

**KENTUCKY POLLUTANT
DISCHARGE ELIMINATION
SYSTEM****FACT SHEET**

**General Permit for Stormwater Discharges
Associated With Industrial Activity
From “Other Facilities”**

KPDES No.: KYR000000

AI No.: 35050

Date: June 30, 2018

Public Notice Information

Public Notice Start Date: March 30, 2018

Comment Due Date: April 30, 2018

General information concerning the public notice process may be obtained on the Division of Water’s Public Notice Webpage at the following address: <http://water.ky.gov/Pages/PublicNotices.aspx>.

Public Notice Comments

Comments must be received by the Division of Water no later than 4:30 PM on the closing date of the comment period. Comments may be submitted by e-mail at: DOWPublicNotice@ky.gov or written comments may be submitted to the Division of Water at 300 Sower Blvd, Frankfort, Kentucky 40601.

Reference Documents

A copy of this proposed fact sheet, proposed permit, the application, other supporting material and the current status of the application may be obtained from the Department for Environmental Protection’s Pending Approvals Search Webpage:

http://dep.gateway.ky.gov/eSearch/Search_Pending_Approvals.aspx?Program=Wastewater&NumDaysDoc=30.

Open Records

Copies of publicly-available documents supporting this fact sheet and proposed permit may also be obtained from the Department for Environmental Protection Central Office. Information regarding these materials may be obtained from the Open Records Coordinator at (502) 782-6849 or by e-mail at EEC.KORA@ky.gov.

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SECTION 1

FACILITY INFORMATION

1. FACILITY INFORMATION

1.1. Facilities Covered

Pursuant to 401 KAR 5:060, Section 8 [40 CFR 122.26, effective July 1, 2012] the following point source discharges of stormwater runoff are subject to the KPDES permit program:

- 1) The discharge of stormwater runoff associated with industrial activity; or
- 2) A discharge, as determined by the Kentucky Division of Water (DOW), that contributes to a violation of a water quality standard or is a significant contributor of pollutants to surface waters of the Commonwealth.

This permit is available for any facility that would be required to have a KPDES permit due to the discharge of stormwater runoff associated with industrial activity provided the facility meets the eligibility and Notice of Intent (NOI) requirements of this permit (See Section 6, *Stormwater Discharges Associated with Industrial Activity*). Operators of industrial facilities have the opportunity to certify a condition of "no exposure" if their industrial materials and operations are not exposed to stormwater (See Section 5.7 *Conditional Exclusion for No Exposure*).

1.2. Authorized Non-Stormwater Discharges

The following non-stormwater discharges are authorized by this permit. All other non-stormwater discharges shall be eliminated by the operator or the operator shall obtain an individual KPDES permit or appropriate alternate KPDES general permit:

- 1) Discharges from emergency/unplanned fire-fighting activities;
- 2) Fire hydrant flushings;
- 3) Potable water, including water line flushings;
- 4) Uncontaminated condensate from air conditioners, coolers/chillers, and other compressors and from outside storage of refrigerated gases or liquids;
- 5) Irrigation drainage;
- 6) Landscape watering provided all pesticides, herbicides, and fertilizers have been applied in accordance with the approved labeling;
- 7) Pavement wash waters where no detergents or hazardous cleaning products are used (e.g., bleach, hydrofluoric acid, muriatic acid, sodium hydroxide, nonylphenols), and the wash waters do not come into contact with oil and grease deposits, sources of pollutants associated with industrial activities, or any other toxic or hazardous materials, unless residues are first cleaned up using dry clean-up methods (e.g., applying absorbent materials and sweeping, using hydrophobic mops/rags) and you have implemented appropriate control measures to minimize discharges of mobilized solids and other pollutants (e.g., filtration, detention; settlement).
- 8) Routine external building washdown/ power wash water that does not use detergents or hazardous cleaning products;
- 9) Uncontaminated ground water or spring water;
- 10) Foundation or footing drains where flows are not contaminated with process materials; and
- 11) Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from cooling tower (e.g., "piped" cooling tower blowdown; drains).

1.3. Summary of Exclusions

Facilities meeting any of the following criteria are not eligible for coverage under KYR00:

- 1) Those that have obtained or are required to obtain an individual KPDES permit for discharge of non-stormwater wastewaters;

- 2) Those that are subject to a promulgated national effluent guideline specific to stormwater discharges;
- 3) Those that propose a new or expanded 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 and for which an approved Total Maximum Daily Load (TMDL) has been developed; or
- 4) Those that DOW has determined are more appropriately addressed by an individual KPDES permit or alternate KPDES general permit.

1.4. Location

Within the 120 counties of the Commonwealth of Kentucky.

1.5. Treatment Provided

The treatment provided is specific to the facility and is dependent upon the volume of stormwater runoff and sources of potential contamination.

1.6. Permitting Action

This is a reissuance of a general KPDES permit to address stormwater runoff associated with industrial activities that are not more appropriately addressed by an individual KPDES permit or an alternate general KPDES permit.

SECTION 2

RECEIVING WATER INFORMATION

2. RECEIVING / INTAKE WATERS

2.1. Receiving Waters

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.

2.2. Stream Segment Use Classifications

Includes all water bodies that have been designated by DOW singularly or in combination as: Warmwater Aquatic Habitat, Coldwater Aquatic Habitat, Primary Contact Recreation, Secondary Contact Recreation, Outstanding State Resource Water, and/or Domestic Water Supply.

2.3. Stream Segment Antidegradation Categorization

Included are those water bodies which have been categorized as High Quality Waters, Impaired Waters, Exceptional Waters, or Outstanding National Resource Waters.

2.4. Stream Low Flow Condition

The 7-day, 10-year low flow conditions of the receiving streams can range from zero (0) cubic feet per second (cfs) to 111,000 cfs for the Mississippi River.

SECTION 3

EFFLUENT LIMITATIONS

AND

MONITORING REQUIREMENTS

3. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The purpose of this general permit (KYR00) is to provide coverage for those facilities with stormwater discharges that are not more appropriately addressed by an individual KPDES permit or alternate general KPDES permit (stormwater or other). As such, KYR00 does not address a specific category of facility (e.g. steel mills, power plants, etc.), but rather is available to all facilities who submit a Notice of Intent and meet the eligibility requirements. The diversity in eligible facilities also creates substantial variability in the types of primary and ancillary activities conducted on-site, the potential pollutants, and the volume, quality, and management of stormwater.

3.1. Effluent Monitoring Requirements

DOW is imposing the following effluent monitoring requirements for selected parameters:

TABLE 2							
Effluent Characteristic	Units	Minimum	Monthly Average	Daily Maximum	Maximum	Frequency	Sample Type
Flow	MGD	N/A	Report	Report	N/A	2/Year	Instantaneous
TSS	mg/l	N/A	Report	100 ¹	N/A	2/Year	Grab
Oil & Grease	mg/l	N/A	Report	Report	N/A	2/Year	Grab
pH	SU	Report	N/A	N/A	Report	2/Year	Grab
¹ 100 mg/l is not an effluent limit, but a trigger. Should the daily maximum of Total Suspended Solids (TSS) exceed 100 mg/l for two (2) consecutive reporting periods, see Section 5.3.1 for additional requirements.							
N/A means Not Applicable.							
DMR data shall be submitted by July 28 th , and by January 28 th of each year.							

3.2. Number of Required Samples

A minimum of one (1) grab sample per physical/chemical-specific parameter shall be collected during a period of discharge resulting from a precipitation event the first six (6) months of a calendar year (submitted July 28th), and another grab sample collected during the second six (6) months of a calendar year (submitted by January 28th). 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.

3.3. Non-Numeric Requirements

The non-numeric requirements of this permit consist of the selection, design, installation, and implementation of control measures, including best management practices that minimize the discharge of pollutants resulting from precipitation events. EPA's 2015 Multi-Sector General Permit (MSGP) defines the term minimize as "to reduce and/or eliminate to the extent achievable using control measures, including Best Management Practices (BMPs) that are technologically available and economically practicable and achievable in light of best industry practice." DOW is establishing the following non-numeric requirements that the operator shall implement through the facility's Stormwater Pollution Prevention Plan (SWPPP). The operator shall document compliance with these non-numeric requirements.

3.3.1. Control Measures

The operator shall select, design, install, and implement control measures and BMPs that consider the following:

- 1) Prevention of stormwater contact with materials that may contaminate the stormwater;
- 2) Use of control measures in combination;
- 3) Assess pollutant types and quantity, and their potential impact on water quality;

- 4) Minimizing impervious surfaces;
- 5) Optimizing onsite infiltration of runoff;
- 6) Use of vegetated swales and natural depressions to attenuate flows;
- 7) Conservation and/or restoration of riparian buffers; and
- 8) Use of treatment interceptors (e.g., swirl separators and sand filters)

The candidate control measures and BMPs shall be in accordance with good engineering practices and manufacturer's specifications. The operator shall provide justification and documentation of rationale for any deviation from the manufacturer's specification in the SWPPP.

3.3.2. Minimize Exposure

The operator shall minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff. In minimizing exposure, the operator should consider the following:

- 1) Locating industrial materials and activities inside or protecting them with storm resistant coverings;
- 2) The use of specific control measures to prevent runoff of contaminated flows and divert run-on away from these areas (e.g. curbing, berms, and grading);
- 3) Locating raw materials, intermediate products, final products, wastes, etc. in areas where leaks or spills are contained;
- 4) Maintaining and storing equipment and vehicles indoors when feasible otherwise drain fluids and use drip pans and absorbents;
- 5) Conducting activities so that leaks or spills do not enter the stormwater drainage system;
- 6) Promptly containing and cleaning up leaks and spills using dry methods;
- 7) The strategic location of spill/overflow protection equipment for immediate accessibility;
- 8) Conducting equipment and vehicle cleaning operations so that overspray is captured and runoff or run-on are prevented (e.g. indoors, under cover or in bermed areas);
- 9) Minimizing impervious areas to prevent excessive runoff;
- 10) All washwater should drain to a proper collection system, not the stormwater drainage system. The discharge of vehicle and equipment washwater, including tank cleaning operations, is not authorized by this permit. These wastewaters must be discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements, or disposed of otherwise in accordance with applicable law. The discharge of vehicle and equipment washwaters to a water of the Commonwealth requires an individual KPDES permit or appropriate alternate KPDES general permit for the entire facility as required by the eligibility requirements of this permit; and
- 11) Implementing other adequately protective alternate practices.

3.3.3. Good Housekeeping

The operator shall keep all exposed areas clean and well maintained, free of waste, garbage, and floatable debris and shall minimize the generation of dust and off-site tracking of raw, final, or waste materials.

3.3.4. Maintenance

The operator shall regularly inspect, test, maintain, and repair all equipment and systems to minimize the potential for leaks, spills, and other releases of pollutants. All control measures, structural and non-structural, shall be diligently maintained in effective operating condition. Any defective control measure shall be repaired or replaced as expeditiously as practicable. Control measure refers to any BMP or other method (including effluent limitations) used to prevent or reduce the discharge of pollutants to surface waters of the Commonwealth.

3.3.5. Spill Prevention and Response Procedures

The operator shall minimize the potential for leaks, spills and other releases and develop plans for effective response to such spills. At a minimum, operator shall implement the following:

- 1) Procedures for plainly labeling containers (e.g., "Used Oil," "Spent Solvents," "Fertilizers and Pesticides," etc.) to encourage proper handling and facilitate rapid response if spills or leaks occur;
- 2) Preventative measures such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;
- 3) Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of your Stormwater Pollution Prevention Team; and
- 4) Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies and contact information shall be kept in locations that are readily accessible and available.

3.3.6. Management of Runoff and Run-on

The operator shall reduce stormwater runoff and run-on to minimize the discharge of pollutants. Structural and non-structural control measures such as velocity dissipaters, diversion, infiltration, reuse, and/or containment shall be used to reduce the discharge of pollutants. Salt stockpiles shall be enclosed or covered and appropriate measures to minimize exposure during transfer shall be implemented.

3.3.7. Employee Training

The operator shall train all employees who work in areas where industrial materials or activities are exposed to stormwater, including all members of your Stormwater Pollution Prevention Team, inspectors, maintenance personnel, etc. Training shall address the specific control measures used to achieve the effluent requirements, monitoring, inspection, planning, reporting, and documentation requirements in other parts of this permit.

3.3.8. New or Expanded Discharges

New or expanded discharges are those discharges that result in new pollutant loadings or expanded existing pollutant loadings to surface waters of the Commonwealth. To satisfy the antidegradation requirements and implementation procedures in 401 KAR 10:029 and 401 KAR 10:030, the operator shall implement control measures and BMPs to meet enhanced non-numeric effluent limitations for these discharges. The operator shall document in the SWPPP, the selected enhanced control measures and BMPs, and justification of their use. Enhanced control measures and BMPs shall be sufficient to protect surface waters of the Commonwealth for their designated uses. Examples of acceptable enhanced control measures and BMPs include, but are not limited to, the following:

- 1) Selection, design, installation, implementation, and maintenance of control measures and BMPs to effectively control storm events up to and including a 2-year, 24-hour event.
- 2) Maintain a 25-foot natural vegetative buffer between the edge of the receiving water and any structure or activity that results in new or expanded discharges.
- 3) Maintain a 50-foot natural vegetative buffer between the edge of the receiving water and any structure or activity that results in new or expanded discharges for receiving waters designated as a Coldwater Aquatic Habitat or Outstanding State Resource Water, categorized as an Outstanding National Resource Water or Exceptional Water, or has been listed in the most recently approved Integrated Water Quality 305(b) Report to Congress as an Impaired Water for which an approved TMDL has not been developed for pollutants of concern that may be discharged from the facility.

- 4) Removal of wastes, garbage or floatable debris from exposed areas on a routine basis unless the operator places such materials in containers that are protected by a storm resistant covering or within secondary containment structures.
- 5) Inspections of all equipment and systems for leaks, spills, other releases of pollutants, and structural control measures for capacity and integrity. Repairs or replacement of any faulty equipment or systems, the removal of sediment, cleaning or performance of repairs of structural control measures shall be affected within 24 hours of discovery of the condition unless the operator can demonstrate there are extenuating circumstances.
- 6) Minimization of the potential for leaks, spill, and other releases. Where possible, the operator should determine the level of risk of leaks, spills, and other releases for all primary and ancillary activities at a facility and develop procedures and preventative measures that result in the greatest reduction or elimination of the risk.
- 7) Utilize storm resistant covers to reduce areas of exposure (e.g. enclosing storage areas, transfer points, etc.).
- 8) Implementation of other adequately protective alternate practices.

SECTION 4

JUSTIFICATION OF EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

4. JUSTIFICATION OF EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

DOW has determined that it is not feasible to develop a comprehensive, standardized, technology-based effluent limitations (TBELs) and water quality-based effluent limitations (WQBELs) for all potential pollutants that may be discharged by facilities eligible for coverage under KYR00. This determination is based on the extreme variability in a number of factors related to: (1) eligible facilities, (2) potential pollutants, and (3) stormwater runoff. Although the eligibility requirements of the new KYR00 exclude a number of facilities from coverage, the number of eligible facilities is still quite large. KYR00 provides coverage for those facilities with stormwater discharges that are not more appropriately addressed by an individual KPDES permit or alternate general KPDES permit (stormwater or other).

4.1. Effluent Monitoring Requirements

4.1.1. Oil & Grease and pH

Pursuant to 401 KAR 5:070, Section 3 [40 CFR 122.48 (b)] all permits shall specify required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity. The monitoring requirements for this parameter are consistent with the requirements of 401 KAR 5:065, Section 2(4) [40 CFR 122.44].

4.1.2. Total Suspended Solids (TSS)

The monitoring requirements for this parameter are consistent with the requirements of 401 KAR 5:065, Section 2(4) [40 CFR 122.44].

The daily maximum concentration of 100 mg/l trigger for this parameter is consistent with the requirements of 401 KAR 5:065 Section 2(4) [40 CFR 122,4(k)(4)]. In lieu of numeric limitations for TSS, the Division has determined that, when appropriately employed, enhanced BMPs are reasonable necessary to control or abate the discharge of this pollutant.

4.1.3. Flow

The monitoring requirements for this parameter are consistent with the requirements of 401 KAR 5:065, Section 2(4) [40 CFR 122.44(i)(1)(ii)].

4.2. Non-Numeric Effluent Limitations

In the 2015 MSGP Fact Sheet, EPA discusses the difficulties in developing national effluent guidelines for industrial stormwater discharges. Due to the variability in flows, pollutants, treatment technologies employed, etc., the development of uniform national numeric standards was not feasible. The inability to develop numeric standards did not relieve EPA from the Clean Water Act (CWA) requirement to impose technology-based standards. EPA concluded that the CWA allowed EPA to use Best Management Practices in lieu of numeric effluent limitations. EPA justified this conclusion with citation of recent judicial decisions and requirements of 40 CFR 122.44(k). However EPA found that for the same reasons numeric limitations were not feasible, national BMPs could not be established. Unable to develop national effluent guidelines that established uniform technology-based requirements, EPA's final option was to develop effluent limitations using the Best Professional Judgment procedures of 40 CFR 125.3. These procedures are used to establish Best Practicable Technology (BPT), Best Conventional Pollutant Control Technology (BCT), and Best Available Technology (BAT) requirements for dischargers but cannot be used to develop New Source Performance Standards (NSPS) requirements. NSPS requirements are based on the promulgation date of a national effluent guideline and in this case, EPA has not yet been able to develop a national effluent guideline. Following these procedures EPA's resolution came in the form of non-numeric effluent limitations that required the operator to minimize the potential for contamination of industrial stormwater and the discharge of pollutants. The implementation of these requirements was

accomplished through the SWPPP. Using the 2015 MSGP as a model, DOW has reached similar conclusions and is proposing similar non-numeric effluent limitations and conditions.

As previously discussed in this fact sheet, DOW is authorized by 401 KAR 5:065, Section 2(4) [40 CFR 122.44 (k), July 1, 2008] to impose non-numeric effluent limitations in lieu of numeric effluent limitations when the imposition of numeric effluent limitations is infeasible. Due to the variability in the characteristics of the eligible facilities, receiving waters, intake waters, and storm events, DOW determined that development of numeric effluent limits was not feasible.

4.3. New or Expanded Discharges

DOW has determined to include within the general permit a Summary of Exclusions in Section 1 that 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 water of the Commonwealth.

Section 3 of this Fact Sheet gives the non-numeric requirements applicable to facilities covered under this general permit. These non-numeric requirements consist of the selection, design, installation, and implementation of control measures, including best management practices that minimize the discharge of pollutants resulting from precipitation events. This section further explains in detail the non-numeric technology-based effluent limitations and associated requirements with which the operator shall comply. One major requirement is the creation and implementation of the facility's SWPPP. Another requirement for the operator is that he/she shall select, design, install, and implement control measures and BMPs that consider the following:

- 1) Prevention of stormwater contact with materials that may contaminate the stormwater;
- 2) Use of control measures in combination;
- 3) Assess pollutant types and quantity and their potential impact on water quality;
- 4) Minimization of impervious surfaces;
- 5) Optimization of onsite infiltration of runoff;
- 6) Use of vegetated swales and natural depressions to attenuate flows;
- 7) Conservation and/or restoration of riparian buffers; and
- 8) Use of treatment interceptors.

The candidate control measures and BMPs shall be in accordance with good engineering practices and manufacturer's specifications. The operator shall provide justification and documentation of rationale for any deviation from the manufacturer's specification in the SWPPP.

DOW has determined to include within the general permit, additional protective requirements for facilities with new or expanded discharges to High Quality Waters such that compliance with these requirements result in no significant degradation in receiving waters due to the permitted activity. Section 3.3.8 explains in detail these additional protective requirements, also called enhanced control measures and BMPs, whereas a short list is given below.

Enhanced control measures and BMPs include:

- 1) A requirement to effectively control storm events up to and including a 2-year 24-hour event;
- 2) Buffer zones between the structure or activity and the receiving water;
- 3) Routine cleaning of areas that could be exposed to rain, snow, snowmelt, and runoff;
- 4) Inspections of equipment and systems;
- 5) Timely repairs of faulty equipment, systems, and structural control measures;
- 6) Minimization of the potential for leaks, spills and other releases;
- 7) Reduction of exposed areas by the utilization of storm resistant covers.

It is the DOW's conclusion that the antidegradation requirements have been satisfied by this permitting action. The process described above for new or expanded discharges of stormwater runoff associated with industrial activities 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.

SECTION 5

SCHEDULE OF COMPLIANCE

AND

OTHER CONDITIONS

5. SCHEDULE OF COMPLIANCE AND OTHER CONDITIONS

5.1. Schedule of Compliance

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

5.2. Antidegradation

The conditions of 401 KAR 10:029, Section 1 have been satisfied. This permitting action is a reissuance of a KPDES general permit for stormwater discharges from industrial activities not addressed by an individual KPDES permit, or alternate KPDES general permit.

5.3. Stormwater Pollution Prevention Plan (SWPPP)

The SWPPP is the mechanism whereby the operator documents the specific control measures that will be used to meet the non-numeric limits discussed in Section 3.3 of this Fact Sheet, and to document compliance with other permit requirements such as inspections, monitoring, recordkeeping and reporting. It is similar to a BMP Plan in form and function and must be reviewed periodically and modified to ensure its effectiveness. Because of this similarity, the requirement to develop, implement, and maintain an up-to-date SWPPP and its components is authorized pursuant to 401 KAR 5:065, Section 2(4) [40 CFR 122.44(k), July 1, 2008]. Permits are to include BMPs to control or abate the discharge of pollutants when:

- 1) Authorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances from ancillary industrial activities;
- 2) Authorized under Section 402(p) of the CWA for the control of stormwater discharges;
- 3) Numeric effluent limitations are infeasible; or
- 4) The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

5.3.1. Additional BMP Conditions for Total Suspended Solids (TSS)

In lieu of numeric limitations for TSS, the Division has determined that, when appropriately employed, enhanced BMP are reasonable necessary to control or abate the discharge of this pollutant.

The DOW has determined that control of Total Suspended Solids (TSS) is not feasible through the application of a numeric limit. Therefore the permittee is required to prepare and implement a BMP plan to identify measures it will take to prevent discharge of pollutants. The effectiveness of the BMPs will be determined by semi-annual assessments of TSS levels. If these assessments indicate that the pollutant levels are not adequately controlled, then the permittee shall evaluate the BMPs employed and determine if modifications to the BMP plan and selected BMPs are required.

5.3.2. BMP Evaluation Trigger for TSS

The daily maximum discharge concentrations for TSS of 100 mg/l is a trigger that once exceeded for two (2) consecutive monitoring periods, requires the permittee to initiate an evaluation of currently employed BMPs. Modifications to the plan as a result of ineffectiveness or plan changes to the facility, shall be implemented as soon as possible.

5.3.3. Stormwater Associated with Construction Activity

The discharge of stormwater associated with industrial activity includes construction activity if the disturbance is less than five acres. "Stormwater associated with small construction activity" includes disturbed areas at least one but not more than five acres. This permit is conditioned to require the permittee to evaluate BMPs and the SWPPP prior to discharge of stormwater related to construction activity. This permit, therefore provides for coverage of stormwater discharges associated with construction activity regulated under 401 KAR 5:060, Section 8 [40 CFR 122.26] and 401 KAR 5:065, Section 2(4) [40 CFR 122.44 (k) and (s)]. Having appropriate BMPs and a SWPPP under this permit precludes the permittee from obtaining a separate KPDES permit for stormwater associated with construction activity.

5.4. Inspections

A necessary component of any SWPPP to ensure its effectiveness is the inspections conducted by the operator. Periodic routine inspections, inspections after significant precipitation events, and an annual site assessment as part of the SWPPP review are essential in achieving and maintaining compliance with the conditions of the permit. These inspections alert the operator to actual and potential deficiencies in the SWPPP, control measures, and BMPs that have or may result in substandard discharges thus initiating appropriate actions by the operator. As a necessary component of the SWPPP, the requirement to conduct such inspections are authorized by 401 KAR 5:065, Section 2(4) [40 CFR 122.44(k)].

5.5. Corrective Actions

This section of the permit requires the permittee to evaluate, revise, and implement as necessary the control measures and BMPs in response to: unpermitted discharges, inspections, or changes at the facility. These actions are to be documented by the facility's Stormwater Pollution Prevention Team in a Corrective Action Report. These requirements are consistent with 401 KAR 5:065, Section 2(4) [40 CFR 122.44(k)] and are necessary to ensure effective stormwater controls are implemented at all times.

5.6. Electronic Notice of Intent

The electronic NOI-KYR00 (eNOI) will provide the necessary information to enable DOW to better determine the eligibility and the applicable requirements of a facility seeking coverage under this general permit. Should DOW receive an eNOI-KYR00 from which, upon review, DOW determines that a potential for degradation or permanent lowering of water quality could result, DOW may request additional information, which may include the SWPPP. DOW will base its determination on a number of factors including but not limited to the amount of disturbance within the watershed, the proximity to drinking water sources, waters not categorized as "High Quality", size and duration of the project, etc. If, based upon review of the additional information, DOW determines that additional controls and requirements beyond those in the KYR00 general permit are needed to meet water quality standards, the applicant shall be required to obtain an individual permit.

Facilities which have applied for an individual KPDES stormwater discharge permit (IP) before the effective date of this permit, may be eligible for coverage under this permit, assuming they are not otherwise excluded under the Summary of Exclusions.

5.7. Conditional Exclusion for No Exposure

Facilities that do not have any industrial materials or operations exposed to stormwater may be excluded from the KPDES industrial stormwater requirements of 401 KAR 5:060, Section 8 [40 CFR 122.26(g)]. Operators seeking this conditional exclusion are required to submit an electronic "No Exposure Certification" using the eNE form on KDEP's forms library site at:

<http://water.ky.gov/permitting/Pages/WastewaterDischarge.aspx>. This certification is time-limited and must be resubmitted upon each reissuance of the "General Permit for Stormwater Discharges Associated with Industrial Activity from Other Facilities" (KYR00) in order to continue the exclusion for the next permit term.

5.8. Outfall Signage

The KPDES permit establishes monitoring points, effluent limitations, and other conditions to address discharges from the permitted facility. As a member of ORSANCO, DOW is including language in KPDES permits authorizing discharges to the Ohio River to abide by the permanent marker requirements of Part V, Section A 3 of ORSANCO's Pollution Control Standards. For all other receiving waters, the permittee should place and maintain a permanent marker at each of the monitoring locations to better document and clarify these locations. Each marker should include:

- 1) The KPDES permit number; and
- 2) The monitoring point number as listed on the issued coverage letter.

SECTION 6

DEFINITIONS

6. DEFINITIONS

Antidegradation - A policy developed and adopted as part of a state's water quality standards that ensures protection of existing uses, and maintains the existing level of water quality where that water quality exceeds levels necessary to protect fish and wildlife propagation and recreation on and in the water. This policy also includes special protection of water designated as Outstanding National Resource Waters.

Contaminated stormwater – means, for this permit only, stormwater which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater. Sources of contaminated stormwater include but are not limited to: (1) the open face of an active landfill with exposed waste (no cover added), (2) the areas around wastewater treatment operations, (3) trucks, equipment or machinery that has been in direct contact with the waste, and (4) waste dumping areas.

Diversion - means a channel, embankment, or other manmade structure constructed for the purpose of diverting water from one area to another

Hazardous substance - Any substance as designated under Part 116 pursuant to CWA section 311—that presents an imminent and substantial danger to the public health or welfare, including fish, shellfish, wildlife, shorelines, and beaches, upon discharge to navigable surface waters of the United States.

Primary industrial activity – includes any activities performed on-site which are (1) identified by the facility's primary SIC code; or (2) included in the narrative descriptions of 401 KAR 5:002, Section 1(156) [122.26(b)(14)(i), (iv), (v), or (vii), and (ix)]. [For co-located activities covered by multiple SIC codes, it is recommended that the primary industrial determination be based on the value of receipts or revenues or, if such information is not available for a particular facility, the number of employees or production rate for each process may be compared. The operation that generates the most revenue or employs the most personnel is the operation in which the facility is primarily engaged. In situations where the vast majority of on-site activity falls within one SIC code, that activity may be the primary industrial activity.] Narrative descriptions in 401 KAR 5:002, Section 1(156) [40 CFR 122.26(b)(14)] identified above include: (i) activities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards; (iv) hazardous waste treatment storage, or disposal facilities including those that are operating under interim status or a permit under subtitle C of the Resource Conservation and Recovery Act (RCRA); (v) landfills, land application sites and open dumps that receive or have received industrial wastes; (vii) steam electric power generating facilities; and (ix) sewage treatment works with a design flow of 1.0 MGD or more.

Significant materials – includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

Standard Industrial Classification (SIC) Code - A code number system used to identify various types of industries. A particular industry may have more than one SIC code if it conducts several types of commercial or manufacturing activities onsite. An online version of the 1987 SIC Manual is available courtesy of the Occupational Safety & Health Administration (OSHA) at: https://www.osha.gov/pls/imis/sic_manual.html.

Stormwater discharges associated with industrial activity – the discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR 122.26 (b)(14). For the categories of industries identified in this section, the term includes, but is not limited to, stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at part 401 of this chapter); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. For the purposes of this paragraph, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with stormwater drained from the above described areas. Industrial facilities include those that are federally, State, or municipally owned or operated that meet the description of the facilities. The following categories of facilities are considered to be engaging in "industrial activity":

- i. Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi));
- ii. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373;
- iii. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);
- iv. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;
- v. Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of RCRA;

- vi. Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
- vii. Steam electric power generating facilities, including coal handling sites;
- viii. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221–25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)–(vii) or (ix)–(xi) of this section are associated with industrial activity;
- ix. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 MGD or more, or required to have an approved pretreatment program under 40 CFR part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the CWA;
- x. Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more;
- xi. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221–25.

Stormwater discharge associated with small construction activity means the discharge of stormwater from construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres and as further defined at 40 CFR 122.26 (b).