

Agency of Natural Resources
COVID – 19 State of Emergency
Enforcement and Compliance Guidance Document
March 31, 2020

1. Purpose.

It is the priority of the Agency of Natural Resources (ANR) that, to the greatest extent possible, members of the public comply with the state of emergency established in Executive Order 01-20, including Addendum 6 directs Vermonter's to "Stay Safe - Stay Home." It is also the priority of ANR that this is accomplished in a manner consistent with existing environmental laws and without causing a significant threat to human health or the environment. This guidance document is created to provide information to the regulated community, as well as the public writ large, that ensures that both goals are met while preserving ANR's ability to enforce environmental laws and recognizing the extraordinary burdens that the COVID – 19 pandemic is imposing on the public.

2. Applicability.

- a. This guidance is to provide a consistent framework for how the Agency of Natural Resources will approach the exercise of enforcement discretion during the COVID-19 State of Emergency. This is not a blanket exercise of enforcement discretion, but guidance to the public on how to approach operations during the COVID-19 State of Emergency.
- b. This guidance shall not apply to activities regulated by the Department of Fish and Wildlife.
- c. This Guidance does not apply to criminal violations or to the responsibility to prevent, respond to, or report accidental releases of petroleum products or hazardous materials as required by Vermont law.

3. Critical Functions. Executive Order 01-20 Addendum 6 and the Agency of Commerce and Community Development designate functions and services critical to public health and safety, as well as economic and national security. ANR does not expect permittees or contractors who provide services to permittees who are not otherwise designated as critical to continue operation for the sole purpose of complying with the terms of a permit, certification, order, or rule. To the extent that a cessation of operations results in noncompliance, a permittee should follow the guidelines established in Paragraph 5(b).

4. Duration. This Guidance will expire at the end of the Governor's declaration of a state of emergency related to the outbreak of COVID-19.

5. Permit compliance during the COVID-19 State of Emergency, including the Stay Safe - Stay Home Order (Executive Order 01-20, including Addendum 6).

- a. Permittees are required to continue to comply with their permits for the duration of the COVID-19 State of Emergency.
- b. If a permittee cannot comply with the terms of a permit, certification, or rule during the COVID-19 State of Emergency, the Agency may consider exercising enforcement discretion on a case-by-case basis, provided:
 - i. The permittee can document that the noncompliance is attributable to COVID-19 pandemic (including that those personnel shortages during the pandemic due to illness, contractors or laboratories not operating due to not being designated as critical under the Order);
 - ii. The noncompliance does not present a significant threat to human health or the environment;
 - iii. The permittee takes all reasonable steps to prevent and/or mitigate the noncompliance;
 - iv. The permittee notifies the Agency of the noncompliance as soon as possible following the incident; and
 - v. The permittee comes into compliance as soon as possible or enters into a schedule to return to compliance with the Agency