KPDES



KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

PERMIT

AUTHORIZATION TO DISCHARGE UNDER THE
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

PERMIT NO.: KYG760000

AGENCY INTEREST NO.: 35050

Pursuant to Authority in KRS 224,

Public Swimming and Bathing Facilities

is authorized to discharge from a facility located at

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

to receiving waters comprised of

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 January 1, 2024.

This permit and the authorization to discharge shall expire at midnight, December 31, 2028.

Date Signed: November 30, 2023

Carey Johnson, Director
Division of Water

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SECTION 1

COVERAGE

1. COVERAGE

This general permit covers the disposal of non-sanitary wastewaters associated with public swimming and bathing facilities located within the physical and political boundaries of the Commonwealth of Kentucky.

The Kentucky Cabinet for Health and Family Services – Department for Public Health (DPH) defines public swimming and bathing facilities as "any natural or artificial body or basin of water which is modified, improved, constructed, or installed for the purpose of public swimming or bathing under the control of any person and includes, but is not limited to, the following:

a) Beaches;
b) Swimming pools, wading pools, wave pools;
c) Competition swimming pools and diving pools;
d) Water slides and spray pools; and
e) Spas, therapeutic pools, hydrotherapy pools, and whirlpools

It includes those operated by communities, subdivisions, apartment complexes, condominiums, clubs, camps, schools, institutions, parks, mobile home parks, hotels, recreational areas, or similar public facilities. It does not include any of the above facilities which are at private single-family residences intended only for the use of the owner and guests" [902 KAR 10:120, Section 2(46)].

Non-sanitary wastewaters include filter backwash and wash waters, recirculation system flush waters, and pool draw down waters.

1.1. Eligibility

New, expanded, or reconstructed public swimming and bathing facilities authorized to land apply filter backwash or wash waters and pool draw down waters or to discharge these wastewaters to surface waters due to the unavailability of public sewers.

Existing facilities that hold an individual or general KNDOP coverage for land application or hold an individual KPDES permit that addresses only filter backwash waters may seek conversion of that coverage to this permit.

Existing facilities that currently discharge filter backwash or wash waters and pool draw down waters to a leach field are eligible, if approved by DPH to convert to one of the disposal methods authorized by this general permit.

1.2. Exclusions

The following activities are excluded from coverage under this general permit:

1) Private single family residential swimming and bathing facilities; and
2) Public swimming and bathing facilities currently connected to public sewers;
3) New, expanded, or reconstructed public swimming or bathing facilities where connection to a public sewer is available;
4) Wastewaters from restrooms, showers, food areas, and other support operations; and
5) Any facility that the Division of Water (DOW) has determined would be more appropriately addressed by an individual permit or an alternate general permit.

SECTION 2

REQUIREMENTS

2. REQUIREMENTS

New, expanded, or reconstructed public swimming and bathing facilities shall connect to a regional wastewater collection and treatment plant when required by local sewer use ordinances or are within the planning area and within one and zero tenths (1.0) mile of a regional wastewater collection and treatment plant.

2.1. Land Application Requirements

Where sewers are unavailable filter wash and backwash waters and pool draw down waters shall be land applied in accordance with the following requirements:

(1) Where possible these wastewaters may be used for landscaping and/or golf course irrigation;
(2) There shall be no runoff of the wastewater from the application area;
(3) The wastewaters shall not be applied during periods of precipitation or when the ground is frozen or covered with snow;
(4) The rate of discharge shall be sufficiently low to prevent erosion of the application area;
(5) The application area shall be covered in perennial vegetative ground cover;
(6) The permittee shall develop a Best Management Practices Plan (BMPP) that includes:
    a. a detailed description of the areas where the wastewaters shall be applied;
    b. the method by which the wastewater will be applied;
    c. the expected volumes and frequency of application; and
    d. what precautions the permittee proposes to implement to prevent runoff;
(7) The permittee shall maintain an application log that includes the date, duration, volume and type of wastewater applied; and
(8) The BMPP and application log shall be maintained on-site and made available upon request by representatives of either DPH or DOW.

2.2. Direct Discharge Requirements

Where sewers are unavailable and land application is not feasible filter wash and backwash waters and pool draw down waters may be discharged in accordance with the following requirements:

(1) The discharge shall not contain toxic pollutants in toxic amounts, as defined in 401 KAR 5:002, Section 1(164) or other pollutants in amounts which could cause instream exceedances of applicable water quality standards [401 KAR 10:031];
(2) Adequate dewatering structures and velocity dissipation devices shall be used when necessary to prevent and minimize erosion, stream scouring, flooding, increases in turbidity or any other potential damage to the receiving waters and its riparian zone;
(3) The discharge shall not contain any scum, foam, floating solids, or other residual matter;
(4) The maximum total suspended solids (TSS) concentration during the period of discharge shall not exceed 50 mg/l;
(5) The pH shall be within the range of 6.0 to 9.0 standard units at all times;
(6) There shall be no detectable amounts of total residual chlorine (TRC) in the wastewater prior to commencement of or during discharge;
(7) The permittee shall develop a BMPP that includes:
    a. a detailed description of the BMPs used to comply with the preceding conditions;
    b. the treatment procedures for reducing TSS and neutralizing TRC; and
    c. sampling procedures for determining the concentration of pollutants in the discharge;
(8) The permittee shall maintain discharge log that includes the following information:

a. date, duration, volume and type of wastewater discharged;
b. pollutant concentrations of wastewater discharge;

(9) The BMPP and application log shall be maintained on-site and made available upon request by representatives of either DPH or DOW.

To demonstrate compliance with effluent requirements 4 through 6 above, the permittee shall, at a minimum, monitor the effluent once per discharge not to exceed once per quarter. Results of the effluent monitoring shall not be submitted to DOW. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and copies of all reports required by this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application.

SECTION 3

BMPP REQUIREMENTS

3. BMPP REQUIREMENTS

The permittee shall develop and implement a Best Management Practices Plan (BMPP) consistent with 401 KAR 5:065, Section 2(4). An example BMPP was developed by DPH and DOW and is available at **https://eec.ky.gov/Environmental-Protection/Water/PermitCert/KPDES/Documents/KYG76PermitPage.pdf**. The permittee may choose to use this BMPP or develop another that meets the requirements of 401 KAR 5:065.

New facilities must develop and implement a BMPP within 30 days of commencement of operation.

3.1. General Conditions

3.1.1. 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 224.01-010(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 224.01-400, as amended, or any regulation promulgated pursuant thereto (hereinafter, the "BMP pollutants"). These operations include material storage areas; site runoff; on site material transfer, process and material handling areas; loading and unloading operations, and waste disposal areas.

3.1.2. Plan

The permittee shall develop and implement a BMPP consistent with 401 KAR 5:065, Section 2(10) pursuant to KRS 224.70-110, which prevents or minimizes the potential for the release of BMP pollutants from ancillary activities through site runoff; material spillage or leaks, waste disposal; or drainage from raw material storage.

3.1.3. Implementation

The permittee shall implement the BMPP upon of 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.

Within 90 days of the effective date of the permit, the permittee shall evaluate the current BMPP and make any necessary modifications to ensure its continued effectiveness.

3.1.4. General Requirements

The BMPP shall:

1) Be documented in narrative form, and shall include any necessary site layout or map.
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.
3) Establish specific BMPs to meet the objectives of paragraph 2, addressing each component or system capable of causing a release of BMP pollutants.

Be reviewed by the site manager or individual familiar with day-to-day operations.

3.2. 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) Reporting of BMP Incidents
2) Risk Identification and Assessment
3) Employee Training
4) Inspections and Records
5) Preventive Maintenance
6) Good Housekeeping
7) Materials Compatibility
8) Materials Inventory

3.2.1. BMPP - Documentation

The permittee shall maintain a description of the BMPP at the facility and shall make the plan available upon request to DOW or DPH personnel.

3.2.2. BMPP - Modification

The permittee shall amend the BMPP whenever there is a change in the facility or change in the operation of the facility which materially increases the potential for the ancillary activities to result in the release of BMP pollutants.

3.2.3. BMPP – Modification for Ineffectiveness

If the BMPP proves to be ineffective in achieving the general objective of preventing the release of BMP pollutants, then the specific objectives and requirements under Section 3.1.4, the permit, and/or the BMPP shall be subject to modification to incorporate revised BMP requirements. If at any time following the issuance of this permit, the BMPP is found to be inadequate pursuant to a state or federal site inspection or plan review, the plan shall be modified to incorporate such changes necessary to resolve the concerns.

SECTION 4

ADDITIONAL REQUIREMENTS

4. ADDITIONAL REQUIREMENTS

4.1. Schedule of Compliance

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

Should DPH and DOW concur the permittee has failed to comply with the requirements of this permit coverage may be terminated and the permittee required to obtain an individual permit.

4.2. 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.

4.3. Continuation of Expiring Permit

In the event the permit expires prior to reissuance by DOW, the conditions and requirements of this version of KYG76 shall continue in effect until DOW reissues the permit. However, new or expanded coverages cannot be authorized until the permit is reissued.

4.4. Antidegradation

New or expanded public swimming and bathing facilities shall connect to public sewers when such sewers are available. i.e. within the planning area of a regional wastewater treatment plant and within one mile of the public sewers or when required by local sewer use ordinances. When sewers are unavailable the permittee must first evaluate the feasibility of land application of these effluents. When neither sewers are available nor land application feasible the facility may discharge under the conditions specified in this permit.

4.5. 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.

4.6. Notice of Intent (NOI)

A NOI is not being required to obtain coverage under KYG76; all eligible public swimming and bathing facilities shall be granted automatic coverage upon verification of operation from DPH.

4.7. Certified Laboratory

All environmental analysis to be performed by a field-only certified laboratory. This is consistent with the certified wastewater laboratory requirements [401 KAR 5:320].

SECTION 5

STANDARD CONDITIONS

5. STANDARD CONDITIONS

The following conditions apply to all KPDES permits.

5.1. 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.

5.2. 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 a new permit.

5.3. 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.

5.4. 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.

5.5. 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.

5.6. 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.

5.7. Property Rights

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

5.8. 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.

5.9. 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.

5.10. 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.

5.11. 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.

5.12. Reporting Requirements

5.12.1. 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)]; or

(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)].

(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.

5.12.2. 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.

5.12.3. 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].

5.12.4. 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.

5.12.5. 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.

5.12.6. 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 that, 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 the regional field office by calling 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; 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.

5.12.7. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Sections 2.12.1, 2.12.4, 2.12.5 and 2.12.6, at the time monitoring reports are submitted. The reports shall contain the information listed in Section 2.12.6.

5.12.8. 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.

5.13. Bypass

5.13.1. 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.

5.13.2. 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 Section 2.13.3 and 2.13.4.

5.13.3. 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 Section 2.12.6.

5.13.4. 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 Section 2.13.3.

(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 in Section 2.13.4.

5.14. Upset

5.14.1. 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.

5.14.2. 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 Section 2.14.3 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.

5.14.3. 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; and

(3) The permittee submitted notice of the upset as required in Section 2.12.6; and

(4) The permittee complied with any remedial measures required under Section 2.4.

5.14.4. Burden of Proof

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