

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

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

Background

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| <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.
Tobyhanna Site, LLC. 619 Iron Street, Lehighton PA 18235. Contact: Joseph Bennett at 610-377-2642 or email joe@bennettfamilyproperties.com. Applicant's agent is Deanna Schmoyer at 570-236-7058 and email deannaschmoyer@yahoo.com. Permitted activity to be at intersection of Hudock Road and Harvest Lane - 174 Harvest Lane, Pocono Summit, PA.</p> |
| <p>B. Describe what permitted or regulated activity you are engaged in.
The development of a St. Luke's Urgent Care Facility. NPDES permitting is currently submitted for filling a portion of the site and stabilization. Until the NPDES permit is issued, we would like to start stockpiling material on the site (i.e. stone, etc). Silt sock would be installed and rock construction entrance to provide the appropriate erosion and sediment pollution control on the site.</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.
Current Individual NPDES permit (currently being processed) is PAD4500108. The PADEP Northeast Regional Office and Monroe County Conservation District is currently processing this permit.</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 requirement(s), condition(s) and/or other requirement(s).
Waiver of PA Code Section 102.5(a) - Any activity that causes earth disturbance greater than 1 acre (part of a larger common plan), shall obtain an NPDES permit.</p> |

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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. The site has a lot of earthwork required, including filling the site to meet the approximate SR 940 road grade. The fill work is currently being permitted under an NPDES permit, but due to the COVID emergency, the process of the public comment was reversed back to the permit process in 2019. This has delayed issuance of the permit. The timeline for construction is very limited, and we are looking to start to bring in materials to start preparing the site for construction.

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 change in the public comment period has extended the overall NPDES permit timeline. We are asking for relief to start bringing in materials onto the site. The earth disturbance will be limited to 1 acre until the NPDES is officially issued. All BMPs to control sediment from leaving the site will be installed to maintain the permit conditions. Our permitting and construction timeline is very limited to meet the Health Care's proposed date of opening the new facility.

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?
No other waivers are being requested.

D. What alternate compliance options have you explored to address the issues or environmental compliance hurdles with which you are confronted?
N/A

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.
N/A

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. Once the public comment period is over, the NPDES permit will be issued and all permit conditions will be met. The approximate timeline of suspension is 1 month, of which the public comment period is over and the NPDES permit will be issued.

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G. If applicable, identify how you will account for all reporting obligations for the period of noncompliance.
All proposed BMPs to control any sediment from leaving the site will be implemented. Reports will be maintained (logs) of the erosion control activities as required per the Chapter 102 requirements and NPDES requirements by the contractor. A revised Erosion and Sediment pollution Control Plan has been included as part of the waiver request. All activity will be conducted in accordance to this interim E&S plan. Once the NPDES permit is issued, the approved E&SPC plan (submitted with the NPDES permit application) will be followed for continuance of construction activities.

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, this waiver will not result in any reductions in erosion and sediment control measures or requirements. Overall the site will meet the chapter 102 requirements for maintaining all sediment from leaving the site through BMPs and temporary/permanent stabilization methods.

(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.
All required erosion and sediment pollution control measures will be followed through the implementation of onsite BMPs.

B. What public health and/or safety benefits will result if the temporary suspension is granted?
The proposed Facility will be a St. Luke's Urgent Care Facility which will provide urgent care with Lab Services to diagnose and treat COVID-19, along with X-Ray and specialty providers such as cardiology, nephrology, diabetes clinic, and others. Monroe County has one of the highest influx of people from New York and New Jersey and one of the highest counties in Pennsylvania with the COVID-19 cases. This Urgent Care Facility has been expedited by St. Luke's University Health Network as an immediate need to the COVID-19 pandemic.

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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.

No, due to the expedited timeline for construction of the proposed health facility, we need to start preparing the site for construction as soon as possible (fill requirements of the site). The site is 6-8 feet lower than the adjacent road and will be required to be filled to meet the proposed grades.

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

No. Proposed development is a health care facility.

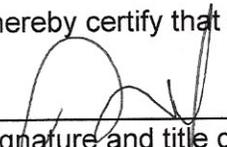
E. What would be the negative consequences to your operation if the temporary suspension is not granted? What would be the negative consequences to the Commonwealth's response to the COVID-19 emergency if your requested temporary suspension is not granted?

If the waiver is not granted, it would result in a delay of the opening of the Urgent Care Facility and for the need for additional testing and treatment of COVID-19 in the Monroe County area for the upcoming winter. This waiver is for the benefit of the commonwealth since the proposed facility will have emergency service treatment for the COVID-19 cases.

CERTIFICATION

Pursuant to the prohibition against unsworn falsification to authorities, 18 Pa.C.S.A. §4904, I am an authorized representative of the requester 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 *PROJECT MANAGER FOR PERMITTING.*

Deanna Schmoyer, P.E., agent for applicant

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