OLIVER  
SECRETARY OF STATE

WITNESS MY HAND AND THE GREAT  
SEAL OF THE STATE OF NEW MEXICO

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KATHYLEEN M. KUNKEL  
SECRETARY OF THE STATE OF NEW MEXICO  
DEPARTMENT OF HEALTH

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**PUBLIC HEALTH ORDER  
NEW MEXICO DEPARTMENT OF HEALTH  
CABINET SECRETARY KATHYLEEN M. KUNKEL**

**APRIL 30, 2020**

**Public Health Emergency Order Clarifying that Current Guidance Documents, Advisories,  
and Emergency Public Health Orders Remain in Effect; and Amending the March 23,  
2020, April 6, 2020, and April 11 Public Health Emergency Orders Closing All Businesses  
and Non-Profit Entities Except for those Deemed Essential and Providing Additional  
Restrictions on Mass Gatherings Due to COVID-19**

**PREFACE**

The purpose of this amended Public Health Emergency Order is to further restrict business operations and public gatherings to mitigate the spread of the Novel Coronavirus Disease 2019 ("COVID-19"). We have reached a crucial juncture at which stricter adherence to social distancing and self-isolation measures will be necessary to protect the integrity of our health care system against the potentially devastating effects that could result from a rapid increase in COVID-19 cases in New Mexico. **The bottom line is that all New Mexicans should be staying in their homes for all but the most essential activities and services.** When New Mexicans are not in their homes, they should strictly adhere to social distancing protocols to minimize risks. These sacrifices are the best contribution that each of us can individually make to protect the health and wellbeing of our fellow citizens and the State as a whole. In accordance with these purposes, this Order and its exceptions should be narrowly construed to encourage New Mexicans to stay in their homes for all but the most essential activities.

It is hereby **ORDERED** that:

1. All current guidance documents and advisories issued by the Department of Health remain in effect.
2. The following Public Health Emergency Orders remain in effect through the current Public Health Emergency and any subsequent renewals of that Public Health Emergency or until they are amended or rescinded:
  - A. March 13, 2020 Public Health Emergency Order to Temporarily Limit Nursing Home Visitation Due to COVID-19;
  - B. April 30, 2020 Public Health Emergency Order Modifying Temporary Restrictions on Non-Essential Health Care Services, Procedures, and Surgeries; and

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1190 St. Francis Dr., Suite N4100 • P.O. Box 26110 • Santa Fe, New Mexico • 87502  
(505) 827-2613 • FAX: (505) 827-2530 • [www.nmhealth.org](http://www.nmhealth.org)





- C. March 24, 2020 Public Health Emergency Order Temporarily Regulating the Sale and Distribution of Personal Protective Equipment Due to Shortages Caused by COVID-19.

3. The April 11, 2020 Public Health Emergency Order Amending the March 23, 2020 and April 6, 2020 Public Health Emergency Orders Closing All Businesses and Non-Profit Entities Except for those Deemed Essential and Providing Additional Restrictions on Mass Gatherings Due to COVID-19 is hereby amended as follows:

### **ORDER**

**WHEREAS**, on March 11, 2020, because of the spread of the novel Coronavirus Disease 2019 (“COVID-19”), Michelle Lujan Grisham, the Governor of the State of New Mexico, declared that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked her authority under the All Hazards Emergency Management Act;

**WHEREAS**, on April 6, 2020, Governor Michelle Lujan Grisham renewed the declaration of a Public Health Emergency until April 30, 2020 due to the continued spread of COVID-19 in New Mexico and on April 30, 2020, she again renewed her declaration of a Public Health Emergency;

**WHEREAS**, COVID-19 continues to spread in New Mexico and nationally. Since, Executive Order 2020-004 was issued, confirmed COVID-19 infections in New Mexico have risen to more than 3,000 and confirmed cases in the United States have risen to more than 1,000,000;

**WHEREAS**, the further spread of COVID-19 in the State of New Mexico poses a threat to the health, safety, wellbeing and property of the residents in the State due to, among other things, illness from COVID-19, illness-related absenteeism from employment (particularly among public safety and law enforcement personnel and persons engaged in activities and businesses critical to the economy and infrastructure of the State), potential displacement of persons, and closures of schools or other places of public gathering;

**WHEREAS**, social distancing is the sole way New Mexicans can minimize the spread of COVID-19 and currently constitutes the most effective means of mitigating the potentially devastating impact of this pandemic in New Mexico; and

**WHEREAS**, the New Mexico Department of Health possesses legal authority pursuant to the Public Health Act, NMSA 1978, Sections 24-1-1 to -40, the Public Health Emergency Response Act, NMSA 1978, Sections 12-10A-1 to -10, the Department of Health Act, NMSA 1978, Sections 9-7-1 to -18, and inherent constitutional police powers of the New Mexico state government, to preserve and promote public health and safety, to adopt isolation and quarantine, and to close public places and forbid gatherings of people when deemed necessary by the Department for the protection of public health.

**NOW, THEREFORE, I**, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, in accordance with the authority vested in me by the Constitution and the Laws of the State of New Mexico, and as directed by the Governor pursuant to the full scope of

her emergency powers under the All Hazard Emergency Management Act as invoked through Executive Order 2020-004, do hereby declare the current outbreak of COVID-19 a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24-1-2(A) as an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico.

The following definitions are adopted for the purposes of this Order:

Definitions: As used in this Public Health Order, the following terms shall have the meaning given to them, except where the context clearly requires otherwise:

(1) “Retail space” means an “essential business” that sells good or services directly to consumers or end-users inside its place of business, such as a grocery store or a hardware stores and includes the “essential businesses” listed in the categories below: 2(d), 2(k), 2(m), 2(n), 2(s), 2(u), and 2(v).

(2) “Essential business” means any business or non-profit entity falling within one or more of the following categories:

- a. Health care operations including hospitals, walk-in-care health facilities, veterinary and livestock services, pharmacies, medical wholesale and distribution, home health care workers or aides for the elderly, emergency dental facilities, nursing homes, residential health care facilities, research facilities, congregate care facilities, intermediate care facilities for those with intellectual or developmental disabilities, supportive living homes, home health care providers, and medical supplies and equipment manufacturers and providers;
- b. Homeless shelters, food banks, and other services providing care to indigent or needy populations;
- c. Childcare facilities necessary to provide services to those workers employed by essential businesses, essential non-profit entities;
- d. Grocery stores, supermarkets, food banks, farmers’ markets and vendors who sell food, convenience stores, and other businesses that generate the majority of their revenue from the sale of canned food, dry goods, fresh fruits and vegetables, pet food, feed, and other animal supply stores, fresh meats, fish, and poultry, and any other household consumer products;
- e. Farms, ranches, and other food cultivation, processing, or packaging operations;

- f. All facilities routinely used by law enforcement personnel, first responders, firefighters, emergency management personnel, and dispatch operators;
- g. Infrastructure operations including, but not limited to, public works construction, commercial and residential construction and maintenance, airport operations, public transportation, airlines, taxis, private transportation providers, transportation network companies, water, gas, electrical, oil drilling, oil refining, natural resources extraction or mining operations, nuclear material research and enrichment, those attendant to the repair and construction of roads and highways, gas stations, solid waste collection and removal, trash and recycling collection, processing and disposal, sewer, data and internet providers, data centers, technology support operations, and telecommunications systems;
- h. Manufacturing operations involved in food processing, manufacturing agents, chemicals, fertilizer, pharmaceuticals, sanitary products, household paper products, microelectronics/semi-conductor, primary metals manufacturers, electrical equipment, appliance, and component manufacturers, and transportation equipment manufacturers;
- i. Services necessary to maintain the safety and sanitation of residences or essential businesses including security services, towing services, custodial services, plumbers, electricians, and other skilled trades;
- j. Facilities providing pet adoption, grooming, daycare, or boarding services;
- k. Media services including television, radio, and newspaper operations;
- l. Automobile repair facilities, bike repair facilities, and retailers who generate the majority of their revenue from the sale of automobile or bike repair products. Contactless car washes, which are those that do not require person-to-person interaction between customers and employees, are permitted to operate.
- m. New and used automobile dealers may sell cars through internet or other audiovisual means but they may not allow customers in showrooms;
- n. Hardware stores;
- o. Laundromats and dry cleaner services;
- p. Utilities, including their contractors, suppliers, and supportive operations, engaged in power generation, fuel supply and transmission, water and wastewater supply;
- q. Funeral homes, crematoriums and cemeteries;

- r. Banks, credit unions, insurance providers, payroll services, brokerage services, and investment management firms;
- s. Real estate services including brokers, title companies, and related services;
- t. Businesses providing mailing and shipping services, including post office boxes;
- u. Laboratories and defense and national security-related operations supporting the United States government, a contractor to the United States government, or any federal entity;
- v. Restaurants, but only for delivery or carry out and local breweries or distillers but only for carry out;
- w. Professional services, such as legal or accounting services, but only where necessary to assist in compliance with legally mandated activities; and
- x. Logistics, and also businesses that store, transport, or deliver groceries, food, materials, goods or services directly to residences, retailers, government institutions, or essential businesses.

(4) “Individuals” means natural persons.

(5) “Gathering” means any grouping together of individuals in a single connected location.

(6) “Mass gathering” means any public or private gathering that brings together five (5) or more individuals in a single room or connected space, confined outdoor space or an open outdoor space where individuals are within six (6) feet of each other, but does not include the presence of five (5) or more individuals where those individuals regularly reside. “Mass gathering” does not include individuals who are public officials or public employees in the course and scope of their employment.

#### **I HEREBY DIRECT AS FOLLOWS:**

- (1) All Mass Gatherings are hereby prohibited under the powers and authority set forth in the New Mexico Public Health Act, and all regulations promulgated pursuant thereto. This prohibition does not apply to necessary operations of essential businesses. Churches, synagogues, mosques, and all other houses of worship shall adhere to this restriction, but nothing in this order is intended to preclude these faith-based institutions from holding services through audiovisual means.
- (2) All businesses, except those entities identified as “essential businesses”, are hereby directed to reduce the in-person workforce at each business or business location by 100%, except as provided herein. Retail businesses that are not “essential businesses” may operate to the minimum extent necessary to provide curbside pickup and/or

delivery services to customers but only if they are legally permitted to provide their services through pickup and/or delivery.

- (3) “Essential businesses” may remain open provided they minimize their operations and staff to the greatest extent possible. Further, all essential businesses shall adhere to social distancing protocol and maintain at least six-foot social distancing from other individuals, avoid person-to-person contact, and direct employees to wash their hands frequently. All essential businesses shall ensure that all surfaces are cleaned routinely.
- (4) This Order requires the closure of physical office spaces, retail spaces, or other public spaces of a business and does not otherwise restrict the conduct of business operations through telecommuting or otherwise working from home in which an employee only interacts with clients or customers remotely.
- (5) The maximum number of customers allowed in a “retail space” at any given time shall be equal to 20% of the maximum occupancy of the retail space, as determined by the relevant fire marshal or fire department. If customers are waiting outside of a “retail space”, they must do so in compliance with social distancing protocols including the requirement that they maintain a distance of at least six-feet from other individuals, avoid person-to-person contact.
- (6) All casinos shall close during the pendency of this Order. This directive excludes those casinos operating on Tribal lands. Horse racing facilities may operate without spectators.
- (7) Hotels, motels, RV parks, and other places of lodging shall not operate at more than twenty-five percent of maximum occupancy. Health care workers who are engaged in the provision of care to New Mexico residents or individuals utilizing lodging facilities for extended stays, as temporary housing, or for purposes of a quarantine or isolation period shall not be counted for purposes of determining maximum occupancy. Short-term vacation rentals, apartments, and houses are not permitted to operate except to provide housing to health care workers who reside out of state but are engaged in the provision of care to New Mexico residents.
- (8) All call centers situated in New Mexico are directed to reduce their in-person workforce by 100%. This includes any call center that is part of or supports an essential business.
- (9) Self-storage facilities should reduce operations to the minimum number of employees necessary to ensure public access to storage units and adequate security for storage units, including a 100% reduction in permanent on-site workforce whenever possible.
- (10) This Order does not limit animal shelters, zoos, and other facilities with animal care operations from performing tasks that ensure the health and welfare of animals. Those tasks should be performed with the minimum number of employees necessary, for the minimum amount of time necessary, and with strict adherence to all social distancing protocols.

- (11) Federally licensed firearm dealers may operate to the extent necessary to conduct background checks and to allow individuals to take possession of firearms that were ordered online or through other remote means. They shall provide these services by appointment only. They shall provide these services by appointment only. Shooting ranges may open by appointment and shall ensure that appropriate social distancing measures are in place.
- (12) Golf courses may open on a modified basis. They may be open for golf only and shall not provide any dine-in or retail services. They shall minimize staff and operations to the greatest extent possible and follow all sanitation and social distancing protocols.
- (13) The New Mexico Department of Public Safety, the New Mexico Department of Homeland Security and Emergency Management, the Department of the Environment, and all other State departments and agencies are authorized to take all appropriate steps to ensure compliance with this Order.
- (14) All public and private employers are required to comply with this Order and any instructions provided by State departments or agencies regarding COVID-19.
- (15) In order to minimize the shortage of health care supplies and other necessary goods, grocery stores and other retailers are hereby directed to limit the sale of medications, durable medical equipment, baby formula, diapers, sanitary care products, and hygiene products to three items per individual. NMSA 1978, § 12-10A-6 (2012).

**I FURTHER DIRECT** as follows:

- (1) This Order shall be broadly disseminated in English, Spanish and other appropriate languages to the citizens of the State of New Mexico.
- (2) This Order declaring restrictions based upon the existence of a condition of public health importance shall not abrogate any disease-reporting requirements set forth in the New Mexico Public Health Act.
- (3) Nothing in this Order is intended to restrain or preempt local authorities from enacting more stringent restrictions than those required by the Order.
- (4) This Order shall take effect immediately and remain in effect through May 15, 2020. This Order shall be effective in all counties of New Mexico except for Cibola County, McKinley County, and San Juan County. This Order may be renewed consistent with any direction from the Governor.
- (5) Cibola County, McKinley County, and San Juan County remain subject to the terms of the April 11, 2020 Public Health Emergency Order through May 15, 2020.

**I FURTHER ADVISE the public to take the following preventive precautions:**

- **New Mexico citizens should stay at home and undertake only those outings absolutely necessary for their health, safety, or welfare.**
- Retailers should take appropriate action consistent with this order to reduce hoarding and ensure that all New Mexicans can purchase necessary goods.
- Avoid crowds.
- Avoid all non-essential travel including plane trips and cruise ships. Self-quarantine or self-isolate for at least fourteen days after all out-of-state travel.

ATTEST:

DONE AT THE EXECUTIVE OFFICE  
THIS 30TH DAY OF APRIL 2020

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MAGGIE TOULOUSE OLIVER  
SECRETARY OF STATE

WITNESS MY HAND AND THE GREAT  
SEAL OF THE STATE OF NEW MEXICO

---

KATHYLEEN M. KUNKEL  
SECRETARY OF THE STATE OF NEW MEXICO  
DEPARTMENT OF HEALTH

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**PUBLIC HEALTH ORDER  
NEW MEXICO DEPARTMENT OF HEALTH  
CABINET SECRETARY KATHYLEEN M. KUNKEL**

**APRIL 30, 2020**

**Public Health Emergency Order Clarifying that Polling Places Shall be Open as Required in the Election Code and Imposing Certain Social Distancing Restrictions on Polling Places**

The provisions of New Mexico's Election Code require certain polling places and other election-related facilities to remain open to the public during our State's upcoming primary election. The New Mexico Supreme Court has recently clarified that these election-related facilities must remain accessible to the public as required to conduct the primary election in compliance with the Election Code.

Pursuant to the New Mexico Supreme Court's direction, this Order permits those election-related facilities to operate subject to certain requirements designed to minimize the risk of spreading COVID-19 through in-person voting. However, please note that these safeguards will not entirely eliminate the heightened risks associated with in-person voting. **The safest way to vote during the primary election is by absentee ballot. All eligible New Mexicans are advised to apply for absentee ballots and to cast their ballots by mail.**

It is hereby **ORDERED** that:

1. All polling locations are permitted to operate on the days and times provided for in the Election Code from early voting through Election Day. Any public or private building that contains a polling location and is otherwise required to be closed may be opened for the limited purpose of operating as a designated polling location and to allow for any required inspections or preparations for voting by staff. A polling location means a designated building or mobile unit where voters cast their ballots and/or where there are any in-person activities associated with voting.
2. The maximum number of voters allowed inside of a polling location that is not a mobile unit at any given time shall be the greater of a maximum of four (4) voters or 20% of the maximum occupancy of the location, as determined by the relevant fire marshal or fire department.
3. Any polling location that is a mobile unit shall be limited to two (2) voters at any given time.
4. All polling locations shall adhere to social distancing protocols and shall ensure that voters do not come within six (6) feet of each other except when absolutely necessary. Poll officials and staff are directed to wash and sanitize their hands frequently. Social distancing protocols shall be followed by poll officials and staff to the greatest extent possible. All surfaces and reusable writing implements shall be cleaned routinely.

**OFFICE OF THE SECRETARY**

1190 St. Francis Dr., Suite N4100 • P.O. Box 26110 • Santa Fe, New Mexico • 87502  
(505) 827-2613 • FAX: (505) 827-2530 • [www.nmhealth.org](http://www.nmhealth.org)





5. If voters are waiting outside of a polling location, they must do so in such a manner that all individuals shall remain at least six (6) feet from each other and avoid person-to-person contact. Poll officials and staff are directed to ensure that these social distancing measures are being observed.

6. This Order shall be broadly disseminated in English, Spanish and other appropriate languages to the citizens of the State of New Mexico.

7. This Order shall not abrogate any disease-reporting requirements set forth in the New Mexico Public Health Act.

8. This Order shall remain in effect through the end of the primary election process, including the canvass. It may be modified from time-to-time as circumstances warrant.

ATTEST:

DONE AT THE EXECUTIVE OFFICE  
THIS 30TH DAY OF APRIL 2020

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MAGGIE TOULOUSE OLIVER  
SECRETARY OF STATE

WITNESS MY HAND AND THE GREAT  
SEAL OF THE STATE OF NEW MEXICO

---

KATHYLEEN M. KUNKEL  
SECRETARY OF THE STATE OF NEW MEXICO  
DEPARTMENT OF HEALTH

**From:** [Sandoval, Adrienne, EMNRD](#)  
**To:** [EMNRD-OCD - ARTESIA](#); [EMNRD-OCD - HOBBS](#); [EMNRD-OCD - AZTEC](#); [EMNRD-OCD - SANTA FE](#)  
**Subject:** Updated OCD Notice  
**Date:** Thursday, April 30, 2020 5:40:34 PM  
**Attachments:** [OCDComplianceNoticeApril30Final.pdf](#)  
[20-04-30UpdatetoOCDProceduresDuringPublicHealthEmergency.pdf](#)

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Hello All-

This notice and press releases went out today and is a supplement to the guidance that was sent out on March 20<sup>th</sup>.

It is a good tool for staff to use and refer to as operators have questions.

Thanks

Adrienne Sandoval  
Oil Conservation Division Director  
1220 S. St. Francis Dr.  
Santa Fe, NM 87505  
505-476-3441  
[Adrienne.Sandoval@state.nm.us](mailto:Adrienne.Sandoval@state.nm.us)

**Michelle Lujan Grisham**, Governor  
**Sarah Cottrell Propst**, Cabinet Secretary  
**Todd E. Leahy, JD, PhD**, Deputy Cabinet Secretary  
**Adrienne Sandoval**, Oil Conservation Division Director

**FOR IMMEDIATE RELEASE:**

**Contact:** Susan Torres  
Public Information Officer, EMNRD  
[susan.torres@state.nm.us](mailto:susan.torres@state.nm.us)  
505-476-3226



**April 30, 2020**

## **EMNRD Oil Conservation Division Announces Additional Guidance on Compliance**

**Santa Fe** – Today the Energy, Minerals and Natural Resources Department (EMNRD) announces [additional guidance](#) for oil and gas operators and the public working with the Oil Conservation Division (OCD) in response to the Public Health Emergency on COVID-19. Today's guidance expands on the initial guidance that took effect on [March 20, 2020](#). The OCD has taken prudent precautionary steps to ensure proper social distancing by transitioning the Division to telework. During this time, the agency has communicated with stakeholders, including industry groups, who have provided suggestions and support for the agency's actions. The OCD has implemented measures that continue to protect public health and the environment and provide the best customer service possible during this public health emergency while complying with the mandate to maintain social distance.

"This is an unprecedented time for our state, and the nation," said EMNRD Cabinet Secretary Sarah Cottrell Propst. "As the COVID-19 public health situation has changed and the global reality of energy demands has shifted in response to the pandemic, the OCD is in constant communication with stakeholders about new processes and the changing needs of industry."

Today's additional guidance provides more details on:

- **Working with the OCD:** The OCD remains open for business for the public and the oil and gas industry. However, all OCD offices are closed to the public and we request that communications be conducted electronically whenever possible to protect the public, the regulated community, and OCD staff. The OCD has developed several electronic processes to receive applications, fees, and other correspondence. The comprehensive "How To" document can be found [here](#). If an operator is unable to submit paperwork electronically, applications can also be mailed to EMNRD at the Wendell Chino Building, 1220 S. St Francis Dr., Santa Fe, NM 87505.
- **Hearings:** OCD examiner hearings have transitioned to virtual hearings to prevent the spread of COVID-19. Procedures for participating in virtual hearings can be found [here](#). The OCD will work with the Attorney General's Office to develop procedures for Oil Conservation Commission meetings.

- **Compliance:** The COVID-19 public health emergency has contributed to a sharp drop in oil prices that may cause operators to cease production at a number of their wells and may make compliance with certain reporting requirements difficult. OCD will work with operators on a case by case basis who come forward and seek extensions of time to achieve compliance. More details on extension requests and the process to shut-in wells is found in the [public notice](#) released today. The OCD has already begun issuing Agreed Compliance Orders so operators can shut-in wells due to economic hardship.

The policy of shutting in wells or receiving an extension on a compliance issue does not apply to violations of law resulting from incidents that may cause health, safety, waste, or environmental concerns.

The OCD continues to follow our statutory mandate to prevent waste, protect correlative rights, and protect public health and the environment during this changing situation.

###

*The Energy, Minerals and Natural Resources Department provides resource protection and renewable energy resource development services to the public and other state agencies.*

<http://www.emnrd.state.nm.us>

State of New Mexico  
Energy, Minerals and Natural Resources Department

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**Michelle Lujan Grisham**  
Governor

**Sarah Cottrell Propst**  
Cabinet Secretary

**Todd E. Leahy, JD, PhD**  
Deputy Cabinet Secretary

**Adrienne Sandoval**, Division Director  
Oil Conservation Division



# NOTICE

## UPDATE

### **OIL CONSERVATION DIVISION OPERATIONS DURING DECLARED PUBLIC HEALTH EMERGENCY *NEW GUIDANCE TO SOLVE EMERGING ISSUES***

**APRIL 30, 2020**

The Energy, Minerals & Natural Resources Department's Oil Conservation Division (OCD) appreciates the unprecedented challenges facing the oil and gas industry. The OCD remains open for business and issues this new guidance, a supplement to the [March 20, 2020 guidance document](#), to address real-world challenges facing operators and the public. The OCD will continue to actively work with stakeholders to solve problems and provide the best customer service possible, while maintaining high standards of transparency, public health and environmental protections. The OCD encourages the public and industry to contact us with any questions about this guidance or any other OCD issues.

## **APPLICATIONS**

**Q:** What is OCD doing to ensure timely processing of applications?

**A:** In order to process applications as quickly and efficiently as possible, the OCD requests that all applications be submitted electronically, as OCD staff members are all teleworking. For more information regarding how to submit applications electronically, please see the [March 20, 2020](#) notice. If you are unable to submit applications electronically, please mail them to following address; Oil Conservation Division, 1220 South Saint Francis Drive, Santa Fe, NM 87505.

## **WELL INACTIVITY ALLOWANCES**

**Q:** Will the OCD provide flexibility in the number of wells that producers can temporarily shut-in due to economic hardship?

**A:** Yes, per the March 20<sup>th</sup> notice, the OCD has developed a process to allow wells to remain inactive due to economic hardship and is already actively issuing allowances for inactivity. OCD will continue to work with operators to meet their individual needs.

**Q:** What is the process?

**A:** As an initial step, please contact Daniel Sanchez at [Daniel.Sanchez@state.nm.us](mailto:Daniel.Sanchez@state.nm.us) to request an Agreed Compliance Order (ACO). Additional information regarding the shut-in process is set forth below:

- Under an ACO, an operator will be authorized to allow wells to remain inactive under 19.15.25.8 NMAC for a period not to exceed thirty-six (36) months.
- For good cause, OCD may extend the inactive period for an additional twelve (12) months for a total of forty-eight (48) months. Please contact the OCD to extend the ACO prior to the expiration date.
- Bradenhead tests need to be performed on each well in the ACO at three different intervals: No later than twelve (12) months, twenty-four (24) months and thirty-six (36) months after the effective date of the ACO or the well becomes inactive.
- A compliance report for each Bradenhead test needs to be submitted by operators no later than thirty (30) days after such test. Please contact the OCD prior to the testing due date if you are unable to meet the deadlines due to COVID-19.
- To extend the shut-in past four (4) years, the operator will need to place the well in approved Temporary Abandonment (TA) pursuant to 19.15.25.12-14 NMAC. OCD may grant TA status for beneficial wells for a maximum of five (5) years. However, operators can apply for a second permit for an additional five (5) years if necessary.
- Note that OCD may impose additional conditions as necessary depending on each operator's individual needs.

**Q:** How long may a well go without producing before being subject to plugging and abandonment rules?

**A:** Wells are subject to the plugging and abandonment rule, 19.15.25 NMAC, after exceeding a period of fifteen (15) months without active production. Operators are advised to monitor the status of wells not included in the ACO to ensure that such wells do not remain inactive for a period exceeding fifteen (15) months.

## **EXTENSIONS**

**Q:** Will the OCD consider time extensions for various deadlines?

**A:** Yes, the following questions provide examples of extensions that will be considered, and the criteria needed to process the request.

**Q:** Can the OCD grant blanket extensions in certain categories?

**A:** While the OCD is able to grant a number of extensions on a case-by-case basis, due to regulatory requirements, the OCD is not able to grant blanket extensions across the industry.

**Q:** Under what authority can the OCD grant extensions?

**A:** The Oil and Gas Act authorizes the OCD Director to authorize requests for extension of time on required deadlines in order to prevent waste, protect correlative rights, protect public health, and the environment.

**Q:** What do extension requests need to contain and where do I send them?

**A:** All extension requests must demonstrate good cause for the extension, such as limitations due to COVID-19, and a proposed alternative timeline based on the circumstances. Please send the extension request electronically to the OCD email address indicated within the different processes below. If you are unable to submit extension requests electronically, please mail them to following address; Oil Conservation Division, 1220 South Saint Francis Drive, Santa Fe, NM 87505. For further assistance, contact the appropriate OCD supervisor:

- Engineering Supervisor- Scott Cox, Scott.Cox@state.nm.us
- Environmental Supervisor- Jim Griswold, Jim.Griswold@state.nm.us
- UIC Team Lead- Phil Goetze, Phillip.Goetze@state.nm.us
- Compliance Manager- Daniel Sanchez, Daniel.Sanchez@state.nm.us
- North Supervisor- Brandon Powell, Brandon.Powell@state.nm.us
- South Supervisor- Mike Bratcher, Mike.Bratcher@state.nm.us

**Q:** What kinds of extensions can be considered?

**A:** The following types of extensions are the most common extension requests received by the OCD. If you have a request that does not fall into one of the categories below, please email the appropriate program supervisor above. If you are unable to submit extension requests electronically, please mail them to following address; Oil Conservation Division, 1220 South Saint Francis Drive, Santa Fe, NM 87505.

**Environmental Remediation and Reclamation** - The rules require remediation or abatement to be completed no later than 90 days after the report of the release or as required by the remediation plan. See 19.15.29.12(B)(1) & (2) NMAC; 19.15.30.13(C) & (D) NMAC. OCD can extend these deadlines upon a showing of good cause and assurance that the extension will not harm public health or the environment, including groundwater. Please contact [OCD.Enviro@state.nm.us](mailto:OCD.Enviro@state.nm.us).

**Compulsory Pooling Orders-** OCD will work with operators to extend the deadline to commence drilling and complete initial and infill wells in compulsory pooling orders. Depending on the date of issuance, these orders require operators to commence drilling of initial wells within one (1) year of issuance of the order and to complete these wells within four (4) months or one (1) year after commencing to drill. OCD rules establish shorter deadlines for infill wells. OCD routinely grants extensions of these deadlines for good cause and will continue to do so. Please contact [OCD.Engineer@state.nm.us](mailto:OCD.Engineer@state.nm.us).

**Surface Commingling-** OCD continues to work with the regulated community to ensure that measurement and allocation methods for surface commingling comply with the applicable rules in order to protect correlative rights. For more information, please contact [OCD.Engineer@state.nm.us](mailto:OCD.Engineer@state.nm.us).

**Gas and Water Analysis-** This analysis is required only if an issue arises at the well, and the deadline for submittal is established on a case-by-case basis. To the extent that the analysis is required in a Bradenhead test letter, please contact the appropriate OCD District Supervisor.

**Well Investigation and Remedial Well Repair-** If an operator has a deadline to investigate an abnormal well condition or make a well repair, the operator may request an extension by contacting the appropriate OCD District Supervisor.

**Field Compliance Requirements-** For field compliance issues, please contact the issuing OCD field representative or appropriate OCD District Supervisor prior to the expiration date to request an extension. For companies which have multiple pending field compliance issues, the OCD may grant these extensions as a group. For instances concerning multiple compliance issues please contact the District Supervisor for guidance on how to request these as a group. Field compliance issues will be allowed appropriate extensions as long as there is assurance that the extension will not harm public health or the environment, including groundwater. The OCD will continue to notify operators of violations discovered via a compliance notice but will grant extensions to compliance deadlines when reasonable.

## OTHER REQUIREMENTS

*The oil and gas industry inquired about OCD's flexibility in a number of other areas, and we offer the following clarifications.*

**Financial Assurance-** 19.15.8 NMAC establishes financial assurance requirements. The provisions of this rule are mandatory and cannot be changed administratively.

**Notification-** OCD rules specify the notice requirements for different types of applications. These requirements ensure that interested persons are accorded due process. Operators are encouraged to send notices electronically, but OCD cannot modify the notice requirements administratively to only require electronic notice.



**Fee Schedule-** The Oil and Gas Act, Section 70-2-39(A), states that “The following fees are required to be paid to the Oil Conservation Division of the Energy, Minerals and Natural Resources Department....” OCD does not have the authority to suspend a statutory requirement.

**General Sundries-** Operators must file C-103s for well work pursuant to 19.15.7.14 NMAC. OCD requires these forms in order to confirm that proposed work complies with the rules, and to confirm that the work performed was conducted in compliance with the rules. Without prior approval and timely confirmation, OCD cannot ensure public safety, the protection of public health and environment, the prevention of waste, or the protection of correlative rights. Please contact your local District Supervisor if you have questions regarding Sundry requirements.

**State Land Office (SLO) Shut in Sundries-** In accordance with the SLO Emergency Temporary Shut-in Rule, 19.2.100.71 NMAC, operators must file a C-103 with the OCD or obtain other written approval from the OCD. Upon receipt of a C-103, the OCD will place the sundry into the corresponding well file. The receipt and filing of the sundry fulfill the SLO requirements. Please note this will not change a well’s status within the OCD well management system. To shut in a well for a prolonged period of time, please follow the “well inactivity allowances” above.

**C-104s-** Operators must file C-104s to obtain an allowable and authorization to transport oil and gas. OCD must review and approve these forms, including completion reports, logs, and as-drilled plats, to ensure that an operator has the requisite authority to produce, much as an operator must obtain OCD approval of an APD in order to drill the well. The OCD issued a notice to Operators in November 2019 regarding the information necessary for the OCD to process a C-104 authorization. The notice can be found [here](#). Please contact your local District Supervisor if you have questions regarding C-104 requirements.

## INSPECTIONS

**Q:** Which types of inspections will continue during the public health emergency and how will they be conducted? Will any inspections be suspended?

**A:** The safety and health of OCD staff and the public is our primary focus during the public health emergency. The OCD will follow the statewide health emergency directives closely to limit face-to-face contact and protect our staff, the public, and the regulated community. Inspectors will only perform inspections that do not require other persons to be on-site. UIC tests that require the physical presence of an OCD inspector are suspended and will be rescheduled for a future date. OCD will continue all general inspections as they do not require a third party on site.

**Q:** Will OCD notify operators about upcoming inspections?

**A:** OCD will inform operators about pending inspections to the extent necessary and appropriate. Operators are reminded that they are responsible for monitoring the compliance status of their facilities and should disclose possible violations at the earliest opportunity.

**Q:** What compliance issues will OCD issue violations for?

**A:** OCD considers violations that adversely affect public health and the environment, cause waste, or harm correlative rights to be of primary importance, but will cite any alleged violations identified during an inspection. Operators are encouraged to disclose possible violations at the earliest opportunity as OCD will take into consideration the operator's good faith effort to comply with the applicable requirements. For extensions of field compliance requirements please see the information above in the Extensions section.

## **OCD HEARINGS**

**Q:** Will OCD continue to conduct hearings during the public health emergency?

**A:** Yes. Going forward and until further notice, OCD intends to conduct virtual hearings for all dockets in accordance with the Attorney General's recommendations. OCD will evaluate whether to hold hearings with witnesses beginning in May. To be heard, the applicant must submit the exhibits, including the public notice affidavit and compulsory pooling checklist, if applicable, to the Hearings Bureau at [OCD.Hearings@state.nm.us](mailto:OCD.Hearings@state.nm.us). You may submit hard copies by mail, however this could delay their receipt and consideration while our staff are teleworking.

## **PUBLIC TRANSPARENCY**

**Q:** How do I find information regarding oil and gas operations in New Mexico?

**A:** The OCD values transparency with operators and the public. The documents we process will continue to be placed online and are accessible to the operators and the general public. Below are links to various portions of the OCD website where publicly available data can be found.

Oil and Gas GIS information

<http://www.emnrd.state.nm.us/OCD/ocdgis.html>

Well Information search

<https://wwwapps.emnrd.state.nm.us/ocd/ocdpermitting/Data/Wells.aspx>

General document Imaging

<http://ocdimage.emnrd.state.nm.us/imaging/>

OCD publications

<http://www.emnrd.state.nm.us/OCD/publications.html>

OCD Data and Statistics

<http://www.emnrd.state.nm.us/OCD/statistics.html>

## **GENERAL CONTACT INFORMATION:**

### **Santa Fe:**

- For general office questions please contact 505-476-3200.

### **Artesia/Hobbs:**

- For general office questions please contact 575-626-0857.
- For field operations, compliance issues or after-hours emergencies please contact 575-626-0830.

### **Aztec:**

- For general office questions please contact Amy Vermersch at 505-334-6178 ext 113.
- For releases or environmental concerns contact Cory Smith at 505-419-2687.
- For field operations, compliance issues or after-hours emergencies please contact Brandon Powell at 505-320-0200.

The OCD remains open for business during this challenging time and is committed to creatively solving problems while still ensuring compliance with our statutory requirements to prevent waste, protect correlative rights, and protect human health and the environment. Our staff continues to diligently telework in an effort to keep these operations moving during this time.

If you have concerns or questions which are not addressed by the options presented, we encourage you to reach out to see if there is additional assistance we may be able to provide.

For further information regarding COVID-19, please visit <http://cv.nmhealth.org/faq/>.

For information for individuals experiencing financial hardship, please visit <https://www.newmexico.gov/i-need-assistance/>.

**From:** [Chavez, Carl J, EMNRD](#)  
**To:** [Brancard, Bill, EMNRD](#)  
**Subject:** EPA COVID-19 Update  
**Date:** Friday, April 10, 2020 3:58:00 PM  
**Attachments:** [interim\\_guidance\\_on\\_site\\_field\\_work\\_decisions\\_due\\_to\\_impacts\\_of\\_covid.pdf](#)

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FYI:

**EPA Takes Action to Guide Health and Safety Decisions at Cleanup Sites During the COVID-19 Pandemic**

04/10/2020

<https://www.epa.gov/newsreleases/epa-takes-action-guide-health-and-safety-decisions-cleanup-sites-during-covid-19>

Thank you.

Mr. Carl J. Chavez, CHMM (#13099)  
New Mexico Oil Conservation Division (Albuquerque Office)  
Energy Minerals and Natural Resources Department  
5200 Oakland Avenue, NE  
Albuquerque, New Mexico 87113  
Ph. (505) 660-7923  
E-mail: [CarlJ.Chavez@state.nm.us](mailto:CarlJ.Chavez@state.nm.us)

**“Why not prevent pollution, minimize waste to reduce operating costs, reuse or recycle, and move forward with the rest of the Nation?” (To see how, go to: <http://www.emnrd.state.nm.us/OCD> and see “Publications”)**



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

April 10, 2020

### **MEMORANDUM**

**SUBJECT:** Interim Guidance on Site Field Work Decisions Due to Impacts of COVID-19<sup>1</sup>

**FROM:** Peter C. Wright  
Assistant Administrator,  
Office of Land and Emergency Management

Susan Parker Bodine  
Assistant Administrator,  
Office of Enforcement and Compliance Assurance

**TO:** EPA Regional Administrators, Regions I-X

As all of us at the EPA and in other Federal Agencies, State and Local Governments, Tribes, Regulated Entities, Non-governmental Organizations, and Communities continue to adjust to the evolving COVID-19 situation, we at EPA are first and foremost mindful of the health, welfare, and safety of the public, as well as our employees and cleanup partners, as we all continue our work to protect human health and the environment.

Response field activities are underway at sites across the country under a range of EPA authorities including, but not limited to, the Superfund program, RCRA corrective action, TSCA PCB cleanup provisions, the Oil Pollution Act, and the Underground Storage Tank (UST) program. EPA also conducts emergency responses to releases or substantial threats of releases into the environment of chemicals, oil, and other hazardous materials/substances, as well as pollutants or contaminants that may present an imminent and substantial danger to the public health or welfare. The following interim guidance is being issued for response actions related to cleanup and emergency response sites where EPA is the lead agency or has direct oversight of or responsibility for the work being performed. EPA will, as appropriate, update this guidance as the current situation evolves. The response action work at this broad range of sites may be conducted by EPA, states, tribes, other agencies of the Federal Government, and by other parties, including potentially responsible parties (PRPs). In addition, Regions are encouraged to share this guidance with the states and employ these considerations to provide assistance to authorized states as they encounter similar issues for state-lead RCRA cleanups.

In respect of the challenges posed by the COVID-19 situation, EPA continues to make decisions about continuing on-site activities on a case-by-case basis consistent with the following priorities:

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<sup>1</sup> This memorandum supplements the "Office of Land and Emergency Management Considerations and Posture for COVID-19 Pandemic" document dated March 19, 2020 (*see* Attachment) and provides additional criteria to be considered for Emergency Response, Superfund Removal/Remedial/Federal Facilities, RCRA Corrective Action, and leaking underground storage tank (LUST) cleanups when determining whether site field work should continue or be suspended.

- Protecting the health and safety of the public, as well as maintaining the health and safety of EPA staff and cleanup partners, is the Agency's highest priority. Integral to the protection of health and safety is the adherence to any federal, state, tribal, or local health declarations and restrictions, to the extent possible.
- Maintaining EPA's ability to prevent and respond to environmental emergencies, or in any situation necessary to protect public health and welfare and the environment, is also a critical priority for the Agency.

Decisions to be made on continuing, reducing, or pausing field work are to be made on a case-by-case basis and in consultation with other EPA offices, as appropriate. This same approach will apply to decisions based on requests from outside parties (e.g., states, tribes, local governments, other federal agencies, potentially responsible parties, property owners, etc.) for extensions or delays in performance.

### **General Guidance for Response Field Work Decisions**

The Regions should evaluate, and periodically re-evaluate, the status of ongoing response work at sites and the possible impact of COVID-19 on sites, surrounding communities, EPA personnel, and response/cleanup partners. Especially in areas where federal, state, tribal, or local health declarations are in effect due to COVID-19, Regions should consider whether to continue site operations or secure a site until the public health threat associated with the declaration is resolved. While on-site response actions may start or continue where there are no federal, state, tribal or local health declarations that prohibit or discourage such activities, in making decisions whether to start or continue work, other factors must also be weighed in making this decision including but not limited to the safety and availability of work crews, EPA, state or tribal staff; the critical nature of the work; logistical challenges (e.g., transportation, lodging, availability of meals, etc.); and other factors particular to a site. Where a region decides to start or continue work, it must review and modify, as appropriate, a response action's health and safety plan (HASP) to ensure that it accounts for CDC's (and/or other's) COVID-19 guidelines, including any potential virus transmission into or across areas. If a decision is made to temporarily pause work, Regions should continue to monitor site conditions and plan the logistics for safely resuming field work as soon as appropriate.

Regions should consider pre-construction, construction, and post-construction activities. Regional representatives' travel to a response action site should consider any federal, state, tribal, or local health department restrictions or advisories, the logistics associated with the necessary travel, the timing of the travel (i.e., whether it could be delayed or postponed), and other factors that address federal travel.<sup>2</sup> EPA Regional response personnel, in consultation with their leadership (e.g., Removal Managers, Remedial Branch Chiefs, and Division Directors) and Safety, Health, and Environmental Management organizations, should ensure that the health and safety of response personnel are protected, with respect to COVID-19, as they plan for and/or respond to releases or substantial threats of releases into the environment of chemical, oil, or other hazardous materials/substances, as well as pollutants or contaminants that may present an imminent and substantial danger to the public health or welfare. EPA should consider the personal safety of responding party personnel as well, including compliance with travel

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<sup>2</sup> <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-14-travel-guidance-OMB-1.pdf>

restrictions, health and safety regulations, and access to personal protective equipment and lodging.

Parties who believe that COVID-19 restrictions may delay their performance of obligations should consult the applicable enforcement instrument, including provisions allowing for adjustments to schedules to be made at the discretion of EPA's project manager and/or force majeure provisions,<sup>3</sup> for directions on providing the requisite notice and other information described in the provisions. Modifications to a party's performance obligations will be made on a case-by-case basis in accordance with the terms of the applicable enforcement instrument. The formal determination as to whether a particular situation constitutes force majeure or requires additional response depends on the site-specific circumstances, particularly the type of work that is affected by COVID-19. EPA expects to be able to make these determinations promptly. EPA encourages parties (and the lead agency for Federal Facility Superfund sites) to regularly communicate with EPA project managers about the status of their sites and associated field work and any anticipated challenges and mitigation measures.

Regions are expected to work to provide notification to, coordinate with, and collaborate with States, Tribes, and other Federal agencies to optimize communication and share information about the status of particular response work.

### **Factors to Consider for Site Field Work Decisions**

Below are some site-specific factors that should be part of a Region's decision regarding whether response actions will continue, be reduced, or be paused. Consideration of these factors should help with making nationally consistent decisions when addressing similar factual situations. However, these factors should not be considered in a manner that would override protection against unnecessary potential exposure to COVID-19. Decisions to extend obligations or pause work obligations do not operate to supersede or amend enforcement instruments. Instead, and as set forth above, the applicable enforcement instruments contain provisions allowing for adjustments to schedules to be made at the discretion of EPA's project manager, and/or force majeure provisions, including directions to responsible parties on providing the requisite notice and other information described in the provisions.

Regions have decided and may continue to decide to reduce or suspend response actions at particular sites for the following or similar situations:

- State, tribal, or local health officials have requested particular site operations or types of operations that would pertain to particular sites be suspended.
- Any site workers have tested positive for or exhibited symptoms of COVID-19.
- Any sites where there may be close interaction with high risk groups or those under quarantine, such as work inside homes.
- Sites where contractor field personnel are not able to work due to state, tribal, or local travel restrictions or medical quarantine.
- Other sites where social distancing is not possible.

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<sup>3</sup> To the extent available under the instrument, EPA intends to be flexible regarding the timing of the notices.

Regarding site-specific work decisions, Regional management should consider the following factors:

- Whether failure to continue response actions would likely pose an imminent and substantial endangerment to human health or the environment, and whether it is practical to continue such actions.
  - This may include sites or activities such as:
    - Emergency Responses (including Superfund and Oil Spill Responses)
    - Emergency Response Preparedness necessary to remain ready to respond immediately
    - Time Critical Removal Actions that address imminent threat to public health and welfare and the environment
  - It may include sites with ongoing or a threat of imminent acute or direct human exposures that would compromise public health:
    - EPA or responsible parties (including Federal facilities) providing alternative water supplies (e.g., bottled water, Point of Entry Systems (POET Systems), replacement filters, etc.) to individuals who otherwise would be exposed to or consume contaminated drinking water
    - Individuals with ongoing on-site exposures, such as lead, arsenic, other heavy metals, PCBs, asbestos, vapor intrusion, etc.
  - It may also include sites with prevention of exposures that pose an imminent threat to public health and welfare and the environment:
    - Response actions to prevent a catastrophic event (e.g., mine blow outs, breach of gyp stacks, sites with high probability of fire or explosion, etc.)
    - Prevent contaminated groundwater plume expansion that is reasonably likely to adversely affect drinking water sources (private or public), including continued operation of groundwater pump and treat systems
    - Prevent releases to waterbodies that are reasonably likely to adversely affect drinking water intakes or communities downstream, including treatment of acid mine drainage
    - On-site security or activities necessary to prevent unauthorized access to sites for the safety of life and/or the protection of government property
    - Disposal of materials off-site (e.g., mine waste, chat, unsafe cylinders) that create an imminent safety issue if not promptly removed
    - Assess potential or actual vapor intrusion, especially into structures with sensitive populations (consideration should be given to the relative risks and be coordinated with residents as appropriate)
    - Complete, continue, or take measures to stabilize in-process response actions to ensure unacceptable releases to the environment do not occur (e.g., deactivation and decommissioning of a former nuclear facility, soil excavation, partial closure of a landfill disposal cell)
- Whether maintaining any response actions would lead to a reduction in human health risk/exposure within the ensuing six months. This may include, but are not limited to:
  - Vapor intrusion investigations



- Residential site work with current exposures to residents
- Drinking water work
- Whether work that would not provide near-term reduction in human health risk could be more strongly considered for delay, suspension, or rescheduling of site work, in coordination with state, tribal, and local officials and with updated HASPs as appropriate. This may include:
  - Periodic monitoring
  - Routine sampling activities that typically are considered for five-year reviews or compliance with existing agreements
  - Field sampling for remedial investigation/feasibility study (RI/FS) or RCRA facility investigation (RFI) work
  - Active remediation of otherwise stable conditions (e.g. active remediation of stable groundwater plumes)

### **Effects on Non-Field Site Work**

Note that much of the work to advance cleanup of sites is performed away from sites. To the extent remote workstations permit project teams to work during this time, this work should continue. Important work can be conducted virtually and represent opportunities to make progress on primary activities like investigation reports (including pre-NPL work), modeling, negotiations between the parties, decision documents, cleanup documentation, workplans, progress reports, and maintaining compliance with obligations such as financial assurance. It is also recognized that because of the national scope of COVID-19, some work that normally takes place away from a site may be impacted because supporting operations (e.g. laboratories, equipment) and materials are unavailable or have been diverted to other uses in consideration of the national interests. Parties who believe that COVID-19 restrictions may delay their performance of non-field related work should consult the procedures set forth in the applicable enforcement instrument.

### **Next Steps When Pausing Site Work**

Continued vigilance and communication are vital. If a decision is made to temporarily reduce or suspend response action work, Regions should continue to monitor site conditions and plan the logistics for resuming field work when appropriate. Throughout this process, Regions should utilize the internal EPA document, CERCLA Interim Guidance on Public Engagement During COVID-19, to continue conducting Superfund community involvement work at all sites, regardless of whether work has been paused or continues.

CC: Office of General Counsel  
 OLEM Program Office Directors  
 OECA Program Office Directors  
 SEMD Directors, Regions I-X  
 LCARD Directors, Regions I-X

**From:** [Garvey, Megan](#)  
**To:** [Garvey, Megan](#)  
**Cc:** [Bowles, Jack](#)  
**Subject:** [EXT] FW: EPA Announces Enforcement Discretion Policy for COVID-19 Pandemic  
**Date:** Thursday, March 26, 2020 4:23:11 PM

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Greetings, EPA Oil and Natural Gas Co-Regulators:

Below, please see today's announcement and link to EPA's temporary policy regarding Agency enforcement of environmental legal obligations during the COVID-19 pandemic.

You are receiving this email because you are on the distribution list for EPA's Oil and National Gas Co-Regulator Conference Calls. Apologies if this communication is duplicative of others.

I hope you are well.

Thank you, Megan

Megan E. Garvey  
Senior Counselor  
Office of the Administrator  
U.S. Environmental Protection Agency  
Work: 303.312.6192 | Cell: 720.376.9870

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**From:** Bowles, Jack <Bowles.Jack@epa.gov>  
**Sent:** Thursday, March 26, 2020 3:54 PM  
**Subject:** EPA Announces Enforcement Discretion Policy for COVID-19 Pandemic

Dear State and Local Colleagues:

Today, EPA is announcing a temporary policy regarding EPA enforcement of environmental legal obligations during the COVID-19 pandemic.

EPA's temporary enforcement discretion policy applies to civil violations during the COVID-19 outbreak. The policy addresses different categories of noncompliance differently. For example, under the policy EPA does not expect to seek penalties for noncompliance with routine monitoring and reporting obligations that are the result of the COVID-19 pandemic but does expect operators of public water systems to continue to ensure the safety of our drinking water supplies. The policy also describes the steps that regulated facilities should take to qualify for enforcement discretion.

"EPA is committed to protecting human health and the environment, but recognizes challenges resulting from efforts to protect workers and the public from COVID-19 may directly impact the ability of regulated facilities to meet all federal regulatory requirements," **said EPA Administrator Andrew Wheeler.** "This temporary policy is designed to provide enforcement discretion under the current, extraordinary conditions, while ensuring facility

operations continue to protect human health and the environment.”

The temporary policy makes it clear that EPA expects regulated facilities to comply with regulatory requirements, where reasonably practicable, and to return to compliance as quickly as possible. To be eligible for enforcement discretion, the policy also requires facilities to document decisions made to prevent or mitigate noncompliance and demonstrate how the noncompliance was caused by the COVID-19 pandemic.

This policy does not provide leniency for intentional criminal violations of law.

The policy does not apply to activities that are carried out under Superfund and RCRA Corrective Action enforcement instruments. EPA will address these matters in separate communications.

EPA’s policy will apply retroactively beginning on March 13, 2020. EPA will assess the continued need for and scope of this temporary policy on a regular basis and will update it if EPA determines modifications are necessary. In order to provide fair and sufficient notice to the public, EPA will post a notification at the website below at least 7 days prior to terminating this temporary policy.

To read the EPA Policy on Enforcement during the COVID-19 outbreak:

<https://www.epa.gov/enforcement/enforcement-policy-guidance-publications>

Please feel free to forward this email to interested state and local officials and do not hesitate to contact us with any questions.

Take Care,

*Jack Bowles*

Director of State & Local Relations

U.S. Environmental Protection Agency

202-564-3657 (office) | 202-306-5196 (mobile)

State of New Mexico  
Energy, Minerals and Natural Resources Department

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**Michelle Lujan Grisham**  
Governor

**Sarah Cottrell Propst**  
Cabinet Secretary

**Todd E. Leahy, JD, PhD**  
Deputy Secretary

**Adrienne Sandoval**, Division Director  
Oil Conservation Division



## NOTICE

### Oil Conservation Division Procedures During Declared Public Health Emergency

**EFFECTIVE MARCH 13, 2020**

On March 11, 2020, Governor Michelle Lujan Grisham declared a Public Health Emergency (Executive Order 2020-004) to prevent the spread of the novel coronavirus (COVID-19). In response to the declaration, Secretary Cottrell Propst directed the Oil Conservation Division (OCD) to take prudent precautionary steps to encourage the public and OCD staff to maintain social distance, a factor in preventing the spread of COVID-19, by cancelling, postponing, or taking other actions for public meetings and hearings.

#### **OCD OFFICE AND APPLICATION SUBMITTAL PROCEDURES**

The OCD remains open for business. However, OCD will be implementing a staff teleworking policy until further notice and will provide alternative systems of communication and document filing to encourage OCD staff and operators, their representatives, and other persons with business with the OCD to maintain social distance.

#### Meetings and Personal Contacts

Operators, their representatives, and other persons with business with the OCD should not physically visit or deliver documents to OCD offices. Instead, OCD encourages such persons to call or email OCD staff. The current [OCD phone list](#) is attached for your convenience. In addition, OCD will cancel, postpone, or conduct non-essential meetings by telephone or video conference.

#### Documents

To submit the following documents to OCD, scan and upload to the OCD E-Docs system:

- State Forms and Sundries

- Federal Sundries
- Federal Completion Reports
- Correspondence relating to drilling, completion, production and engineering
- For Federal APDs, provide only:
  - the Federal 3160-3 form
  - the OCD C-102 (Plat)
  - the Gas Capture Plan
  - the Drilling and Casing Plan
  - the Directional Plan
  - Federal Conditions of Approval
  - Hydrogen Sulfide Plan
  - Closed Loop or Pit Plan

### Electronic Filing

Electronic files can be uploaded [here](#) using your OCD Online credentials (login and password). Submit pdf files only. Submittal by contractors will not be accepted. Provide complete and correct information; OCD will reject noncompliant submittals. OCD will notify you if your submittal is rejected, and you will have to resubmit.

Contact the local district office for assistance.

For Federal APDs: Select the file type as “UNKNOWN” and enter well name and number as the reference ID.

For Sundries: Select the file type as “Well File” and enter the API number as the reference ID.

### **SPECIAL PROCEDURES FOR OCC AND OCD HEARINGS**

Effectively immediately, OCD will postpone the Division hearing set for March 19, 2020.

OCD will be evaluating alternative options for conducting future hearings and will continue to post regular updates regarding any changes.

OCD will consider holding hearings for emergency issues. If you have an emergency please contact Gabriel Wade at [gabriel.wade@state.nm.us](mailto:gabriel.wade@state.nm.us)

For further information regarding COVID-19, please visit <http://cv.nmhealth.org/faq/>.