

NPDES and WQM Permit Compliance During COVID-19 Pandemic Emergency Declaration

Frequently Asked Questions (FAQ) May 6, 2020

The Department of Environmental Protection (DEP), along with all Commonwealth agencies, has closed its offices in response to the novel coronavirus outbreak (COVID-19) in the U.S. and Pennsylvania. Employees are generally teleworking from home and are continuing to provide service and assistance to the regulated community and public, although some delays may be expected. Governor Wolf has also ordered non-life sustaining businesses to close and certain residents to remain at home, with exceptions.

DEP has received numerous questions from persons with National Pollutant Discharge Elimination System (NPDES) and Water Quality Management (WQM) permits concerning DEP's expectations for permit compliance during this time. This FAQ document addresses the key questions that have been asked and will be updated as additional decisions are made and as circumstances change.

Nothing in this document affects regulatory requirements. The interpretations herein are not an adjudication or a regulation. There is no intent on the part of DEP to give the interpretations in this document that weight or deference. This document provides a framework within which DEP will exercise administrative discretion in the future. DEP reserves the discretion to deviate from the interpretations in this document if circumstances warrant.

FAQ #1: How can I remain up to date on DEP's general guidance during this pandemic?

The regulated community is encouraged to check www.dep.pa.gov/Pages/AlertDetails.aspx (DEP's Alert Details website) periodically for general updates from DEP during the pandemic.

FAQ #2: Can DEP advise me if my business is considered life sustaining?

No. If you have questions concerning whether your business is authorized to continue to operate during the emergency declaration, please visit the Pennsylvania Department of Community and Economic Development's (DCED's) website at <https://dced.pa.gov>.

FAQ #3: Do I need to continue complying with my NPDES and WQM permits during this emergency declaration period?

Yes, DEP expects that you continue to comply with all permit requirements in a manner that is safe for you, your operators, tenants, employees, and contractors, and does not run counter to orders made by the governor or your local officials. In these challenging times it is of paramount importance that we continue to do our best to effectively treat water and wastewater to ensure continued protection of human health and the environment.

However, if you legitimately cannot comply with a requirement of your permit because doing so would place you or those referenced above in jeopardy of health or of violating orders issued by authorities, you should submit a *COVID-19-Emergency Request to Temporarily Suspend Regulatory Requirements and/or Permit Conditions*. The instructions and form are available on DEP’s Alert Details website at www.dep.pa.gov/Pages/AlertDetails.aspx.

For requests to modify requirements in an executed administrative order or agreement, contact the DEP staff or counsel that previously worked with you on the order or agreement to address this issue.

FAQ #4: How do I contact DEP with questions or notifications, other than requests for temporary suspension of regulatory requirements?

For non-emergency questions and notifications (i.e., where there is no immediate threat to human health or the environment), you may email DEP at one of the following resource accounts:

DEP Office	Resource Account
Southeast Regional Office	RA-EPNPDES_SERO@pa.gov
Northeast Regional Office	RA-EPNPDES_NERO@pa.gov
Southcentral Regional Office	RA-EPNPDES_SCRO@pa.gov
Northcentral Regional Office	RA-EPNPDES_NCRO@pa.gov
Southwest Regional Office	RA-EPNPDES_SWRO@pa.gov
Northwest Regional Office	RA-EPNPDES_NWRO@pa.gov
Bureau of Clean Water (Central Office)	RA-EPNPDES_Permits@pa.gov

For emergency notifications, you should contact DEP using one of the contact numbers on DEP’s Report an Incident website at www.dep.pa.gov/About/ReportanIncident/Pages/default.aspx.

FAQ #5: Is DEP offering any compliance relief on permit obligations?

Yes. DEP is, through its administrative discretion, providing a 90-day extension to submit any of the following to DEP **when a facility or activity has been determined to be non-life sustaining in accordance with the Governor’s guidelines:**

- Individual NPDES and WQM permit renewal applications that are due between April 1 and June 30, 2020 (i.e., DEP is granting permission to submit renewal applications no later than 90 days prior to the permit expiration date, where normally the requirement is no later than 180 days prior to the permit expiration date).
- General NPDES Permit Annual Reports that are due between April 1 and June 30, 2020 (this applies to PAG-03 Annual Reports normally due May 1 each year, in which the deadline has been extended

to August 1, and to PAG-04 Annual Maintenance Reports, normally due June 30 each year, in which the deadline has been extended to September 30).

- Interim and final compliance schedule milestones as well as other reports (e.g., Toxics Reduction Evaluation reports) in NPDES and WQM permits, *other than interim and final effluent limitations*, that are due between April 1 and June 30, 2020 (i.e., the modified deadline is 90 days following the date specified in the permit).

For non-life sustaining businesses, submission of applications to modify permits is unnecessary to reflect the extensions identified above. Also, non-life sustaining businesses do not need to notify DEP that an extension will be utilized, and do not need to submit a Temporary Suspension Request as described above. Note that the extension does not apply to annual fees for NPDES permits that are due on or after April 1, 2020.

For life-sustaining businesses, including wastewater treatment facilities, a Temporary Suspension Request will be necessary for any DEP consideration of suspending a permit requirement.

FAQ #6: How should I notify DEP of non-compliance after it occurs or is discovered, such as an inability to conduct sampling as required by the permit?

Permittees should continue to submit the [Non-Compliance Reporting Form \(3800-FM-BCW0440\)](#) to DEP to report instances of non-compliance. Completed forms should be submitted with Discharge Monitoring Report (DMRs) or as otherwise specified in permits. If the COVID-19 response had any influence on the non-compliance, please identify this clearly on the form.

FAQ #7: How should I report missing eDMR data due to COVID-19 pandemic?

On March 31, 2020, US EPA advised Pennsylvania, an authorized NPDES Program, that it had created a new No Data Indicator (NODI) code, NODI code “Z,” COVID-19, that permittees and authorized NPDES Programs could use in connection with NPDES reporting requirements that are tracked in EPA’s Integrated Compliance Information System for the NPDES program (ICIS-NPDES) if data is missing because of the COVID-19 pandemic, in order to avoid the automatic generation of DMR non-receipt violations.

Pennsylvania NPDES permittees may only use NODI code “Z” if and when they receive approval of their request to temporarily suspend regulatory requirements and/or permit conditions. Pennsylvania permittees may not use NODI code “Z” in the absence of this approval. Application for temporary suspension can be made by filling out the temporary suspension of regulatory requirements and/or permit conditions form and submitting it to RA-EPCOVID19SuspReq@pa.gov.

FAQ #8: My coverage under PAG-02 is expiring and I have not been able to complete the necessary work to submit a Notice of Termination. What should I do?

Permittees who anticipated that their projects would be complete prior to the COVID-19 emergency may now find that they are unable to finish the project and submit a Notice of Termination prior to the expiration of their existing coverage. By the time construction projects were ordered to cease operating in

March, the window for submission of a renewal NOI (180 days prior to expiration) for some permittees may have already passed. In recognition of this unanticipated occurrence, and in an effort to allow these projects to be completed in a timely and appropriate manner, DEP provides the following guidance.

PAG-02 covered permittees whose coverage is set to expire between now and June 30, 2020, should submit a renewal NOI, and DEP will consider it to be timely if it is submitted prior to the date that the permittee's coverage is set to expire. DEP will inform those permittees about the applicability of any administrative extension upon receipt of the NOI. For permittees with coverage set to expire on or after July 1, 2020, but prior to December 1, 2020, DEP will consider the submission of a renewal NOI to be timely if it is submitted no less than 60 days prior to the date that the permittee's coverage is set to expire. Permittees whose coverage is set to expire on or after December 1, 2020, are expected to submit a renewal NOI no later than 180 days prior to expiration, and are encouraged to consider the impact of potential further work delays due to COVID-19.

For permittees whose coverage expired prior to the date of this announcement, they are encouraged to contact their conservation district or DEP regional office for direction.

Version History

Date	Version	Revision Reason
5/6/2020	1.0	Original