

**AP - 121**

**COVID-19  
PANDEMIC**

**2020**



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## Marathon Petroleum Company LP

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April 1, 2020

VIA EMAIL TO [James.Kenney@state.nm.us](mailto:James.Kenney@state.nm.us)

Mr. James Kenney  
Secretary, New Mexico Environmental Department (NMED)

**Re: Request for Regulatory Relief Necessary to Respond to Novel Coronavirus (COVID-19)**

Pursuant to Governor Michelle Lujan Grisham's March 11, 2020 Executive Order 2020-004 declaring a State of Public Health Emergency as part of the State's efforts to respond to the novel coronavirus (COVID-19), this letter requests temporary relief from certain provisions of statutes, rules, orders, and permits at Gallup Refinery and Bloomfield Terminal, both owned by Western Refining Southwest, Inc., and the Wingate Plant, owned by Western Refining Terminals LLC, each a subsidiary of Marathon Petroleum Corporation (MPC), in an effort to minimize risk of exposure and otherwise respond to COVID-19 without sacrificing the protection of human health and the environment.

MPC is committed to safe and environmentally responsible operation of our facilities and fully embrace the emergency actions necessary to protect public health. To protect both our employees, site contractors, and the general public, MPC is seeking to temporarily limit certain on-site activities by personnel as part of its larger COVID-19 response to reduce social contact and comport with the "social distancing" guidelines issued by the New Mexico Department of Health, the United States Centers for Disease Control and Prevention (CDC), and the Whitehouse Coronavirus Taskforce. These guidelines recommend avoiding close contact with other individuals (within 6 feet), avoidance of gatherings of more than 10 people, avoiding discretionary travel, and working from home whenever possible.

As a member of a critical infrastructure industry, MPC has a special responsibility to continue the safe and environmentally responsible operation of our facilities to ensure fuel supplies are maintained so that other critical infrastructure continues to function during the ongoing pandemic. We have instituted a "work-from-home" policy for all non-essential personnel consistent with CDC guidance. Despite many of the present actions taken by governments and businesses, the virus continues to spread. As a result, we continue to further restrict on-site personnel to only core operating and maintenance personnel. We have also reduced laboratory personnel and thereby analytical capability to ensure social distancing is observed. As continued restrictions persist, we are also preparing for potential consequences in the supply chain, including inability to transport samples to third-party laboratories and inability to receive consumables.

In order to achieve the common goal of inhibiting the spread of COVID-19, some periodic sampling, testing, recordkeeping and reporting activities may need to be deferred during the present phase of the response in order to protect essential personnel necessary for safe operations. The actions that can be safely and responsibly deferred and then resumed as soon as conditions are appropriate, are estimated to be after May 1, 2020, and are enclosed as Attachment A for the Gallup refinery and Attachment B for the Bloomfield terminal. Collectively, these activities are schedule driven, including certain inspections that have due dates in the month of April 2020 and when deferred do not present any increased environmental risk to the public. This list of provisions and activities may be revised as the response develops.

Key to the request is the recognition that many activities drive increased social interactions with third party contractors that enter and leave our facilities, and neighboring facilities on a daily basis. Some of the functions identified require contractors and consultants to engage in significant travel and overnight accommodations, which further increases the chances of spreading the virus. This runs counter to the "social distancing" recommendations from the CDC, the Whitehouse, and the State of New Mexico.

Consistent with U.S. EPA's March 26, 2020 Memorandum: *COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program*, MPC will maintain records specific to any noncompliance caused by COVID-19.

We believe that by taking these measures, we can do our part to slow the spread of the COVID-19 virus. This request covers only those provisions requiring activities that are inconsistent with implementation of MPC's COVID-19 response, while maintaining safe and environmentally responsible operation. If you have any questions about this request, please contact me at 419-421-2869 or [tjpeterkoski@marathonpetroleum.com](mailto:tjpeterkoski@marathonpetroleum.com).

Sincerely,



Timothy J. Peterkoski  
Director, Environmental & Assurance  
Marathon Petroleum Company LP

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Attachments A and B: List of Activities Requesting Enforcement Discretion



## ATTACHMENT A

### List of Activities Requesting Enforcement Discretion for the Sole Purpose of Minimizing Third Party Contractors/Off-Site Personnel & Social Distancing Measures at the Gallup Refinery and Wingate Plant

#### 1) Leak Detection and Repair (LDAR)

- a) **Citations:** 40 CFR 60 Subparts GGG, GGGa, VV, VVa; 40 CFR 63 Subpart CC, EEEE; NSR 633-M17 Conditions A208A, A209A, A210A, A211A, A212A, and A213B; Title V P117-R3 Condition A209A
- b) **Specific request for enforcement discretion:** The temporary cessation of Method 21 monitoring of fugitive equipment and piping connections in VOC service, including temporary cessation of visual pump inspections conducted monthly if performed by 3rd party contractors.
- c) **Anticipated Duration:** Until at least May 1, 2020 or longer depending upon pandemic status.
- d) **Mitigation Measures, if applicable:** The refinery will establish a perimeter optical gas imaging (OGI) monitoring schedule, i.e. FLIR camera, to check for leaks in each process unit normally monitored via Method 21 once a week, with MPC personnel if available. Operations personnel will attempt to conduct visual pump inspections as time allows.
- e) **COVID-19 Impact:** These measures will reduce the density of personnel onsite reducing potential exposure and spread of the virus to critical operations and/or maintenance personnel via 3<sup>rd</sup> party contractors. LDAR technicians share equipment, are in close contact with each other while calibrating equipment, require interaction with operations and maintenance personnel for hot work permitting and other necessary tasks that can be temporarily suspended during the pandemic.

#### 2) Scheduled Stack Tests

- a) **Citations:** 40 CFR 63 Subparts UUU; NSR Permit 0633-M17 Condition A210.A, A110.A, A210.A, A204B, A204C, A204E, A204H and A206A
- b) **Specific request for enforcement discretion:** The temporary deferral of all scheduled stack tests on emission sources including, but not limited to, Boiler B104, Boiler B105, Furnace C-H1, G-C1A, G-C1B, G-C1C, and P-C1B
- c) **Anticipated Duration:** Until at least May 1, 2020 or longer depending upon pandemic status.
- d) **Mitigation Measures, if applicable:** Process units will continue to be operated under conditions supported by a compliant stack test.
- e) **COVID-19 Impact:** Stack tests can only be conducted by 3<sup>rd</sup> party resources who have to travel and stay in overnight accommodations. These measures will reduce potential contact or non-contact exposure to critical operations and/or maintenance personnel via 3<sup>rd</sup> party contractors.

**3) CEMS Relative Accuracy Test Audits (RATA)**

- a) **Citations:** 40 CFR 60.13, 40 CFR 60 Appendices B & F; 40 CFR 60 Subparts Db, J, Ja; 40 CFR 63 Subparts CC, UUU; NSR Permit 0633-M17 Condition A210.A, A110.A, A210.A, A204B, A204C, A204E, A204H and A206A
- b) **Specific request for enforcement discretion:** The temporary deferral of all RATA's on emission sources including, but not limited to the Vapor Recovery Unit
- c) **Anticipated Duration:** Until at least May 1, 2020 or longer depending upon pandemic status.
- d) **Mitigation Measures, if applicable:** Where cylinder gas audits (CGA's) are conducted by on-site MPC maintenance personnel, a CGA will be substituted for a RATA and retain the current schedule.
- e) **COVID-19 Impact:** The RATA can only be conducted by 3rd party resources who have to travel and stay in overnight accommodations. These measures will reduce potential contact or non-contact exposure to critical operations and/or maintenance personnel via 3rd party contractors.

**4) Tank Seal Inspections**

- a) **Citations:** 40 CFR 60 Subparts K, Kb; 40 CFR 63 Subparts CC; 20.2.38 NMAC
- b) **Specific request for enforcement discretion:** The temporary deferral of any external or internal visual tank seal inspections, including but not limited to, TK-574 and TK-569.
- c) **Anticipated Duration:** Until at least May 1, 2020 or longer depending upon pandemic status.
- d) **Mitigation Measures:** MPC operations personnel will detect leaks via olfactory, visual, or audible means during routine rounds performed of tank farm areas. If any leaks are detected, a maintenance work order will be initiated for its repair.
- e) **COVID-19 Impact:** These measures will reduce potential contact or non-contact exposure to critical operations and/or maintenance personnel via 3<sup>rd</sup> party contractor.

**5) Hazardous Waste Removal Requirements**

- a) **Citations:** 40 CFR 124, 264 through 268, 270; RCRA Section 3010
- b) **Specific request for enforcement discretion:** Extend the accumulation time limit to remove hazardous waste from the facility within 90 days for a large quantity generator or 180 days for a small quantity generator to avoid change in storage facility status as provided by 40 CFR 262.17(b) and 40 CFR 262.16(d).
- c) **Anticipated Duration:** Until at least May 1, 2020 or longer depending upon pandemic status.
- d) **Mitigation Measures:** Weekly inspections to ensure containers are in good condition.
- e) **COVID-19 Impact:** These measures will reduce potential contact or non-contact exposure to critical operations and/or maintenance personnel via 3<sup>rd</sup> party contractor.
- f) **Affected RCRA Permits:** Western Refining Southwest, Inc – Gallup Refinery (WRG)  
EPA ID #: NMD000333211 New Mexico ID #: 2401;

**6) Groundwater Monitoring Programs**

- a) **Citations:** RCRA Permit No. NM000333211, Attachment D and in accordance with the applicable requirements of 40 CFR Part 264, Subpart F; RCRA Permit No. NM000333211 IV.C.2 Facility-Wide Groundwater Monitoring Plan
- b) **Specific request for enforcement discretion:** The temporary cessation of routine monitoring of groundwater wells, collection of groundwater samples, groundwater extraction system and inspection of remediation systems.
- c) **Anticipated Duration:** Until at least May 1, 2020 or longer depending upon pandemic status.
- d) **Mitigation Measures, if applicable:** Existing data indicates that the groundwater plume is stable, thus, temporary deferral of monitoring and groundwater extraction is not expected to have any long-term impacts to the overall remediation objectives for the site.
- e) **COVID-19 Impact:** An effort to reduce potential contact or non-contact exposure to critical operations and/or maintenance personnel via 3<sup>rd</sup> party contractor.

## ATTACHMENT B

### List of Activities Requesting Enforcement Discretion for the Sole Purpose of Minimizing Third Party Contractors/Off-Site Personnel & Social Distancing Measures at the Bloomfield Terminal

#### 1. Monitoring Well Installation

- a. **Citations:** Class I Injection Well Permit UICI-011, Permit Condition 2.A.1. and pursuant to e-mail correspondence from the New Mexico Oil Conservation Division (NMOCD) dated February 19, 2020.
- b. **Specific request for enforcement discretion:** The temporary delay to installing the monitoring well downgradient and proximal to WDW-2.
- c. **Current Compliance Deadline:** April 17, 2020
- d. **Anticipated Duration:** Until at least May 1, 2020 or longer depending upon pandemic status.
- e. **Mitigation Measures, if applicable:** Not applicable
- f. **COVID-19 Impact:** The drilling activities require 3<sup>rd</sup> Party contractors to travel from out-of-state and stay within the vicinity of the Terminal for several days to complete the necessary field activities. These measures of deferment of field activities will reduce the density of personnel onsite and offsite, thus reducing potential exposure to critical operations personnel via 3<sup>rd</sup> party contractors.

#### 2. Quarterly Cylinder Gas Audits

- a. **Citations:** 40 CFR Part 60, Appendix B and QA/QC procedures of Appendix F; Title V Permit P024-R2M1
- b. **Facility Affected:** Bloomfield Terminal
- c. **Specific request for enforcement discretion:** The temporary suspension of quarterly cylinder gas audits of the Load Rack Vapor Recovery Unit CEMs unit (Unit TLR-1).
- d. **Current Compliance Deadline:** April 30, 2020
- e. **Anticipated Duration:** Until at least May 1, 2020 or longer depending upon pandemic status.
- f. **Mitigation Measures, if applicable:** Daily calibration checks will continue to be monitored to ensure monitored levels are within compliance tolerance.
- g. **COVID-19 Impact:** The CGA Audit would require a 3<sup>rd</sup> Party contractor to travel from out-of-state and stay within the vicinity of the Terminal to complete the necessary field activities. These measures of deferment of field activities will reduce the density of personnel onsite, thus reducing potential exposure to critical operations personnel via 3<sup>rd</sup> party contractors.

### 3. Hazardous Waste Removal Requirements

- a. **Citations:** 40 CFR 124, 264 through 268, 270; RCRA Section 3010
- b. **Specific request for enforcement discretion:** Extend the accumulation time limit to remove hazardous waste from the facility within 90 days for a large quantity generator or 180 days for a small quantity generator to avoid change in storage facility status as provided by 40 CFR 262.17(b) and 40 CFR 262.16(d).
- c. **Anticipated Duration:** Until at least May 1, 2020 or longer depending upon pandemic status.
- d. **Mitigation Measures:** Weekly inspections to ensure containers are in good condition.
- e. **COVID-19 Impact:** These measures will reduce potential contact or non-contact exposure to critical operations and/or maintenance personnel via 3<sup>rd</sup> party contractor.
- f. **Affected RCRA Permits:** Western Refining Southwest, Inc. – Bloomfield Terminal (WRB) EPA ID #: NMD089416416 New Mexico ID #: 2441

### 4. Groundwater Monitoring Programs

- a. **Citations:** Bloomfield Terminal Remediation. Giant Refining Company, Bloomfield Refinery Order No. HWB07-34(CO), EPA ID# NMD089416416.
- b. **Specific request for enforcement discretion:** The temporary cessation of routine monitoring of groundwater wells, collection of groundwater samples, and inspection of remediation systems. MPC would like to also request the elimination of the first sampling event (April) required by the Facility-wide Groundwater Monitoring Plan dated June 27, 2014. MPC will continue to plan for the August sample event.
- c. **Anticipated Duration:** Until at least May 1, 2020 or longer depending upon pandemic status.
- d. **Mitigation Measures, if applicable:** Groundwater collection systems, including recovery wells and conveyance systems necessary to treat recovered groundwater will remain in operation and repaired as needed.
- e. **COVID-19 Impact:** An effort to reduce potential contact or non-contact exposure to critical operations and/or maintenance personnel via 3<sup>rd</sup> party contractor.



**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  
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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

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