

10 Minute Supervisor Trainings



December 2024

Notices of Violation (NOVs)

One of the duties of the Energy and Environment Cabinet's Department for Environmental Protection is issuing Notices of Violation to landowners or operators for adversely affecting the water quality of groundwater and streams in the Commonwealth.

Although agriculture is not the only sector that is inspected for possible violations, this training is specifically about agriculture and how each local conservation district board is involved when a Notice of Violation is issued.

There are two ways that DEP personnel enter farms for investigations:

1. Regularly scheduled permit inspections. These visits have protocols in place. The local conservation district is notified approximately one month prior to the inspection. If anyone from the district wants to accompany the DEP personnel, that can be scheduled at that time.
2. Complaints on landowners or farm operators. Complaints create an incident investigation, and these are not scheduled ahead of time.

If any problems noted during these inspections are minor or have already been resolved/fixed, then a *Letter of Warning* is issued.

If the situation is deemed to be more severe or extreme, then a *Notice of Violation* is issued. When this happens, copies of the NOV are sent to the landowner/operator, to the Director of the Division of Conservation (Jay Nelson), and to the local conservation district board of supervisors.

These are the things that the landowner or operator must do when an NOV has been issued:

1. Respond within 30 days
2. Attend the next conservation district board meeting
3. Develop a plan of action to resolve the situation

When the conservation district receives the copy of an NOV, the district should notify the landowner/operator of the date, time, and location of the next scheduled board meeting. By statute, a portion of the State Cost Share Program allocation each year is held to assist with NOVs. If the violation is something that can be helped with a state cost share practice, the landowner/operator can apply for funds. This process is outside of the regularly scheduled State Cost Share dates for applications and approvals.

Once it is determined that an eligible BMP will help with the landowner/operator's issue, they can fill out a State Cost Share application. The district then sends the application to the Soil and Water Conservation Commission, along with a request for funding. Once the request has been approved at the next Soil and Water Conservation Commission meeting, the landowner/operator can move forward with the practice.

The DEP inspector will schedule a follow-up inspection to determine if the violation has been resolved. If so, this will complete the NOV process. If it has not, a second Notice of Violation may be issued. The violation can also be sent to the Division of Enforcement for issuing fines or pursuing criminal proceedings.

