



March 26, 2020

Dear Alaskans,

With COVID-19 mitigation measures changing almost daily, I want to reassure the Alaska public that the Alaska Department of Environmental Conservation (ADEC) remains open for business. We are making COVID-19 related adjustments to our operations to protect your health and that of our staff and ask that you take advantage of the many tools available to help you conduct business with ADEC online, over the phone, or through the mail.

The ADEC, Division of Water (Division) recognizes the need to be communicative and flexible as it relates to wastewater treatment facilities, permit conditions, and compliance during this period of uncertainty.

Operators and permittees should continue to treat wastewater to permitted limits and sample according to permit conditions except in cases where doing so would unduly endanger operators or staff or these actions contradict applicable public health mandates by local, state, or federal agencies. Many wastewater discharges represent a clear human health risk and operators in wastewater treatment facilities still have a duty to comply to the extent they do not unduly endanger themselves, coworkers, or the community they serve. The Division is seeking a safe balance to protect human health from untreated discharges or treatment works failures while supporting efforts to limit the spread of COVID-19 in all communities in Alaska.

The ADEC/Division does not have the authority to waive permit requirements which are derived from the Code of Federal Regulations. If the Environmental Protection Agency (EPA) delegates emergency authority to the ADEC/Division, we will notify permittees accordingly. ADEC retains certain discretionary authority with respect to enforcement and when evaluating noncompliance will consider such force majeure events or other National Emergencies in the context of issued guidance for reasonable precautions to prevent the spread of COVID-19 or in protection of at-risk individuals.

Effective today through June 1, 2020, the ADEC/Division issues this as a No Action Assurance Memorandum on enforcement for qualifying events where compliance with permit requirements would violate guidance on COVID-19. Permittees must continue to self-report noncompliance and to be considered a qualifying event the permittee must maintain documentation which clearly demonstrates the event has a causal relationship with COVID-19. If noncompliance with permit conditions occurs, including, but not limited to sampling, monitoring, effluent limits, flow limits, or minimum treatment, permittees shall document these events using a Non-Compliance Notification (NCN) Form. The NCN policy and procedures are included in every permit in the Standard Conditions. The Noncompliance Form and additional guidance for NCN reporting is available at

<https://dec.alaska.gov/water/compliance/permittee/>. Permittees should explain the circumstances of the event, and if it is COVID-19 related, specify so in comments.

The Department is communicating with the EPA to ensure we remain up to date with current guidance or exemption criteria. We intend to be no more stringent than EPA, but we cannot offer exemptions, extensions, or assurances for enforcement discretion where we lack authority to do so. We intend to use what discretion we have for credibly qualifying circumstances and will follow the lead and work closely with EPA.

If guidance on travel restrictions, social distancing, quarantine or isolation make compliance by June 1, 2020 difficult, the ADEC may extend this No Action Assurance Memorandum for documented qualifying events. Any such extension will be written and provided to you in a similar manner to this notification.

If you have questions, please be assured the Division is still responsive to your phone calls and e-mails. Many of our employees are working remotely to comply with suggestions to help prevent the spread of COVID-19 and remain able to assist you in a timely manner. Please contact us:

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As the COVID-19 situation continues to evolve, the ADEC/Division may issue additional guidance to address further questions or situations that arise related to water quality requirements and permit compliance.

Sincerely,



Tiffany Larson
Water Quality, Compliance & Enforcement Program Manager