

CLIENT ALERT

Status of Operations: U.S. Environmental Protection Agency and Select State Environmental Agencies

MARCH 19, 2020

I. OVERVIEW

Effective March 19, 2020, this memorandum seeks to provide an update as to the steps the U.S. Environmental Protection Agency (“EPA” or “Agency”) and select state environmental agencies have taken in response to the COVID-19 pandemic.

II. U.S. ENVIRONMENTAL PROTECTION AGENCY

EPA has taken the following actions to mitigate the spread of COVID-19:

- EPA authorized voluntary unscheduled leave and telework for all eligible employees nationwide beginning March 16, 2020, until at least April 4, 2020. While not rising to the level of a mandatory telework policy, this policy is consistent with guidance issued on March 15, 2020, by the White House Office of Management and Budget to all Federal Executive Branch departments and agencies within the National Capital Region.
- On March 13, 2020, EPA released an expanded list of EPA-registered disinfectant products that have qualified for use against SARS-CoV-2, the novel virus that causes COVID-19. The announcement followed EPA’s March 9, 2020 statement that the Agency is expediting the review of submissions from companies requesting to add Emerging Viral Pathogens claims to their already-registered surface disinfectant labels.

While many EPA employees are telecommuting, at present, EPA offices remain open. EPA’s work, including rulemaking efforts, continues via remote access. However, telecommuting measures may delay the time required for EPA to review and act upon a wide range of Agency matters. In addition, in response to CDC’s guidance to avoid gatherings of 50 people or more for the next eight weeks and the White House’s call to limit gatherings to 10 people, EPA is postponing or canceling public meetings or holding public hearings and meetings via remote access.

III. SELECT STATE ENVIRONMENTAL AGENCIES

Like EPA, state environmental agencies are making efforts to mitigate the spread of COVID-19 by instituting telecommuting and postponing or canceling public hearings and meetings or moving public meetings and hearings online. Some state agencies have also announced remote work policies. For the latest, visit your state environmental agency website. We provide a few examples of recent announcements.

a. Illinois Environmental Protection Agency (IEPA)

- On March 15, 2020, Governor Pritzker directed state agencies to temporarily reduce activities and workforce to core mission functions and essential operations, encouraging working remotely where possible.
- IEPA Director John Kim stated that all “critical functions” of IEPA would continue, but that permitting and other “paper” transactions would not be taking place, that extensions would be sought on deadlines regarding pending cases, and that field staff would likely not be performing routine periodic inspections.

b. California Environmental Protection Agency (CalEPA)

- In-person services are not currently available at California Air Resource Board (CARB) locations. Staff remain available to provide assistance via email and phone.
- COVID-19 has resulted in the cancellation of California State Water Board Meetings, though Water Boards are continuing day-to-day work.

c. New Jersey Department of Environmental Protection (NJDEP)

- On March 15, 2020, Governor Murphy’s office announced all state employees will have the option to work from home.

d. New York State Department of Environmental Conservation (NYSDEC)

- On March 16, 2020, Governor Cuomo directed all non-essential state employees, including NYSDEC personnel, in Rockland, Westchester, New York City, Suffolk, Nassau to stop reporting to their offices for a minimum of two weeks.
- On March 18, 2020, Governor Cuomo issued an executive order directing non-essential businesses to implement work-from-home policies effective Friday, March 20. Businesses that rely on in-office personnel must decrease their in-office workforce by 75 percent.

IV. REGULATORY AND CONSENT DECREE DEADLINES

EPA has not formally addressed relaxation of any upcoming regulatory deadlines and requirements or any deadlines required pursuant to any consent decree or order. In the event COVID-19 prevents compliance with regulatory requirements and deadlines, the relevant regulatory provisions and permits should be reviewed and notice should be provided to EPA or the relevant state agency. Any deadlines in any pending administrative consent orders or decrees should be reviewed for applicable force majeure provisions and notice should be provided pursuant to such provisions to EPA, or the relevant state agency. There may be other legal bases to extend regulatory deadlines that should be evaluated on a case-by-case basis.

Please do not hesitate to contact Eleni Kouimelis (312-558-5133, ekouimel@winston.com) or your Winston relationship attorney if you have any questions. We will continue to provide updates as the situation evolves.

View all of our COVID-19 perspectives [here](#). Contact a member of our COVID-19 Legal Task Force [here](#).

3 Min Read

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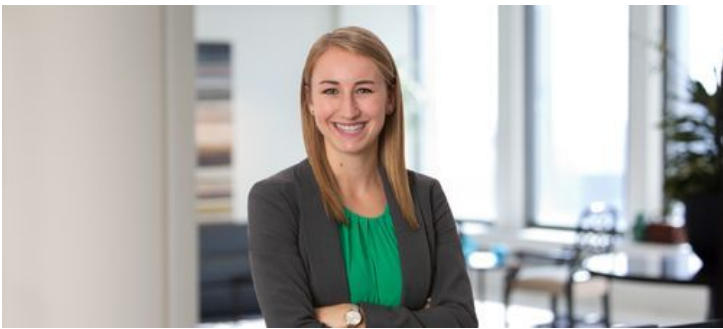
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Eleni Kouimelis



Madalyn Brown Feiger