|  | Massachusetts Department of Environmental Protection  Bureau of Water Resources – Drinking Water Program  **Required documentation for any failure to comply with a requirement as a result of the COVID-19 Declared Emergency** | | | | | City/Town    PWS Name    PWS ID # |
| --- | --- | --- | --- | --- | --- | --- |
|  | Purpose | | | | | |
|  | **This form must be completed by the Public Water Supplier (PWS) to document any non-compliance as a result of the COVID-19 State of Emergency.** PWSs must prove that there has not been an intentional lapse in compliance; but that noncompliance was a result of issues related to the COVID-19 emergency and were outside of the facilities' control. Noncompliance means the PWS violated an enforceable standard. This documentation is required to acknowledge the violation, note it was due to the COVID-19 pandemic and therefore will not result in MassDEP-issued enforcement action (such as a Notice of Noncompliance to the PWS). | | | | | |
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|  | **Background** | | | | | |
| For questions contact your Regional Drinking Water Program contact or email [Program.director-dwp@mass.gov](mailto:Program.director-dwp@mass.gov). | On March 26, 2020, USEPA Assistant Administrator for Enforcement and Compliance Assurance (OECA), Susan Bodine, signed a memo announcing a “temporary policy regarding EPA enforcement of environmental legal obligations during this time.” EPA's policy is that US EPA will exercise enforcement discretion with respect to assessing civil penalties for noncompliance with federal environmental permits, regulations, and statutes that occur as a result of the coronavirus (COVID-19) pandemic. Regulated entities must take the steps outlined in the policy to qualify for EPA’s enforcement discretion. EPA acknowledged potential worker and contractor shortages, as well as travel issues, because of COVID-19-related government orders and recommendations could impact compliance. In addition, EPA acknowledged that these consequences may affect the ability of an organization to meet enforceable limitations on the requirements to ensure and provide safe drinking water. The USEPA OECA Enforcement Discretion Policy will be retroactively applied to March 13, 2020 and is available at [https://www.epa.gov/sites/production/files/2020-3/documents/oecamemooncovid19implications.pdf](https://www.epa.gov/sites/production/files/2020-03/documents/oecamemooncovid19implications.pdf).  For public water systems regulated under the Safe Drinking Water Act, the policy says “EPA indicated in this memorandum that public water systems have a heightened responsibility to protect public health and should maintain normal operations, maintenance, and required sampling. In the case of worker shortages and laboratory capacity problems, EPA stated that continued operations of drinking water supplies will be of the highest priority, with compliance monitoring prioritized in the following order of importance:   * microbial pathogens * nitrate/nitrite * lead and copper rule * contaminants for which the system has been non-compliant | | | | | |
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|  | MassDEP Actions and PWS Instructions | | | | | |
|  | MassDEP is required to note and report all drinking water violations to the US EPA. In addition, if a PWS provides MassDEP with documentation that the non-compliance was attributed to COVID-19 issues and beyond the PWS control, MassDEP will report such information to US EPA and work with the system on appropriate return to compliance actions, including public notification and consumer confidence reporting, as applicable. Providing public notice and consumer reporting of the violations are ongoing requirements for PWS to meet, as noted by the USEPA memo and policy. Those notices/reports provide the PWS the opportunity to explain the relevant circumstances of the COVID-19 pandemic.  **If your non-compliance was related to COVID-19 and outside of your control, please complete, scan, and return this form by email attachment to** [**program.director-dwp@mass.gov**](mailto:program.director-dwp@mass.gov) **Subject: COVID-19 Non-compliance.** | | | | | |
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|  | A. Date(s) of Non-compliance (Date violation occurred and/or date range) | | | | | |
| **Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key. | Date(s): |  | | | | |
| B. Description of Non-compliance | | | | | |
| Name of PWS representative: | |  | | | |
| I hereby certify that the public water system named in this form on the date(s) listed in section A, failed to comply with the following requirement due to COVID-19: *[Insert violation(s)]* | | | | | |
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| C. Describe the cause of the non-compliance | | | | | |
|  | **Identify how COVID-19 was the cause of the non-compliance and outside of your control.** | | | | | |
|  | *[Insert a detailed explanation of the COVID-19-related reason claimed to justify the facility’s non-compliance with monitoring, reporting, testing, sampling, inspection, or certification.]* | | | | | |
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|  | D. Steps your system took | | | | | |
|  | **Describe the steps your system took to minimize the effects and duration of non-compliance.** | | | | | |
|  | *[List any steps needed to return to compliance, with dates.]* | | | | | |
|  | Step | | | | Date(s) | |
|  | Step | | | | Date(s) | |
|  | Step | | | | Date(s) | |
|  | E. Actions taken in response to non-compliance | | | | | |
|  | *[List a thorough description of the good-faith efforts being made to return to compliance with the requirements as quickly as possible.]* | | | | | |
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|  | F. Certification *[to be completed by PW, owner, operator, or responsible party]* | | | | | |
|  | I attest to the accuracy of the above and certify under penalty of law that I am duly authorized to complete and submit this form on behalf of the public water system identified above, and that the information contained herein is true, accurate and complete to the best of my knowledge and belief. I understand that MassDEP will record and report this violation and documentation to US EPA. | | | | | |
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|  |  | | |  | | |
|  | Signature | | | Date | | |
|  | Print Name | | | Title | | |
|  | Phone # | | | Email Address | | |