

COVID-19 ENVIRONMENTAL REGULATORY FLEXIBILITY: A SURVEY OF 7 SELECTED STATES

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On March 26, 2020, EPA issued its *Implications for EPA’s Enforcement and Compliance Assurance Program* wherein the Agency detailed how it intends to carry out its enforcement activities during the on-going COVID-19 pandemic. State environmental agencies have since followed suit with their own guidance. The following chart provides a snapshot of this activity for a sampling of states. (*Author’s Note: These are the states with which I have had the most experience during my legal career.*) The broad strokes associated with these actions have a number of common features, but there is quite a bit of variety in tone, tenor and scope.

Keep in mind that this is only a snapshot. The state-level activity has been evolving rapidly, particularly since March 26th when EPA issued the Implications Guidance. A number of state environmental agencies now have their own COVID-19 webpages. These resources should be consulted regularly.

State Agency	Description of Action	Highlights	Links
Georgia Environmental Protection Division (GEPD)	GEPD issued its <i>Response to Questions about COVID-19 Implications for EPD’s Compliance and Enforcement</i> on March 31, 2020	Explicit response to the issuance of EPA’s guidance. GEPD indicates that it will apply the framework described in EPA’s guidance, but reserves the right to set a different termination date for state enforcement.	The link to the <i>Response to Questions</i> can be found on Georgia GEPD’s home page: https://epd.georgia.gov/

South Carolina Department of Health and Environmental Control (SCDHEC)	SCDHEC established a <i>Environmental Regulatory Assistance (COVID-19)</i> webpage	Webpage addresses specific compliance and enforcement issues in detail. Special e-mail address for requests for regulatory relief. Staff members to respond to such requests by end of the next business day.	The link to the <i>Environmental Regulatory Assistance (COVID-19)</i> webpage is: https://www.scdhec.gov/environmental-regulatory-assistance-covid-19 Special e-mail address for requests for regulatory relief is: environmentalcompliance@dhec.sc.gov
North Carolina Department of Environmental Quality (NCDEQ)	NCDEQ issued <i>Memo: State Environmental Enforcement during COVID-19</i> on March 30, 2020	Memo contains a brief statement noting, among other things, that NCDEQ will “work with regulated entities to ensure they remain in compliance...” and that they will “pursue enforcement actions on a case-by-case basis.”	The link to the <i>Memo</i> is: https://deq.nc.gov/news/press-releases/2020/03/30/memo-state-environmental-enforcement-during-covid-19
Louisiana Department of Environmental Quality (LDEQ)	LDEQ issued the <i>Third Amended Declaration of Emergency and Administrative Order</i> on April 3, 2020	The first administrative order was issued on March 11, 2020. The <i>Third Amended Order</i> addresses records management, late fees, and public participation, among other things.	The link to the <i>Administrative Order</i> is: https://www.deq.louisiana.gov/assets/docs/COVID-19/Third-Amended-Declaration-of-Emergency-COVID-19-04-03-20.pdf The link for LDEQ’s COVID-19 Information webpage is: https://www.deq.louisiana.gov/page/covid19
Texas Commission on Environmental Quality (TCEQ)	TCEQ has made several resources available in response to the COVID-19 crisis, including a webpage entitled <i>TCEQ</i>	The <i>TCEQ Regulatory Guidance</i> webpage provides a directory of webpages where guidance can be found on topics	The link for the <i>TCEQ Regulatory Guidance</i> webpage is: https://www.tceq.texas.gov/response/covid-19/tceq-preparedness-responsibilities-covid-19 The link to the April 6 th memo (pdf version) is:

	<p><i>Regulatory Guidance: Coronavirus Disease 2019 (COVID-10).</i> In addition, TCEQ issued a memo on April 6, 2020 addressing its enforcement activities in response to the COVID-19 pandemic</p>	<p>including reporting requirements and the handling of permit applications during the COVID-19 crisis.</p>	<p>https://www.tceq.texas.gov/downloads/respone/covid-19/chairman-niermann-open-letter-on-pandemic-response-04-06-2020.pdf</p>
<p>Mississippi Department of Environmental Quality (MDEQ)</p>	<p>MDEQ issued a Memorandum entitled <i>Guidance to the Regulated Community Regarding Compliance with Regulatory Requirements During the COVID-19 Pandemic</i> on April 2, 2020</p>	<p>The <i>Guidance</i> covers compliance with regulatory requirements, the extension of deadlines for certain permit renewal applications, and electronic submission of documents, among other topics.</p>	<p>The link to the <i>Guidance</i> is: https://www.mdeq.ms.gov/wp-content/uploads/2020/04/COVID-19-MDEQ-Guidance-Document.pdf</p>
<p>West Virginia Department of Environmental Protection (WVDEP)</p>	<p>On March 27, 2020, WVDEP posted a statement on its News and Announcements webpage entitled <i>WVDEP Still Enforcing all Applicable Rules and Regulations Amid COVID-19 Pandemic</i></p>	<p>This statement is essentially a response to EPA’s COVID-19 enforcement guidance. Among other things, WVDEP advises that facilities with compliance issues should contact WVDEP and follow EPA’s COVID-19 enforcement guidance.</p>	<p>The link to WVDEP’s statement is: https://dep.wv.gov/news/Pages/WVDEP-still-enforcing-all-applicable-rules-and-regulations-amid-COVID-19-pandemic.aspx</p>