



April 1, 2020

Secretary Patrick McDonnell  
Pennsylvania Department of Environmental Protection  
400 Market Street, 16th Floor  
Harrisburg, PA 17105-2063

Dear Secretary McDonnell,

The U.S. Environmental Protection Agency on March 26, 2020, issued a memo in which the agency said it was relaxing enforcement of environmental regulations and fines, due to the COVID-19 outbreak.

That memo, written by Assistant Administrator for Enforcement and Compliance Assurance Susan Parker Bodine, provides for “enforcement discretion” that may result in noncompliance with environmental legal obligations including, but not limited to, “failure of air emission control or wastewater or waste treatment systems or other facility equipment,” and inability to conduct “compliance monitoring, integrity testing, sampling, laboratory analysis, training, and reporting or certification.” In our opinion, this is simply unacceptable.

We recognize the need to adapt enforcement strategies during the COVID-19 crisis, but we are concerned that this action is likely to create, in the words of former EPA Administrator Gina McCarthy, “an open license to pollute” and risks creating additional public health burdens for the citizens of Pennsylvania. As such, we urge the Pennsylvania Department of Environmental Protection (DEP) to ensure that critical environmental protections remain in place and enforcement continues during the crisis.

While the health and safety of DEP staff may require limiting some activities, we ask that the department prioritize actions to address the most significant public health and environmental threats first. In particular, this includes protection of environmental justice communities and other at-risk groups. Many of these communities are already suffering ill health impacts from polluting facilities and are therefore at greater risk of negative health impacts from the COVID-19 pandemic and often have the least resources to protect themselves. These communities need your attention and protection above all else.

*Northeast:* 425 Carlton Road  
Suite 1  
Mount Pocono, PA 18344

*Southeast:* 1429 Walnut Street  
Suite 400  
Philadelphia, PA 19102

*Central:* 610 North Third Street  
Harrisburg, PA 17101

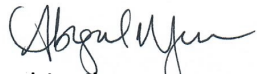
*Southwest:* 200 First Avenue  
Suite 200  
Pittsburgh, PA 15222

Website: [www.pennfuture.org](http://www.pennfuture.org)

We also ask that, to the extent that accommodations for the current crisis must be made, DEP consider the compliance history of facilities to ensure that good actors get the help they need while minimizing the risk of unscrupulous companies taking advantage of the situation to cut corners jeopardizing public health and safety. We believe that a history of non-compliance is a good indicator of those facilities and permittees who have previously shown disregard for our environmental protections, and such polluters should be a significant focus of the DEP's enforcement efforts during this time.

We recognize that many companies strive to be good neighbors in their communities and, like all of us, are facing significant challenges. With their cooperation, we can face this crisis without resorting to reckless and unnecessary rollbacks of protections for our citizens. As such, we ask the DEP to reject any suggestions that the agency adopt a similar non-enforcement policy as the federal government.

Sincerely,



Abigail M. Jones  
Senior Attorney,  
PennFuture



Robert Altenburg  
Director,  
PennFuture Energy Center