

**KPDES**



**KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM**

**PERMIT**

**AUTHORIZATION TO DISCHARGE UNDER THE  
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM**

**PERMIT NO.: KYG670000  
AGENCY INTEREST NO.: 35050**

**Pursuant to Authority in KRS 224,**

Discharges of hydrostatic test water from new/unused facilities, and from used facilities which have been used for the transportation or storage of natural gas, crude oil, or liquid or gaseous petroleum hydrocarbons

**is authorized to discharge from a facility located at**

sites within any of the 120 counties of the Commonwealth of Kentucky

**to receiving waters named**

Those water bodies of the Commonwealth that comprise the Mississippi and Ohio River basins and sub-basins within the political and geographic boundaries of Kentucky

**in accordance with effluent limitations, monitoring requirements and other conditions set forth in this permit.**

This permit shall become effective on

This permit and the authorization to discharge shall expire at midnight,

Date Signed:

---

**Sarah Jon Gaddis, PG  
Director, Division of Water**

**THIS KPDES PERMIT CONSISTS OF THE FOLLOWING SECTIONS:**

**1. COVERAGE .....5**

1.1. Facilities Covered ..... 5

1.2. Summary of Exclusions ..... 5

**2. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.....7**

2.1. Discharge of hydrostatic test waters from new/unused pipelines, storage tanks, or other vessels. 7

2.2. Discharge of hydrostatic test waters from used natural gas pipelines, storage tanks, or other vessels ..... 7

2.3. Discharge of hydrostatic test waters from used petroleum product pipelines, storage tanks, or other vessels ..... 8

2.4. Standard Effluent Requirements ..... 9

**3. STANDARD CONDITIONS.....11**

3.1. Duty to Comply ..... 11

3.2. Duty to Reapply..... 11

3.3. Need to Halt or Reduce Activity Not a Defense..... 11

3.4. Duty to Mitigate..... 11

3.5. Proper Operation and Maintenance..... 11

3.6. Permit Actions..... 11

3.7. Property Rights ..... 11

3.8. Duty to Provide Information ..... 11

3.9. Inspection and Entry ..... 12

3.10. Monitoring and Records ..... 12

3.11. Signatory Requirement ..... 12

3.12. Reporting Requirements..... 13

3.13. Bypass ..... 15

3.14. Upset..... 15

**4. BEST MANAGEMENT PRACTICES PLAN (BMPP) REQUIREMENTS .....18**

4.1. Applicability..... 18

4.2. Plan..... 18

4.3. Implementation ..... 18

4.4. General Requirements ..... 18

4.5. Specific Requirements ..... 18

4.6. SPCC Plans..... 19

4.7. Hazardous Waste Management ..... 19

4.8. Documentation ..... 19

4.9. BMPP Modification ..... 19

**5. OTHER CONDITIONS .....21**

5.1. Permit Duration ..... 21

5.2. Authorization to Discharge ..... 21

5.3. Termination of Coverage ..... 21

5.4. Schedule of Compliance..... 21

5.5. Other Permits..... 21

5.6. Electronic Notice of Intent (eNOI) Requirements..... 21

5.7. Continuation of Expiring Permit..... 22

5.8. Antidegradation ..... 22

5.9. Reopener Clause ..... 22

5.10. Discharge and Monitoring Point Accessibility ..... 23

**6. MONITORING AND REPORTING REQUIREMENTS .....25**

6.1. KPDES Outfalls..... 25

6.2. Sufficiently Sensitive Analytical Methods ..... 25

6.3. Certified Laboratory Requirements ..... 25

6.4. Submission of DMRs ..... 25

DRAFT

**SECTION 1**  
**COVERAGE**

DRAFT

## **1. Coverage**

The creation of this General Permit is for discharges of hydrostatic test water from new facilities, unused facilities, and from used facilities which have been used for the transportation or storage of natural gas, crude oil, or liquid or gaseous petroleum hydrocarbons to ensure the discharge of hydrostatic test water to waters of the Commonwealth is in compliance with all applicable state and federal water pollution control laws. These facilities include, but are not limited to, pipelines, storage tanks, and other vessels.

### **1.1. Facilities Covered**

Facilities eligible for coverage under this general permit are those facilities that discharge hydrostatic test water from new pipelines, storage tanks, or other vessels; or used natural gas or petroleum product pipelines, storage tanks, or other vessels to waters of the Commonwealth.

### **1.2. Summary of Exclusions**

Facilities meeting any of the following criteria are not eligible for coverage under this general permit:

- 1) Facilities discharging directly into surface water designated as a Cold Water Aquatic Habitat (CAH) or as Outstanding State Resource Water (OSRW) as listed in 401 KAR 10:026, Section 5.
- 2) Facilities discharging directly into surface water categorized as an Outstanding National Resource Water (ONRW) or Exceptional Water (EW) as listed in 401 KAR 10:030, Section 1.
- 3) Those facilities that discharge to a receiving water body that has been categorized as an "Impaired Water" for a pollutant or pollutants of concern that may be associated with such activities unless measures or controls are established in this permit;
- 4) Those facilities that discharge pollutants of concern to waters for which there is an EPA-approved total maximum daily load (TMDL);
- 5) Those facilities that have obtained or are required to obtain an individual KPDES permit;
- 6) Storm water discharges associated with construction or industrial activity;
- 7) Discharges of groundwater associated with underground storage tank remediation;
- 8) Those facilities discharging into water bodies with a domestic water intake is located within five miles downstream;
- 9) Those facilities whose wastewater discharges are mixed with any other discharges that are not associated with hydrostatic test water. Stormwater that is not related to but is mixed with the discharge from the hydrostatic test water, during wet weather conditions, is not covered by this general permit.
- 10) Those discharges that DOW has determined are more appropriately addressed by an individual KPDES permit or alternate KPDES general permit.

**SECTION 2**  
**EFFLUENT LIMITATIONS AND MONITORING**  
**REQUIREMENTS**

**2. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

This section of the permit establishes the effluent limitations and monitoring requirements for all outfalls listed on each issued KYG67 Coverage Letter that apply to all point source discharges as listed in Section 1.

Discharge samples and measurements shall be collected at the compliance point for each KPDES Outfall identified in the Coverage Letter. Each sample shall be representative of the volume and nature of the monitored discharge and shall be taken at the nearest accessible point after final treatment, but prior to actual discharge to or mixing with the receiving waters or wastestreams from other outfalls or facilities.

**2.1. Discharge of hydrostatic test waters from new/unused pipelines, storage tanks, or other vessels.**

The following effluent limitations and monitoring requirements apply to the discharges from the KPDES Outfalls identified on the KYG670000 Coverage Letter as receiving hydrostatic test waters from new/unused pipelines, storage tanks, or other vessels.

TABLE 1.								
EFFLUENT LIMITATIONS							MONITORING REQUIREMENTS	
Effluent Characteristics	Loadings (lb/day)		Concentrations				Frequency	Sample Type
	Monthly Average	Daily Maximum	Units	Minimum	Monthly Average	Daily Maximum		
Flow	Report	Report	MGD	N/A	N/A	N/A	1/Discharge	Instantaneous or estimated
Total Suspended Solids	N/A	N/A	mg/L	N/A	Report	Report	1/Discharge	Grab
Oil & Grease	N/A	N/A	mg/L	N/A	Report	15	1/Discharge	Grab
pH	N/A	N/A	SU	6.0	N/A	9.0	1/Discharge	Grab
Total Residual Chlorine <sup>1</sup>	N/A	N/A	mg/L	N/A	0.011	0.019	1/Discharge	Grab

<sup>1</sup>Use NODI Code 9 for reporting if treated public water or other chlorinated water source is not used.

NOTE: The discharge flow shall be controlled such that erosion and denuding or the riparian zone does not occur.

**2.2. Discharge of hydrostatic test waters from used natural gas pipelines, storage tanks, or other vessels**

The following effluent limitations and monitoring requirements apply to the discharges from the KPDES Outfalls identified on the KYG670000 Coverage Letter as receiving hydrostatic test waters from used natural gas pipelines, natural gas storage tanks, or natural gas vessels.

**TABLE 2.**

EFFLUENT LIMITATIONS							MONITORING REQUIREMENTS	
Effluent Characteristics	Loadings (lb/day)		Concentrations				Frequency	Sample Type
	Monthly Average	Daily Maximum	Units	Minimum	Monthly Average	Daily Maximum		
Flow	Report	Report	MGD	N/A	N/A	N/A	1/Discharge	Instantaneous or estimated
Total Suspended Solids	N/A	N/A	mg/L	N/A	Report	Report	1/Discharge	Grab
Oil & Grease	N/A	N/A	mg/L	N/A	Report	15	1/Discharge	Grab
pH	N/A	N/A	SU	6.0	N/A	9.0	1/Discharge	Grab
Total Residual Chlorine <sup>1</sup>	N/A	N/A	mg/L	N/A	0.011	0.019	1/Discharge	Grab

<sup>1</sup>Use NODI Code 9 for reporting if treated public water or other chlorinated water source is not used.

NOTE: All piggings, or precleaning wastewater, shall be collected and disposed of in an acceptable manner. At no time shall the piggings be allowed to contact the fill water or be directly discharged to any Waters of the Commonwealth.

NOTE: The discharge flow shall be controlled such that erosion and denuding or the riparian zone does not occur.

**2.3. Discharge of hydrostatic test waters from used petroleum product pipelines, storage tanks, or other vessels**

The following effluent limitations and monitoring requirements apply to those discharges from the KPDES Outfalls identified on the KYG670000 Coverage Letter as receiving hydrostatic test waters from used petroleum product pipelines, petroleum product storage tanks, or petroleum product vessels.

**TABLE 3.**

EFFLUENT LIMITATIONS							MONITORING REQUIREMENTS	
Effluent Characteristics	Loadings (lb/day)		Concentrations				Frequency	Sample Type
	Monthly Average	Daily Maximum	Units	Minimum	Monthly Average	Daily Maximum		
Flow	Report	Report	MGD	N/A	N/A	N/A	1/Discharge	Instantaneous or estimated
Total Suspended Solids	N/A	N/A	mg/L	N/A	Report	Report	1/Discharge	Grab
Oil & Grease	N/A	N/A	mg/L	N/A	Report	15	1/Discharge	Grab
pH	N/A	N/A	SU	6.0	N/A	9.0	1/Discharge	Grab
Benzene	N/A	N/A	mg/L	N/A	Report	0.050	1/Discharge	Grab
Total BTEX	N/A	N/A	mg/L	N/A	Report	0.100	1/Discharge	Grab
Naphthalene	N/A	N/A	mg/L	N/A	Report	Report	1/Discharge	Grab



**TABLE 3.**

EFFLUENT LIMITATIONS							MONITORING REQUIREMENTS	
Effluent Characteristics	Loadings (lb/day)		Units	Concentrations			Frequency	Sample Type
	Monthly Average	Daily Maximum		Minimum	Monthly Average	Daily Maximum		
Total Residual Chlorine <sup>1</sup>	N/A	N/A	mg/L	N/A	0.011	0.019	1/Discharge	Grab
<sup>1</sup> Use NODI Code 9 for reporting if treated public water or other chlorinated water source is <u>not</u> used.								
NOTE: All piggings, or precleaning wastewater, shall be collected and disposed of in an acceptable manner. At no time shall the piggings be allowed to contact the fill water or be directly discharged to any Waters of the Commonwealth.								
NOTE: The discharge flow shall be controlled such that erosion and denuding of the riparian zone does not occur								

**2.4. Standard Effluent Requirements**

The discharges to Waters of the Commonwealth shall not produce floating solids, visible foam or a visible sheen on the surface of the receiving waters.

**SECTION 3**  
**STANDARD CONDITIONS**

### **3. STANDARD CONDITIONS**

The following conditions apply to all KPDES permits.

#### **3.1. Duty to Comply**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of KRS Chapter 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Any person who violates applicable statutes or who fails to perform any duty imposed, or who violates any determination, permit, administrative regulation, or order of the Cabinet promulgated pursuant thereto shall be liable for a civil penalty as provided at KRS 224.99.010.

#### **3.2. Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain authorization as required by the new permit once the Kentucky Division of Water issues it. Permittees that are eligible and choose to be covered by a new general permit must submit a NOI by the date specified in that permit.

#### **3.3. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

#### **3.4. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

#### **3.5. Proper Operation and Maintenance**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

#### **3.6. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

#### **3.7. Property Rights**

This permit does not convey any property rights of any sort, or any exclusive privilege.

#### **3.8. Duty to Provide Information**

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

### 3.9. Inspection and Entry

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

- 1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- 2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- 4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

### 3.10. Monitoring and Records

- 1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- 2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five (5) years (or longer as required by 401 KAR 5:065, Section 2(10) [40 CFR 503]), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.
- 3) Records of monitoring information shall include:
  - a) The date, exact place, and time of sampling or measurements;
  - b) The individual(s) who performed the sampling or measurements;
  - c) The date(s) analyses were performed;
  - d) The individual(s) who performed the analyses;
  - e) The analytical techniques or methods used; and
  - f) The results of such analyses.
- 4) Monitoring must be conducted according to test procedures approved under 401 KAR 5:065, Section 2(8) [40 CFR 136] unless another method is required under 401 KAR 5:065, Section 2(9) or (10) [40 CFR subchapters N or O].
- 5) KRS 224.99-010 provides that any person who knowingly violates KRS 224.70-110 or other enumerated statutes, or who knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall be guilty of a Class D felony and, upon conviction, shall be punished by a fine of not more than \$25,000, or by imprisonment for not less than one (1) year and not more than five (5) years, or by both fine and imprisonment for each separate violation.. Each day upon which a violation occurs shall constitute a separate violation.

### 3.11. Signatory Requirement

- 1) All applications, reports, or information submitted to the Director shall be signed and certified pursuant to 401 KAR 5:060, Section 4 [40 CFR 122.22].

- 2) KRS 224.99-010 provides that any person who knowingly provides false information in any document filed or required to be maintained under KRS Chapter 224 shall be guilty of a Class D felony and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000), or by imprisonment, or by fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.

### **3.12. Reporting Requirements**

#### **3.12.1. Planned Changes**

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- 1) The alteration or addition to a permitted facility may meet one (1) of the criteria for determining whether a facility is a new source in KRS 224.16-050 [40 CFR 122.29(b)];
- 2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under KRS 224.16-050 [40 CFR 122.42(a)(1)]; or
- 3) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

#### **3.12.2. Anticipated Noncompliance**

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

#### **3.12.3. Transfers**

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under KRS 224 [CWA; see 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory].

#### **3.12.4. Monitoring Reports**

Monitoring results shall be reported at the intervals specified elsewhere in this permit.

- 1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.
- 2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 401 KAR 5:065, Section 2(8) [40 CFR 136], or another method required for an industry-specific waste stream under 401 KAR 5:065, Section 2(9) or (10) [40 CFR subchapters N or O], the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.
- 3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

### 3.12.5. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.

### 3.12.6. Twenty-four-Hour Reporting

- 1) The permittee shall report any noncompliance which may endanger health or the environment to the DOW Regional Office. Any information shall be provided orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- 2) The following shall be included as information which must be reported within twenty-four (24) hours under this paragraph:
  - a) Any unanticipated bypass which exceeds any effluent limitation in the permit [40 CFR 122.41 (g)].
  - b) Any upset which exceeds any effluent limitation in the permit.
  - c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within twenty-four (24) hours.
- 3) The Director may waive the written report on a case-by-case basis under 40 CFR 122.41 (l), if the oral report has been received within twenty-four (24) hours.
- 4) Notifying the Regional Field Office:
  - a. Reporting shall be as required in paragraphs 1 through 3 of this subsection except if a spill or release of pollutants or contaminants, bypass, upset, or other event of non-compliance occurs that may present an imminent or substantial danger to the environment or the public health or welfare. The permittee shall immediately notify their local Regional Field Office as follows; Bowling Green (270) 746-7475; Columbia (270) 384-4734; Florence (859) 525-4923; Frankfort (502) 564-3358; Hazard (606) 435-6022; London (606) 330-2080; Louisville (502) 429-7122; Madisonville (270) 824-7529; Morehead (606) 783-8655; and Paducah (270) 898-8468.
  - b. If a report required by this subsection is made during other than normal business hours, it shall be made through the **twenty-four (24) hour environmental emergency telephone number at (800) 928-2380**.
  - c. The reporting requirements of this subsection does not relieve the permittee of reporting required under other laws, regulations, programs, or emergency response plans.

### 3.12.7. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Sub-Sections 1, 4, 5 and 6 of this Section, at the time monitoring reports are submitted. The reports shall contain the information listed in Sub-Section 6 above.

### 3.12.8. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

### **3.13. Bypass**

#### **3.13.1. Definitions**

- 1) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
- 2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

#### **3.13.2. Bypass Not Exceeding Limitations**

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of the following 2 Sub-Sections.

#### **3.13.3. Notice**

- 1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.
- 2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in the *Twenty-four Hour Reporting* Section above.

#### **3.13.4. Prohibition of Bypass**

- 1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
  - a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - c) The permittee submitted notices as required under the *Notice* Section above.
- 2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three (3) conditions listed above under this Section.

### **3.14. Upset**

#### **3.14.1. Definition**

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

#### **3.14.2. Effect of an Upset**

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the *Conditions Necessary for a Demonstration of Upset* Section below are met. No determination made during administrative review of claims that

noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

### **3.14.3. Conditions Necessary for a Demonstration of Upset**

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- 1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- 2) The permitted facility was at the time being properly operated;
- 3) The permittee submitted notice of the upset as required in the *Twenty-four Hour Reporting* Section above; and
- 4) The permittee complied with any remedial measures required under the *Duty to Mitigate* Section above.

### **3.14.4. Burden of Proof**

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.



**SECTION 4**  
**BEST MANAGEMENT PRACTICES PLAN (BMPP)**  
**REQUIREMENTS**

#### **4. BEST MANAGEMENT PRACTICES PLAN (BMPP) REQUIREMENTS**

The permittee shall develop and implement a Best Management Practices Plan (BMPP) consistent with 401 KAR 5:065, Section 2(4).

##### **4.1. Applicability**

These conditions apply to all permittees who use, manufacture, store, handle, or discharge any pollutant listed as: (1) toxic under Section 307(a)(1) of the Clean Water Act; (2) oil, as defined in Section 311(a)(1) of the Act; (3) any pollutant listed as hazardous under Section 311 of the Act; or (4) is defined as a pollutant pursuant to KRS 224.1-010(35) and who have operations which could result in (1) the release of a hazardous substance, pollutant, or contaminant, or (2) an environmental emergency, as defined in KRS 224.1-400, as amended, or any regulation promulgated pursuant thereto (hereinafter, the "BMP pollutants"). These operations include material storage areas; plant site runoff; in-plant transfer, process and material handling areas; loading and unloading operations, and sludge and waste disposal areas.

##### **4.2. Plan**

The permittee shall develop and implement a BMPP consistent with 401 KAR 5:065, Section 2(4) pursuant to KRS 224.70-110, which prevents or minimizes the potential for the release of "BMP pollutants" from ancillary activities through site runoff; spillage or leaks, sludge or waste disposal; or drainage from raw material storage.

##### **4.3. Implementation**

The permittee shall implement the BMPP upon the commencement of regulated activity. Modifications to the plan as a result of ineffectiveness or plan changes to the facility shall be implemented as soon as possible.

##### **4.4. General Requirements**

The BMPP shall:

- (1) Be documented in narrative form, and shall include any necessary plot plans, drawings, or maps.
- (2) Establish specific objectives for the control of toxic and hazardous pollutants.
  - a. Each facility component or system shall be examined for its potential for causing a release of "BMP pollutants" due to equipment failure, improper operation, natural phenomena such as rain or snowfall, etc.
  - b. Where experience indicates a reasonable potential for equipment failure (e.g., a tank overflow or leakage), natural condition (e.g., precipitation), or other circumstances which could result in a release of "BMP pollutants", the plan should include a prediction of the direction, rate of flow, and total quantity of the pollutants which could be released from the facility as result of each condition or circumstance.
- (3) Establish specific BMPs to meet the objectives identified under paragraph (2) b of this section, addressing each component or system capable of causing a release of "BMP pollutants".
- (4) Include any special conditions established in part b of this section.
- (5) Be reviewed by engineering staff and the site manager.

##### **4.5. Specific Requirements**

The plan shall be consistent with the general guidance contained in the publication entitled "NPDES Best Management Practices Guidance Document", and shall include the following baseline BMPs as a minimum:

- (1) BMP Committee

- (2) Reporting of BMP Incidents
- (3) Risk Identification and Assessment
- (4) Employee Training
- (5) Inspections and Records
- (6) Preventive Maintenance
- (7) Good Housekeeping
- (8) Materials Compatibility
- (9) Security
- (10) Materials Inventory

#### **4.6. SPCC Plans**

The BMPP may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under Section 311 of the Clean Water Act and 40 CFR Part 112, and the permittee may incorporate any part of such plans into the BMPP by reference.

#### **4.7. Hazardous Waste Management**

The permittee shall assure the proper management of solids and hazardous waste in accordance with the regulations promulgated under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1978 (RCRA) (40 U.S.C. 6901 et seq.) Management practices required under RCRA regulations shall be referenced in the BMP plan.

#### **4.8. Documentation**

The permittee shall maintain a copy of the BMPP at the facility and shall make the plan available upon request to EEC personnel.

#### **4.9. BMPP Modification**

The permittee shall modify the BMPP whenever there is a change in the facility or change in the operation of the facility that materially increases the potential for the release of "BMP pollutants".

#### **4.10. Modification for Ineffectiveness**

The BMPs and the BMPP shall be reviewed and appropriate modifications implemented to utilize other practicable measures if any of the following events occur:

- (1) As a result of either a fixed or episodic event-driven evaluation, the permittee determines the selected BMPs are not achieving the established performance benchmarks;
- (2) As a result of an evaluation or inspection by Cabinet personnel; or
- (3) A release of any petroleum-based product, toxic or hazardous substance.

**SECTION 5**  
**OTHER CONDITIONS**

## **5. OTHER CONDITIONS**

### **5.1. Permit Duration**

This permit has a five (5) year duration and will expire on the date indicated on the signature page. However, existing coverage under an expired general permit continues in effect in accordance with 40 CFR 122.6, as incorporated by 401 KAR 5:060, Section 2(4), until DOW makes a determination to reissue the permit or until coverage is terminated in accordance with Section 5.3.

### **5.2. Authorization to Discharge**

To seek authorization to discharge under this general permit, dischargers of wastewater associated with hydrostatic test water must submit an NOI in accordance with the requirements of Section 5.6 of this permit.

Coverage under this permit shall not be effective until the director notifies the person submitting a notice of intent that the discharge is authorized under the general permit.

### **5.3. Termination of Coverage**

When one or more of the following conditions have been met, operators shall submit a completed Notice of Termination (NOT) to DOW:

- a) Once all hydrostatic test water discharges are eliminated which the permittee is responsible;
- b) Another permittee has assumed control over all hydrostatic test water discharges;
- c) Coverage under an individual KPDES permit has been obtained.

For new projects that do not submit a Notice of Termination (NOT) as described above termination of coverage will occur automatically one (1) year after authorization to discharge is granted unless the operator submits a new NOI application.

### **5.4. Schedule of Compliance**

The permittee shall attain compliance with all requirements of this permit on the effective date of this permit unless otherwise stated.

### **5.5. Other Permits**

This permit has been issued under the provisions of KRS Chapter 224 and regulations promulgated pursuant thereto. Issuance of this permit does not relieve the permittee from the responsibility of obtaining any other permits or licenses required by this Cabinet and other state, federal, and local agencies.

### **5.6. Electronic Notice of Intent (eNOI) Requirements**

#### **5.6.1. eNOI Application**

Operators seeking to obtain a new coverage, to modify an existing coverage, or to renew an existing coverage shall use DOW's electronic web based eNOI-KYG67, available on KDOW's site at: <https://eec.ky.gov/Environmental-Protection/Water/PermitCert/KPDES/Pages/default.aspx>

DOW shall not process any NOI that is incomplete, inaccurate, or in an incorrect format.

NOIs shall be signed in accordance with Section 3.11 of this permit.

#### **5.6.2. eNOI Contents**

The NOI application form shall be completed and contain the following:

- a) name of the owner or operator of the vessel or activity, mailing address, the name and address of a contact person;
- b) brief description of the vessel to be tested;
- c) expected volume of discharge;
- d) new/unused or used tanks/pipelines/vessels and explanation of the used system contents;
- e) a description of the type of source waters to be used (surface water, ground water, municipal drinking water, treated effluent, etc.);
- f) if a source water other than potable water is used, the NOI shall also include testing of all parameters believed present in the source water;
- g) description of Best Management Practices (BMPs) to be employed;
- h) location of discharge(s);
- i) name of the waters receiving the discharge; and
- j) a list of any additives proposed to be discharged along with Safety Data Sheets (SDS) which need to be reviewed and approved. (Contact the Division of Surface Water, Permitting Section.

### 5.6.3. eNOI Submission Deadlines

NOIs should be submitted after the effective date of this general permit.

For a new facility, an NOI should be submitted 30 days before any discharges of hydrostatic test water.

For an existing and presently permitted facility, an NOI should be submitted 30 days before the permit coverage expires or in the case of a transfer of ownership, 30 days before the transfer.

### 5.7. Continuation of Expiring Permit

In the event this general permit expires prior to reissuance by DOW, the conditions and requirements of this version of KYG67 shall continue in effect until DOW reissues the permit. However, new or expanded coverages cannot be authorized until the general permit is reissued. Facilities that obtain individual permits during such periods may apply for coverage under the general permit by filing an electronic Notice of Intent (eNOI).

### 5.8. Antidegradation

The summary of *Facilities Covered* and *Summary of Exclusions* in Section 1 explains in detail the eligibility requirements for facilities seeking coverage under this general permit. By setting strict eligibility requirements, DOW limits the industrial materials and operations that can receive coverage and therefore the potential impact to surface waters of the Commonwealth. Along with these restrictions, numeric requirements, the creation and implementation of control measures and BMPs, DOW has determined that for new or expanded discharges to High Quality Waters, there will be no significant degradation in the receiving waters due to the permitted activity.

It is the DOW's conclusion that the antidegradation requirements have been satisfied by this permitting action. This is consistent with the requirements of [401 KAR 10:029 Section 1, 401 KAR 10:030 Section 1, and 401 KAR 10:031 Section 4].

### 5.9. Reopener Clause

This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved in accordance with 401 KAR 5:050 through 5:080, if the effluent standard or limitation so issued or approved:

- 1) Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or

- 2) Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of KRS Chapter 224 when applicable.

**5.10. Discharge and Monitoring Point Accessibility**

As stated in *Inspection and Entry* Section of this permit, the permittee shall allow authorized agency representatives to inspect the facility and collect samples to determine compliance. In order for such monitoring to be conducted either by the permittee or authorized agency personnel, all monitoring and discharge points required by this permit shall be readily and safely accessible.

DRAFT

**SECTION 6**  
**MONITORING AND REPORTING REQUIREMENTS**



## **6. MONITORING AND REPORTING REQUIREMENTS**

### **6.1. KPDES Outfalls**

Discharge samples and measurements shall be collected at the compliance point for each KPDES Outfall identified in this permit. Each sample shall be representative of the volume and nature of the monitored discharge.

### **6.2. Sufficiently Sensitive Analytical Methods**

Analytical methods utilized to demonstrate compliance with the effluent limitations established in this permit, shall be sufficiently sensitive to measure pollutant levels using the Minimum Reporting Level (MRL) which is at or below the required effluent limit. In the instance where an EPA-approved method does not exist that has a MRL at or below the established effluent limitation, the permittee shall use the EPA-approved method with a demonstrated MRL that is nearest to the established effluent limit. It is the responsibility of the permittee to demonstrate compliance with permit parameter limitations by utilization of sufficiently sensitive analytical methods.

MRL is defined as: The lowest concentration of an analyte (i.e. permit parameter) that can be reliably quantified that is greater than the method detection limit, of sufficient accuracy and precision to meet the intended purpose, and meeting acceptable quality control criteria for the analyte at this concentration. This defined concentration can be no lower than the concentration of the lowest calibration standard for that analyte or, in non-calibrated methods, the limitations defined by the equipment and volumes utilized.

Sufficiently Sensitive Method is defined by EPA in the Federal Register notice as:

- 1) The method minimum level (Kentucky defined as minimum reporting level – MRL) is at or below the level of the applicable water quality criterion or permit limitation for the measured pollutant or pollutant parameter;
- 2) In the case of permit applications, the method minimum level (MRL) is above the applicable water quality criterion, but the amount of the pollutant or pollutant parameter in a facility's discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or
- 3) The method has the lowest minimum level (MRL) of the EPA-approved analytical methods.

### **6.3. Certified Laboratory Requirements**

All laboratory analyses and tests required to demonstrate compliance with the conditions of this permit shall be performed by a laboratory holding the appropriate general or field-only certification issued by the Cabinet pursuant to 401 KAR 5:320.

### **6.4. Submission of DMRs**

The completed DMR for each monitoring period must be entered into the DOW approved electronic system no later than midnight on the 28<sup>th</sup> day of the month following the monitoring period for which monitoring results were obtained.

For more information regarding electronic submittal of DMRs, please visit the Division's website at: <https://eec.ky.gov/Environmental-Protection/Water/SubmitReport/Pages/NetDMR.aspx> or contact the DMR Coordinator at (502) 564-3410.