



ANDY BESHEAR
GOVERNOR

REBECCA W. GOODMAN
SECRETARY

ANTHONY R. HATTON
COMMISSIONER

**ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

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MEMORANDUM

TO: DEP Staff, for dissemination

FROM: Rebecca Goodman, Secretary, Energy and Environment Cabinet

DATE: June 1, 2020

Re: COVID-19, State of Emergency
Requests for Temporary Regulatory Flexibility

As a result of the continuing COVID-19 public health emergency and pursuant to the authority delegated to me pursuant to KRS Chapter 39A and the Governor's Executive Orders, including, but not limited to, Executive Orders 2020-243 and 2020-257, having been duly advised by the staff of the Department for Environmental Protection, I am hereby extending the provisions outlined in the attached Memorandum regarding COVID-19, State of Emergency Requests for Temporary Regulatory Flexibility through August 31, 2020.

Regulatory Compliance Impacts from COVID-19

With the onset of the coronavirus (COVID-19) and the Governor's declaration of a state of emergency in the Commonwealth, the Kentucky Department for Environmental Protection (DEP) is aware that regulated entities may be impacted by COVID-19 such that maintaining normal operations at some facilities may be difficult. While all regulated entities remain obligated to ensure compliance with environmental statutes, regulations, and permit requirements to protect the health and safety of the Commonwealth, DEP is aware that some entities may have issues of noncompliance that are caused by COVID-19. In those situations, DEP is advising regulated entities to document those impacts and your efforts to comply. Where adequate documentation is provided, DEP will consider using enforcement discretion to allow regulatory flexibility, such as extending reporting or sampling deadlines, waiving late fees, or taking other actions not incompatible with protection of human health, the environment, and public safety. Such documentation should, at a minimum, include the following:

- 1) The specific regulatory or permit requirement not complied with;
- 2) A concise statement describing how the COVID emergency prevents compliance;
- 3) The duration of time that the noncompliance has persisted or will persist; and
- 4) The measures taken to mitigate any negative impacts on public health and the environment from any noncompliance.

DEP recommends that regulated entities maintain any such documentation on site at your facility. If an entity finds it necessary to seek regulatory flexibility, it may submit such request, with accompanying documentation, by completing the attached form and sending it to EECCovidRequest@ky.gov or mail to:

John Lyons, Deputy Commissioner
Department for Environmental Protection
300 Sower Boulevard
Frankfort, KY 40601

Sincerely,



Rebecca W. Goodman
Secretary