



STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

April 15, 2020

MEMORANDUM

TO: Local Health Directors & Other Interested Parties

FROM: Mandy K. Cohen, MD, MPH
Secretary

A handwritten signature in cursive script that reads "Mandy K. Cohen".

RE: Executive Order 119, Section 1(2) – Delegated Waiver Authority

The responsibility of providing public health services is a joint effort between the state and county governments. The laws and regulations which define mandated public health services and how they shall be carried out can be found in NC General Statutes § 130A-5(3) and § 130A-9 and 10A NCAC 46, Section .0200, respectively. The list of mandated services is required of every county and can be satisfied either by local health departments directly providing those services or assuring those services are provided by others. In addition, the requirements specific to training of local health department staff are addressed in 10A NCAC 46, Section .0300.

Executive Order 119, signed by the Governor and with the concurrence of the Council of State, allows for the certain public health waivers. Specifically, Section 1, Paragraph 2, delegates to me the authority to waive local health department mandated services requirements and to extend the time period for public health nurses to complete training sponsored by NCDHHS. After careful consideration, I have chosen to exercise this delegated authority.

Pursuant to this authority, I am waiving the regulatory requirements contained in this memorandum for the remainder of this state fiscal year (July 1, 2019 – June 30, 2020). In issuing these six waivers, I have determined that they will not endanger public health and will provide necessary relief to local health departments responding to the COVID-19 pandemic.

1. Local health departments are required to conduct a yearly Quality Review of clinical and non-clinical records in all administrative, environmental, clinical, and educational services and activities mandated by the Commission for Public Health which are contracted for or provided by the local health department. This requirement is found in 10A NCAC 46.0203. While important, this review is time consuming and its preparation can take time away from clients served by the local health department. Therefore, I waive the requirement for the remainder of this state fiscal year.

2. Local health departments are required to conduct a minimum number of inspections at certain establishments, including food and lodging institutions, public swimming pools, institutions, spas, child day-care facilities and camps. That schedule is laid out in 10A NCAC 46.0213. Subsequent executive orders have implemented a statewide “stay at home” order, limited travel except for essential activities, as well as restricted the operation of certain types of establishments. Given these actions, I feel that the frequency of inspections of certain types of establishments can be amended without endangering public health. And amending the frequency of inspections for these settings will also allow local health departments to shift field activities from conducting routine inspections to focusing on visiting more establishments to assess operational changes during the COVID-19 response. Therefore, I amend the minimum inspection frequencies found in 10A NCAC 46 .0213(a)(1) for the remainder of this state fiscal year as follows for those establishments enumerated below that continue to remain open:

- a. Bed and breakfast inns – 1/year (rather than 2/year)
- b. Child day-care facilities – 1/year (HSP) (rather than 2/year)
- c. Food service establishments
 - Risk Category II – 1/year (rather than 2/year)
 - Risk Category III – 2/year (rather than 3/year)
 - Risk Category IV – 2/year (rather than 4/year)
- d. Institutions – 1/year (HSP) (rather than 2/year)
- e. Primitive experience camps operating more than 6 months per year – 1/year (rather than 2/year)
- f. Public swimming pools and spas which operate at times other than April 1 and October 31 each year – 1/year (rather than 2/year)

Inspection frequencies for facilities not enumerated above remain unchanged.

While this waiver adjusts the routine inspection frequency of certain establishments, it does not waive complaint investigations, emergency responses, consultative visits, and related public health activities, including enforcement actions, which must continue.

For inspections of facilities with highly susceptible populations (HSP), these activities should be carried out in an efficient manner that prevents, to the extent possible, lengthy contact between the inspector and the highly susceptible population.

3. Local health departments are required to provide vaccines to protect the public from certain communicable diseases under 10A NCAC 46 .0214(a)(3)(B). The second part of this rule states that at least one of these clinics must be offered each month that is accessible to working parents. I believe the second part of this rule can be waived without endangering public health. That said, local health departments must continue to provide vaccines, but I waive the specific requirement that a vaccine clinic be offered at least once each month accessible to working parents if the local health department determines that doing so will negatively impact their ability to respond to the COVID-19 pandemic.
4. The Venereal Disease Control provision of 10A NCAC 46 .0214(a)(4) requires local health department to have available each week day: (a) diagnostic testing and examination services

for syphilis and gonorrhea; (b) treatment services, both therapeutic and preventive, for reportable venereal diseases; (c) counseling and education designed to influence disease intervention and prevention behaviors, particularly that designed to enlist patient cooperation in referring sex partners for examination and treatment; and (d) follow-up and referral of persons with positive venereal disease laboratory tests. I believe that activities and services can be provided at a less frequent basis without endangering public health. As such, local health departments must continue to have available each of these activities and services, but I waive the requirement that these services be provided each weekday if the local health department determines that doing so will negatively impact their ability to respond to the COVID-19 epidemic.

5. Under 10A NCAC 46 .0301(2)(b), nurses working at a local health department who do not have a nursing degree from an accredited, baccalaureate-degree-granting program must complete – within one year of employment – an introductory course in principles and practices of public health nursing which is sponsored by the Department. For public health nurses unable to fulfill the training requirement, I am extending the time period for completion an additional twelve (12) months. Those needing the extension will be notified by the Chief Public Health Nurse or her designee within the Local Technical Assistance and Training Branch, Division of Public Health, NCDHHS with guidance specific to this process.
6. For the remaining provisions of 10A NCAC 46, Section .0200, I am not waiving any mandated or essential public health services. I do, however, direct the Assistant Secretary for Public Health or his designee to provide written guidance to local health departments as to how these services can be fulfilled during this pandemic. Local health departments acting in accordance with that guidance – or adhering to recommendations issued by the US Centers for Disease Control and Prevention (CDC) – will not be deemed out of compliance with the requirements found at 10A NCAC 46, Section .0200.

Should you have any questions about this memorandum or need additional information, please contact Mark T. Benton, Assistant Secretary for Public Health or any member of his leadership team.

cc: William McKinney
Susan Gale Perry
Ben Money
Elizabeth C. Tilson, MD
Mark T. Benton
Lisa Corbett
Matt Gross
Michael Leighs
Cardra Burns
Beth Lovette
DPH Management Team



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK T. BENTON • Assistant Secretary for Public Health
Division of Public Health

MEMORANDUM

April 16, 2020

TO: Local Health Directors and Registered Environmental Health Specialists

FROM: Mark T. Benton
Assistant Secretary for Public Health
Larry D. Michael, REHS, MPH
State Environmental Health Director

SUBJECT: EO No. 119, Delegated Waiver Authority - Environmental Health Guidance

On April 15, 2020, NCDHHS Secretary Cohen exercised her authority under Executive Order No. 119 to waive or modify certain public health tasks, schedules and deadlines. While it did not relieve any county of its responsibility to provide or assure certain essential services, it did provide the Division with the authority to provide written guidance as to how these services can be delivered during the COVID-19 pandemic. This memorandum provides that guidance specific to Environmental Health inspection frequencies.

Paragraph No. 2 in the Delegated Waiver Authority memo provides an amendment to establishment inspection frequency minimums required by 10A NCAC 46 .0202(a)(1) for the remainder of the fiscal year. Although some inspection frequencies have been waived, it's important to note that environmental health's regulatory function continues in all establishments under the applicable authority in Chapter 130A and inspections should continue in order to maintain the minimum frequency. Registered Environmental Health Specialists (REHS) are encouraged to conduct visits, provide consultation, and respond to complaints and other related activities as often as needed, while observing social distancing and the latest CDC guidance to ensure we are protecting ourselves and the public we serve.

Since inspection frequencies have been adjusted, REHSs are encouraged to increase visits and other activities to assist your community. With that in mind, the Environmental Health Section has developed a chart (attached) with recommendations for delivering environmental health services during this time. Please keep in mind that these are **recommendations** to help promote statewide consistency; however, we realize it may not fit every local health department since COVID-19 response, impacts, and local restrictions (e.g., stay at home orders) vary from county-to-county and are continuously changing. We hope this will be a useful resource and certainly welcome any feedback.

For questions or additional information, please contact Veronica Bryant, Emergency Response and Outbreak Coordinator, at veronica.bryant@dhhs.nc.gov or by phone at 919-218-6943, or you may contact me at larry.michael@dhhs.nc.gov or 919-707-5855.

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF PUBLIC HEALTH

LOCATION: 5605 SIX FORKS RD, RALEIGH NC 27609
MAILING ADDRESS: 1632 MAIL SERVICE CENTER, RALEIGH NC 27699-1632
www.ncdhhs.gov • TEL: 919-707-5854 • FAX: 919-845-3972

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

Environmental Health Services Recommendations During COVID-19 Response

Facility Type/Activity	Status (if applicable)	Recommendation
HIGHEST PRIORITY		
Restaurants	Limited Operation (with process changes)	CV*
Food Stands	Operating (with process changes)	CV*
Public School Lunchrooms	Limited Operation (serve as feeding sites)	CV*
Child Care Center	Operating (with process changes)	P-HSP Provide education and guidance via phone and/or email
Rest/Nursing Homes	Operating	P-HSP Provide education and guidance via phone and/or email
Institutional Food Service	Operating	P-HSP Provide education and guidance via phone and/or email
Communicable Disease Investigations		Conduct Immediately
Complaints involving increased risk to public health		Conduct Immediately
Lead Investigation for Elevated Blood Lead Level ($5 > 9 \mu\text{g/dL}$)		Conduct educational intervention by phone and mail; offer investigation and conduct after state of emergency is lifted
Lead Investigation for Confirmed Lead Poisoning ($\geq 10 \mu\text{g/dL}$)		Conduct educational intervention by phone and mail; investigate if parent/guardian agrees
Septic System Installation Inspections/OP's/Preconstruction Conferences	Ongoing	Conduct following social distancing and CDC Guidance [#]
Septic System Repair Permits	Ongoing	Conduct following social distancing and CDC Guidance [#]
Replacement of Private Wells/Dry Wells	Ongoing	Conduct Immediately
Legal Circumstances		Conduct Immediately
Re-inspections		Conduct per .2600 Rules
Verification Visits		Conduct per .2600 Rules
Migrant Camp Inspections	Ongoing	Conduct following social distancing and CDC Guidance [#]
New Establishment Permits	Ongoing	Conduct following social distancing and CDC Guidance [#]
Plan Review	Ongoing	Conduct following social distancing and CDC Guidance [#]
Commissaries	Operating	CV
Elderly Nutrition Sites	Operating	P-HSP Provide education and guidance via phone or email
Lodging	Operating	CV
Summer Camps	Operating	CV
Hospitals	Operating	P-HSP

Facility Type/Activity	Status (if applicable)	Recommendation
Local Confinement	Operating	P-Provide education and guidance via phone or email
Resident Camps	Operating	CV
Primitive Camps	Operating	CV
Bed & Breakfast Home	Operating	CV
Bed & Breakfast Inn	Operating	CV
Adult Day Service	Operating	P-HSP
Residential Care/Foster Homes	Operating	P-HSP
Educational Food Service	Unlikely to be Operating	CV
Limited Food Service	Unlikely to be Operating	P
Soil Evaluations/IP's & CA's	Ongoing	Conduct following social distancing and CDC Guidance [#]
New Private Well Siting/Permits	Ongoing	Conduct following social distancing and CDC Guidance [#]
Private Well Repairs	Ongoing	Conduct following social distancing and CDC Guidance [#]
Water Sampling	Ongoing	Conduct following CDC Guidance [#] /Higher Priority in Some Cases
Swimming Pools	Closed	Operation permits may be issued
Spas	Closed	Operation permits may be issued
School Building	Closed	CV
Tattoo Artists	Closed	No Inspections/Visits
TFE	No Events Being Held	No Inspections/Visits
Lead Investigations in Schools and Childcare Centers		P-HSP
Lead Clearance and Annual Monitoring Visits		P

Additional Information

- **Some inspection frequencies have been modified for FY 2019-20 and are still required at the adjusted frequency. Please conduct inspections following social distancing and CDC Guidance[#].**
- Registered Environmental Health Specialists (REHS) should self-monitor for symptoms. If a REHS is experiencing any symptoms of respiratory illness, they should discontinue field work and consult with a communicable disease nurse or medical professional.

Key

CV*—Consultative Visit prioritized to assess risk because of change in normal operating procedures; conduct following social distancing/CDC Guidance[#]

CV—Consultative Visit following social distancing/CDC Guidance[#]

P—Postpone due to lack of social distancing and inability to adhere to CDC Guidance[#]

P-HSP—Postpone to avoid the potential of exposing Highly Susceptible Populations to COVID-19

CDC Guidance[#]: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>