

## **DEP Issues New Guidance On Inspections, Permit Enforcement, Waivers Of Permit, Regulatory Provisions During COVID-19 Pandemic**



The Department of Environmental Protection [posted new guidance on its website](#) outlining a series of actions it is taking during the COVID-19 pandemic related to inspections, permits enforcement and considering enforcement waivers.

### **Inspections/Responding To Complaints**

To limit exposure to and spread of the virus, DEP is currently prioritizing field inspections that are critical to public health and safety.

DEP staff are working remotely, and responding to complaints related to issues critical to public health and safety.

DEP will continue to respond in the field to environmental emergencies that present an immediate threat to public health and safety.

**To report environmental emergencies, please call  
1-800-541-2050.**

Conditions related to the COVID-19 pandemic are constantly evolving. DEP is closely monitoring the situation and working to make the best decisions to protect public health and safety and the environment. As conditions of the COVID-19 pandemic evolve, it may become necessary for DEP to make operational changes to compensate.

## **Permit Holders**

Entities operating under a DEP permit that have ceased or suspended operations or construction, please refer to your permit terms and conditions, as they contain regulatory obligations and details regarding cessation or temporary stoppage of work.

This includes, but is not limited to, Chapter 102 earth disturbance permits and Chapter 105 encroachment permits.

Permittees or operators with questions about specific permit or operating conditions should contact the entities identified on their permit or cover letter.

If a point of contact is not provided in the permit or cover letter, a [current DEP directory can be found here](#).

## **Chapter 102 Erosion & Sedimentation Permit Holders**

**-- For Life Sustaining Businesses:** Permittees and operators who are considered “life sustaining businesses” as set forth in Governor Tom Wolf’s March 19, 2020, Order may continue to conduct permitted earth disturbance activities to the extent that those earth disturbance activities are in support of the operation of the life sustaining business.

If earth disturbance activities are conducted, the permittee must remain in compliance with all terms and conditions of any applicable permit.

**-- For Non-Life Sustaining Businesses:** Permittees and operators who are not considered “life sustaining businesses” as set forth in the Governor’s Order must, pursuant to the Governor’s Order, cease earth disturbance activities.

Per 25 Pa. Code § 102.22 and the terms and conditions of their permit, including any approved plans, permittees ceasing earth disturbance activities must immediately implement temporary or permanent stabilization practices in accordance with approved permit plans and conditions and the stabilization standards outlined in the Erosion and Sediment Control Program Manual.

In recognition of the Governor's directive to implement social distancing, permittees may, upon temporary or permanent stabilization, cease performing weekly Routine Inspections as otherwise required by their permit.

Permittees must continue to conduct other inspections required by their permit, including Post-Storm Event Inspections and Corrective Action Inspections as set forth in their permit.

Required site inspections of permitted activities by permittees are considered critical operational functions and will not be considered to be out of compliance with the Governor's Order.

Permittees and operators are reminded to limit on-site personnel, and in all cases follow social distancing and COVID-19 mitigation guidance provided by the PA Department of Health and CDC.

The cessation of Routine Inspections as set forth herein is not a limitation of, or defense to, liability for injury to private property or invasion of personal rights.

Permittees must continue to comply with all other permit terms and conditions, including, but not limited to, the requirement to take immediate action to restore, repair, or replace the BMP or to provide an alternative method of treatment upon reduction, loss, or failure of any BMP.

### **Storage Tank Inspections/Installations**

Please see the following guidance for underground storage tanks inspections and installation during the COVID response: [Tank Inspections and Installations During COVID-19 Response](#)

## **Requesting Suspension Of Regulation/Permit Condition**

In accordance with Gov. Wolf's Proclamation of Disaster Emergency of March 6, 2020 and the Governor's powers pursuant to the Emergency Management Code, 35 Pa.C.S. §7301, the Governor has authority to suspend regulatory obligations and other legal obligations within his jurisdiction where strict compliance will prevent, hinder, or delay necessary action in coping with the COVID-19 emergency.

To request a temporary suspension of regulatory requirements and/or permit conditions, [fill out this form](#) and submit to: [RA-EPCOVID19SuspReq@pa.gov](mailto:RA-EPCOVID19SuspReq@pa.gov).

If you are requesting suspension of a Federal requirement, under only Federal authority, please contact US EPA Region III and refer to the US EPA March 26, 2020 Memorandum ([COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program](#)).

To the extent the request relates to a federal program delegated to Pennsylvania, Pennsylvania will review requests submitted in this format.

### **Permit Review Times Suspended**

DEP is suspending the timeframes for providing permit decisions established in the Policy for Implementing the Department of Environmental Protection Permit Review Process and Permit Decision Guarantee due to the office closures related to COVID-19.

Please note that DEP staff will continue to process received permit applications.

However; due to operational conditions, applicants may experience delays receiving decisions.

Applicants may also experience delays in receiving permit decisions where the applications

DEP will provide emergency authorizations for projects that are critical to public health and safety.

### **Right To Know Law**

As of March 16, 2020, the Rachel Carson State Office Building was closed in accordance with Governor Tom Wolf's guidance on COVID-19 mitigation.

Any requests for public records submitted to DEP on or after March 16, 2020 will be deemed to have been received by the DEP's open-records officer on the first day of the reopening of the Rachel Carson State Office Building.

Please note that the Pennsylvania Office of Open Records issued a statement indicating that "if an agency is closed on a given day, that day does not count toward the five business days referenced in Section 901 of the Right-to-Know Law, which governs the time period under which an agency must respond to a request."

### **Notice Of Legal Actions**

For questions about service of process, please contact Joseph Iole at [RA-EPOCC@pa.gov](mailto:RA-EPOCC@pa.gov) or call 814-450-3620.

For more information on this guidance and updates, visit [DEP's Alert](#) webpage.

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