



**Andy Beshear**  
GOVERNOR

**ENERGY AND ENVIRONMENT CABINET**  
**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

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**Rebecca W. Goodman**  
SECRETARY

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COMMISSIONER

January 7, 2025

Josh Frost  
Chief, Regulatory Division  
U.S. Army Corps of Engineers, Nashville District  
3701 Bell Road,  
Nashville, Tennessee, 37214

Re: §401 Water Quality Certification  
Regional General Permit (RGP) 24-02  
USACE ID Number: LRN-2024-00903

Dear Mr. Frost:

The Kentucky Division of Water has reviewed the Proposed Regional General Permit (RGP) 24-02 issued by the U.S. Army Corps of Engineers, Nashville District for the purposes of providing State certification in accordance with Section 401 of the Clean Water Act (CWA). The permit authorizes work, structures, and the discharge of dredged or fill material into waters of the U.S. and navigable waters of the U.S. associated with certain natural disaster mitigation and flood-recovery related activities for state and/or federally declared disasters.

Pursuant to Section 401 of the CWA and 40 CFR 121.7(c), the Commonwealth of Kentucky certifies it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 10, established pursuant to Sections 301, 302, 303, 304, 306, and 307 of the CWA, will not be violated by the above referenced programmatic general permits. The Kentucky Division of Water hereby **certifies with conditions** the Regional General Permit, 24-RGP-02, for natural disaster mitigation and flood recovery related activities. Please contact the Water Quality Certification Section with any questions by calling (502)-564-3410 or by emailing [401WQC@ky.gov](mailto:401WQC@ky.gov).

Sincerely,

*Samantha Vogeler*

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**Samantha Vogeler, Supervisor**  
Water Quality Certification Section  
Kentucky Division of Water

cc: Austin Fitzgerald, USEPA: Atlanta (via email: [fitzgerald.austin@epa.gov](mailto:fitzgerald.austin@epa.gov))  
Casey Ehorn, USACE: Nashville District (via email: [Casey.H.Ehorn@usace.army.mil](mailto:Casey.H.Ehorn@usace.army.mil))  
Aric Payne, USACE: Nashville District (via email: [Aric.J.Payne@usace.army.mil](mailto:Aric.J.Payne@usace.army.mil))



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**General Water Quality Certification:**  
**Regional General Permit 24-RGP-02 (LRN-2024-00903)**  
**(Date: 7 January 2025)**

This General Water Quality Certification is issued by the Kentucky Division of Water, 401 Water Quality Certification Program in conformity with the requirements of Sections 301, 302, 304, 306 and 401, as amended (33 U.S.C. §1341), of the Clean Water Act, as well as Kentucky Statute KRS 224.16-050 and Kentucky Administrative Regulations Title 401, Chapter 9 and 10.

For all general certifications, the definition of surface water is as per 401 KAR 10:001 Chapter 10, Section 1(80): Surface Waters mean those waters having well-defined banks and beds, either constantly or intermittently flowing; lakes and impounded waters; marshes and wetlands; and any subterranean waters flowing in well-defined channels and having a demonstrable hydrologic connection with the surface. Lagoons used for waste treatment and effluent ditches that are situated on property owned, leased, or under valid easement by a permitted discharger are not considered surface waters of the commonwealth.

Activities qualifying for coverage under this General Water Quality Certification are subject to the following conditions:

1. Activities with cumulative temporary and permanent impacts greater than 1/2 acre of wetland or 500 linear feet of surface waters are not authorized under this General Certification and require an Individual Certification. This condition is necessary to protect water categorized under the anti-degradation policy to protect the designated and existing uses and to maintain the associated water quality criteria necessary to protect these water resources. [KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
2. Activities occurring within surface waters assessed by the Kentucky Division of Water as designated Outstanding State Resource Waters, National Resource Waters, Cold Water Aquatic Habitat, Exceptional Waters, or identified as candidate Outstanding State Resource Waters or candidate Exceptional Waters are not authorized under this General Certification and require an Individual Certification. This condition is necessary to protect water categorized under the anti-degradation policy to protect the designated and existing uses and to maintain the associated water quality criteria necessary to protect these water resources. [KRS 224.70-110, 401 KAR 10:030, Section 1(1), Section 1(2), & Section 1(3); and 401 KAR 10:031, Section 4(2) & Section 8]

3. The activity will not occur within surface waters identified as perpetually-protected mitigation sites (e.g., deed restriction or conservation easement). This condition is necessary to for long-term protection of compensatory mitigation sites. [KRS 224.70-110, 401 KAR 10:030, Section 1(3); and 40 C.F.R. 230.97]
4. The Kentucky Division of Water may require submission of a formal application for an individual certification for any project if the project has been determined to likely have a significant adverse effect upon water quality or degrade the waters of the Commonwealth so that existing uses of the water body or downstream waters are precluded. This condition is necessary to protect water categorized under the anti-degradation policy to protect the designated and existing uses and to maintain the associated water quality criteria necessary to protect these water resources. [KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
5. Heavy equipment (e.g. bulldozers, backhoes, draglines, etc.), if required for this project, should not be used or operated within the stream channel. In those instances where such instream work is unavoidable, then it shall be performed in such a manner and duration as to minimize re-suspension of sediments and disturbance to the channel, banks, or riparian vegetation. This condition is necessary to prevent and minimize objectionable deposits and pollution and protect the use of the stream. [401 KAR 10:030 Section 1, 401 KAR 10:031 Section 2(1)(a), KRS 224.10-100, KRS 224.70-110]
6. Erosion and sediment pollution control plans and Best Management Practices must be designed, installed, and maintained in effective operating condition at all times during construction activities so that violations of state water quality standards do not occur. This condition is necessary to prevent and minimize objectionable deposits and pollution and protect the use of the stream. [401 KAR 10:030 Section 1, 401 KAR 10:031 Section 2(1)(a), KRS 224.10-100, KRS 224.70-110]
7. Remove all sediment and erosion control measures after re-vegetation has become well-established. This condition is necessary to prevent and minimize objectionable deposits and pollution and protect the use of the stream. [401 KAR 10:030 Section 1, 401 KAR 10:031 Section 2(1)(a), KRS 224.10-100, KRS 224.70-110]
8. Any fill or riprap shall be of a composition that shall not cause violations of water quality standards by adversely affecting the biological, chemical, or physical properties of waters of the Commonwealth. If riprap is used, it shall be of a weight and size that bank stress or slump conditions shall not occur. This condition is necessary to prevent and minimize objectionable deposits and pollution and protect the use of the stream. [401 KAR 10:030 Section 1, 401 KAR 10:031 Section 2(1)(a), KRS 224.10-100, KRS 224.70-110]
9. Sediment and erosion control measures (e.g., check-dams, silt fencing, or hay bales) shall not be placed within surface waters of the Commonwealth, either temporarily or permanently, without prior approval by the Kentucky Division of Water's Water Quality Certification Section. If placement of sediment and erosion control measures in surface waters is unavoidable, placement shall not be conducted in such a manner that may cause instability of streams that are adjacent to, upstream, or downstream of the structures. All sediment and erosion control measures shall be removed, and the natural grade restored prior to withdrawal from the site. This condition is

necessary to prevent and minimize objectionable deposits and pollution and protect the use of the stream. [401 KAR 10:030 Section 1, 401 KAR 10:031 Section 2(1)(a), KRS 224.10-100, KRS 224.70-110]

10. Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse. This condition is necessary to prevent water pollution as prohibited by statute. [401 KAR 10:030 Section 1, 401 KAR 10:031 Section 2(1)(a), KRS 224.10-100, KRS 224.70-110]
11. To the maximum extent practicable, all in-stream work under this certification shall be performed during low flow. This condition is necessary to prevent and minimize objectionable deposits and pollution and protect the use of the stream. [401 KAR 10:030 Section 1, 401 KAR 10:031 Section 2(1)(a), KRS 224.10-100, KRS 224.70-110]
12. Removal of existing riparian vegetation shall be restricted to the minimum necessary for project construction. This condition is necessary to minimize negative effects to the environment, protect the use of the stream, and protect aquatic resources. [401 KAR 10:030 Section 1, 401 KAR 10:031 Section 2(1)(a), KRS 224.10-100, KRS 224.70-110]
13. Should stream pollution, wetland impairment, and/or violations of water quality standards occur as a result of this activity (either from a spill or other forms of water pollution), the Kentucky Division of Water shall be notified immediately by calling 800/564-2380. This condition is necessary to monitor the aquatic resources, minimize impact to aquatic resources, protect the use and designation of resources, allow more effective and efficient control practices, identify changes and conditions in ecological systems as a result of activities, and to warn of emergency conditions. [401 KAR 10:030 Section 1, 401 KAR 10:031 Section 2(1)(a), KRS 224.10-100, KRS 224.70-110]
14. This Water Quality Certification expires on five years after issuance. This condition is necessary for the issuance of the certification. [KRS 224.10-100, KRS 224.16-050(2), KRS 224.70-110]
15. Other permits from the Division of Water may be required for this activity. If this activity occurs within a floodplain, a Permit to Construct Across or Along a Stream may be required. Please contact the Floodplain Management Section Supervisor (502-564-3410) for more information prior to construction. If the project will disturb one acre or more of land, or is part of a larger common plan of development or sale that will ultimately disturb one acre or more of land, a Kentucky Pollution Discharge Elimination System (KPDES) Stormwater Permit shall be required. Please contact the Surface Water Permits Branch (502-564-3410 or SWPBSupport@ky.gov) for more information. A Groundwater Protection Plan is required if any of the activities listed in Section 2(2) of 401 KAR 5:037 are conducted. A Water Withdrawal Application is required for any activities proposing raw water withdrawals of 10,000 gallons per day or more. For technical assistance contact the Watershed Management Branch at 502-564-3410 or visit eec.ky.gov. This condition is necessary for confirm authorized impacts, the appropriate responsible party, monitor the aquatic resources, minimize impact to aquatic resources, protect the use and designation of resources, allow more effective and efficient control practices, identify changes and conditions in ecological systems as a result of activities, and to warn of emergency conditions. [KRS 224.10-100, KRS 224.16-050(2), KRS 224.70-110]