

TO County Conservation Districts

FROM Aneca Atkinson
Deputy Secretary *Aneca G. Atkinson*
Office of Water Programs

DATE March 26, 2020

RE Site Inspections and Compliance During COVID-19

The following provides a summary of the current guidance from the Department of Environmental Protection (DEP or Department) regarding site inspections by County Conservation Districts who have delegated authority during the COVID-19 public health emergency. Please note that this is subject to change as the situation evolves.

To limit exposure to and spread of the virus, Conservation Districts should only perform field inspections that are critical to public health and safety. Conservation District staff who are able to work remotely or by other acceptable means should continue to review plan and permit application submissions, routine correspondence, phone contacts, record checks, etc. Complaints that can be investigated and/or resolved through remote means, such as email or phone communication with permittees and operators, should be addressed in that manner.

Conservation District staff working remotely should perform complaint inspections upon receipt of complaints related to issues critical to public health and safety. Conservation District staff who are unable to work remotely should refer all delegated complaint inspections to the appropriate DEP Regional Office. Conservation Districts should provide instructions to the public regarding this guidance and their interim operations on their websites. Questions regarding issues critical to public health and safety should be directed to the appropriate DEP Regional Office.

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

Earthmoving activities related to emergency repairs authorized under the Governor's Executive Order must meet all the regulatory requirements of 25 Pa. Code Chapter 102, and Chapter 105. Questions regarding emergency authorizations should be directed to the appropriate DEP Regional Office. Where possible, DEP recommends that Conservation Districts reach out to permittees and operators of active sites to inform them of this guidance.

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.

Finally, conservation district staff are reminded that they are required to comply with the provisions of any Continuity of Operations Plan (COOP) issued by their county government and or their county conservation district. If the provisions of a locally implemented COOP plan prevent conservation district staff from fulfilling the site inspection and compliant response duties outlined above, they should contact their Program Manager in their DEP Regional Office to discuss how these Site Inspection and Compliant Response duties can be covered.

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, available at <https://www.governor.pa.gov> (the “Governor’s 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.