

COVID-19-Emergency Request to Temporarily Suspend  
Regulatory Requirements and/or Permit Conditions

In accordance with Governor 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.

\*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.

Submit completed and signed requests to the email resource account:  
[RA-EPCOVID19SuspReq@pa.gov](mailto:RA-EPCOVID19SuspReq@pa.gov)

All questions must be completed; if not applicable, type “N/A”.

<b>Background</b>
<p>A. Identify the Regulated Entity or Permittee, including an address for the location of the permitted or regulated activity (if no address, DEP Permit No. can be used), business mailing address, and a point of contact for this request with email and phone number.</p> <p><i>East Penn Manufacturing Co., Inc. (EPM) Secondary Lead Smelter P.O. Box 147 Deka Road Lyons, PA 19536</i></p> <p><i>Contact: Eric Peffel Manager of Air Quality and Solid Waste Programs (610) 682-6361 (ext.) 2498 epeffel@dekabatteries.com</i></p>
<p>B. Describe what permitted or regulated activity you are engaged in.</p> <p><i>Secondary Lead Smelting</i></p>
<p>C. If you were issued a permit by DEP for the permitted or regulated activity described above, identify the type of permit and permit number. Please list the DEP Office, Conservation District, Oil and Gas District Office, or District Mining Office that issued the permit or authorization.</p> <p><i>Title V Operating Permit No. 06-05040 issued by the Pennsylvania Department of Environmental Protection (PADEP) Southcentral Region Office.</i></p>
<p>D. Identify what regulatory requirement(s) or permit condition(s) or other requirement(s) you seek a temporary suspension of. Please cite the specific regulatory</p>

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requirement(s), condition(s) and/or other requirement(s).

*TVOP No. 06-05040, Section E, Source Group 02 Lead MACT, Condition #001, #002, #003, and #006. EPM is providing notice to PADEP that the 40 CFR Part 63 Subpart X - National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Lead Smelting performance testing program at the EPM Secondary Lead Smelter required by §63.543(g)(1) and (2), §63.543(h), and §63.543(i) will not occur as originally scheduled during the period of May 4th through May 8th, 2020. As a result, the performance test program will not occur within the 24-month timeframe required by §63.543(g)(2) (i.e., by end of June 2020). EPM has historically qualified for reduced performance test frequency (i.e., every 24-months vs. every 12-months) based on actual measured emissions during a compliance test less than the levels specified at §63.543(g)(2) and §63.543(h).*

**Reasons for Requested Suspension**

For each regulatory requirement or permit condition or requirement listed above, please state clearly why you are seeking the temporary suspension, addressing at least the following in detail:

- A. How will strict compliance with the subject requirement(s) prevent, hinder, or delay necessary action in coping with the COVID-19 emergency? Be as specific as possible.

*N/A*

- B. How has COVID-19 restricted your ability to comply with the environmental regulatory requirement, permit condition or other requirements for which you are seeking a suspension?

*The consequences of the COVID-19 pandemic are constraining the ability of EPM to operate under normal conditions and, as a result, is impacting the ability of the facility to perform routine compliance testing under Subpart X. Several factors are contributing to this situation which include but are not limited to contractor access to the site, social distancing, worker shortages and the uncertainties of how the COVID-19 pandemic may influence future site operations.*

- C. What other aspects or parts of your operation(s) are being shut down or are not functioning due to the COVID-19 restrictions? And, are you requesting any suspensions or waiver(s) from other government agencies? If so, from what agencies and for what requirements?

*Certain manufacturing operations at the EPM Campus are operating at less than 100% capacity to promote social distancing in response to the COVID-19 pandemic. On April 13, 2020, EPM submitted a notice to PADEP and U.S. EPA Region 3 under the provisions of the "COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program" memorandum of March 26, 2020. The April 13,*

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<p><i>2020 notice was regarding delays in performance testing at the EPM Secondary Lead Smelter required by §63.543(g)(1) and (2), §63.543(h), and §63.543(i) beyond 24 months.</i></p>
<p>D. What alternate compliance options have you explored to address the issues or environmental compliance hurdles with which you are confronted?</p> <p><i>There are no alternative compliance options for delay of performance testing. However, EPM will continue to operate the affected sources in accordance with good operating practice while complying with the ongoing monitoring, recordkeeping, and reporting provisions of Subpart X and Operating Permit No. 06-05040. EPM has historically qualified for reduced performance test frequency (i.e., every 24 months vs every 12 months) based on actual measured emissions being less than the reduced levels specified at §63.543(g)(2) and §63.543(h).</i></p>
<p>E. Do you believe cost gouging or supply hoarding is negatively effecting your ability to comply? If so, please explain and provide cost information and/or availability information from your supply chain history.</p> <p><i>N/A</i></p>
<p>F. How long do you expect to be unable to comply with the regulatory requirement(s), permit condition(s) or other requirement and identify what circumstances must exist for you to return to compliance. Specify the period of time for which you are requesting the suspension. Suspensions will not be issued initially beyond June 30, 2020.</p> <p><i>Because of our concerns associated with COVID-19 uncertainties and impacts on future site operations, we believe that the earliest practical date to conduct the Subpart X performance test program at the Facility will be September 2020. EPM has identified September 2020 to allow the Facility to complete the annual July shutdown and resume normal operations, post COVID-19. EPM will continue to operate the affected sources in accordance with good operating practice while complying with the ongoing monitoring, recordkeeping, and reporting provisions of Subpart X and Operating Permit No. 06-05040 during the suspension. EPM has historically qualified for reduced performance test frequency (i.e., every 24 months vs every 12 months) based on actual measured emissions being less than the reduced levels specified at §63.543(g)(2) and §63.543(h).</i></p>
<p>G. If applicable, identify how you will account for all reporting obligations for the period of noncompliance.</p> <p><i>The suspension is related to the inability of EPM to conduct performance testing due to limited contractor access to the site, social distancing, worker shortages, and the uncertainties of how the COVID-19 pandemic may influence future site operations. EPM will continue to operate the affected sources in accordance with good operating practice while complying with the ongoing monitoring, recordkeeping, and reporting</i></p>

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*provisions of Subpart X and Operating Permit No. 06-05040 during the suspension. EPM has historically qualified for reduced performance test frequency (i.e., every 24 months vs every 12 months) based on actual measured emissions being less than the reduced levels specified at §63.543(g)(2) and §63.543(h).*

**Evaluate Risk to Public Health and the Environment**

A. Will the temporary suspension, if granted, result in an increase in the risk of additional pollution (e.g. increased emissions, increased concentrations of any pollutant and/or releases of new or more pollutants) and/or will it result in less monitoring, reporting, and/or supervision of pollution incidents, accidents or equipment failures?

*No, the deferral of the Subpart X performance test program will not increase emissions from the facility. EPM will continue to operate the affected sources in accordance with good operating practice while complying with the ongoing monitoring, recordkeeping, and reporting provisions of Subpart X and Operating Permit No. 06-05040 during the suspension. The results of local ambient air monitoring continue to demonstrate monitored attainment with the national ambient air quality standard (NAAQS) for lead at less than 20% of the standard.*

(i) If yes, please identify what pollutants and the nature of the risk.

*N/A*

(ii) If yes, please identify the potential extent of increased pollution, including any increases in risk to human health, safety or the environment.

*N/A*

(iii) If no, explain how increased pollution will be avoided.

*The deferral of the Subpart X performance test program will not increase emissions from the facility. EPM will continue to operate the affected sources in accordance with good operating practice while complying with the ongoing monitoring, recordkeeping, and reporting provisions of Subpart X and Operating Permit No. 06-05040 during the suspension.*

B. What public health and/or safety benefits will result if the temporary suspension is granted?

*The Subpart X performance testing program will require an extensive field mobilization effort by the emission testing contractor, working in close, enclosed conditions with significant interaction with facility supervisory, production, maintenance, and environmental personnel. The temporary suspension will avoid the close contact described above thereby eliminating the threat of transmission through such contact. The required testing will be performed in September 2020, pending the lifting of site restrictions and social distancing guidelines.*

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- C. Is the restriction on your ability to comply generally applicable to others engaged in your industrial classification or industry? If no, please explain why your situation is unique.

*EPM is not aware of how other similarly sized industrial facilities are addressing issues associated with the COVID-19 emergency. EPM is uniquely impacted by the situation because EPM is unable to meet the requirement to performance test within the 24-month timeframe required by §63.543(g)(2) (i.e., by end of June 2020). Other industrial facilities have differing performance testing requirements based on site specific applicable requirements.*

- D. Would you possess a unique advantage over your competitors, or others in the same industry, if a suspension is granted?

*No.*

- E. What would be the negative consequences to your operation if the temporary suspension is not granted? What would be the negative consequences to the Commonwealth's response to the COVID-19 emergency if your requested temporary suspension is not granted?

*The health and safety of EPM employees, contractors, and their families is of utmost importance to EPM. If the temporary suspension requested herein is not granted, EPM employees, contractors, and their families would be at an increased risk of contracting COVID-19.*

*If the temporary suspension requested herein is not granted, the health and safety of EPM employees, contractors, and their families would be at increased risk of contracting COVID-19. EPM believes the Commonwealth response to the COVID-19 emergency is intended to protect the health and safety of all potentially impacted individuals. Failure to grant the temporary suspension requested herein may negatively impact the Commonwealth should COVID-19 transmission occur as a result of the close interaction between the emission testing contractor, working in close, enclosed conditions with significant interaction with facility supervisory, production, maintenance, and environmental personnel during the performance of the test program.*

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**CERTIFICATION**

Pursuant to the prohibition against unsworn falsification to authorities, 18 Pa.C.S.A. §4904, I am an authorized representative of the requestor and have personal knowledge of the facts set forth in this temporary suspension request.

I hereby certify that the information provided herein is true and accurate.



\_\_\_\_\_  
Signature and title of Certifier

***Troy Greiss – Vice President of EHS & Regulatory Affairs***  
\_\_\_\_\_  
***Print Name and Title***

Note: This form will not be accepted without a written signature. Electronic signatures are not accepted.

Submit completed and signed requests to the email resource account:  
[RA-EPCOVID19SuspReq@pa.gov](mailto:RA-EPCOVID19SuspReq@pa.gov)