



MATTHEW G. BEVIN
GOVERNOR

CHARLES G. SNAVELY
SECRETARY

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

ANTHONY R. HATTON
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

August 8, 2018

Mr. Gracia Szezech
Regional Administrator
Federal Emergency Management Agency (FEMA)
U.S. Department of Homeland Security
3003 Chamblee Tucker Road
Atlanta, Georgia 30341

Re: Guidance for Proposed Activities and Operations Conducted in Jurisdictional Streams and Wetlands of the Commonwealth of Kentucky
Kentucky Division of Water, 401 Water Quality Certification
FEMA Disaster Assistance

Dear Mr. Fugate:

Kentucky has been impacted by a number of severe weather events and as communities continue to be effected by the resulting damage, clean-up efforts are certain to continue. As these clean-up efforts continue, it is likely that activities and operations will be conducted across and along streams including, but not limited to, removing stream obstructions, stabilizing stream banks, and replacing or upgrading culverts and bridges. It is always a challenge to balance the need for disaster assistance and clean-up efforts with the need to manage, protect and enhance the quality of our water resources.

Activities that involve dredge or fill activities and operations in jurisdictional waters are regulated by Sections 404 and 401 of the Clean Water Act and Kentucky Water Quality Standards (33 U.S.C. §1344, 33 U.S.C. §1341, KRS 224.16-050, 401 KAR Chapters 9 &10). For projects being conducted under the FEMA public assistance program for the state, the following General Certifications of Nationwide Permits (Issued March 19, 2017 in conjunction with the U.S. Army Corps of Engineers 2017 Nationwide Permits) should apply to majority of the commonly proposed activities and operations conducted across and along streams:

- General Certification of Nationwide Permit #3 for Maintenance (Attached)
- General Certification of Nationwide Permit #13 for Bank Stabilization (Attached)
- General Certification of Nationwide Permit #14 for Linear Transportation Projects (Attached)
- General Certification of Nationwide Permit #18 for Minor Discharges (Attached)
- General Certification of Nationwide Permit #45 for Repair of Uplands Damaged by Discrete Events (Attached)

<https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>



The U.S. Army Corps of Engineers must be contacted to determine if the proposed activities and operations meet the terms and conditions outlined in the Nationwide Permits and Kentucky's General Certifications. Once the U.S. Army Corps of Engineers determines that the Nationwide Permit along with the General Certification is applicable, then the certification can be considered granted and the work can be conducted without official authorization from the Division of Water.

If the proposed activities and operations do not meet the terms and conditions of these general certifications, then an Application for Permit to Construct Across or Along a Stream and/or a Water Quality Certification will need to be submitted. The application can be found at the following link: <http://water.ky.gov/permitting/Pages/ApplyingWQC.aspx> (Attached). If the proposed activities and operations are conducted in Kentucky's Special Waters, the work may not be conducted until an Application for Permit to Construct Across or Along a Stream and/or Water Quality Certification is submitted and an official 401 Water Quality Certification is issued. Kentucky's Special Waters can be found at the following link: <http://eppcapp.ky.gov/spwaters/> (Attached User Guide for Finding Listings of Special Use Waters). If a disaster has created an emergency situation and the proposed work does not meet the terms and conditions of the general certification or is within designated Special Use Waters, the Division of Water should be consulted and may consider an "After-the-Fact" certification, meaning the work can be completed but an application must still be submitted. For projects that will require an individual Water Quality Certification, there may be a fee payment required and the project will be posted to public notice for 30 days.

For projects proposing the removal of log jams, fallen trees, sediment (silt, sand and/or gravel), debris, garbage and other materials that have obstructed flow in ditches, streams, culverts and bridges, the Division of Water has issued Guidelines for One-Step Removal of Stream Flow Obstructions which should be followed (Attached). If these guidelines cannot be followed, the Division of Water should be consulted regarding potential certification requirements.

The Kentucky Water Quality Certification Section will review all Project Worksheets submitted. As this is the case, it is critical to include the following information on each Project Worksheet for a streamlined review process to be completed:

- Name of Stream Impacted (Identified Name or Tributary of Identified Name)
- Length of Stream Impacted (linear feet/acreage)
- Proposed Work Plans and Specifications
- Proposed Materials and/or Approaches
- Before and After Photographs

Please encourage any interested party with questions or concerns to call or email the Division of Water. The division is eager to help provide further assistance in designing successful projects. If you should have any questions, please contact the Water Quality Certification Section Supervisor, Beth Harrod, at Elizabeth.harrod@ky.gov or (502) 782-6700.

Sincerely,



Peter T. Goodmann, Director
Division of Water



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

R. BRUCE SCOTT
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

General Certification--Nationwide Permit # 3 Maintenance

This General Certification is issued March 19, 2017, in conformity with the requirements of Section 401 of the Clean Water Act of 1977, as amended (33 U.S.C. §1341), as well as Kentucky Statute KRS 224.16-050.

For this and all nationwide permits, the definition of surface water is as per 401 KAR 10:001 Chapter 10, Section 1(80): Surface Waters means 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 to be surface waters of the commonwealth.

The Commonwealth of Kentucky hereby certifies under Section 401 of the Clean Water Act (CWA) that it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 10, established pursuant to Sections 301, 302, 304, 306 and 307 of the CWA, will not be violated for the activity covered under NATIONWIDE PERMIT 3, namely Maintenance, provided that the following conditions are met:

1. The activity will not occur within surface waters of the Commonwealth identified by the Kentucky Division of Water as Outstanding State or National Resource Water, Cold Water Aquatic Habitat, or Exceptional Waters.
2. The activity will not occur within surface waters of the Commonwealth identified as perpetually-protected (e.g. deed restriction, conservation easement) mitigation sites.
3. The activity will impact less than 1/2 acre of wetland/marsh.
4. The activity will impact less than 300 linear feet of surface waters of the Commonwealth.

General Certification--Nationwide Permit # 3

Maintenance

Page 2

5. 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.
6. Activities that do not meet the conditions of this General Water Quality Certification require an Individual Section 401 Water Quality Certification.
7. Activities qualifying for coverage under this General Water Quality Certification are subject to the following conditions:
 - Projects requiring in-stream stormwater detention/retention basins shall require individual water quality certifications.
 - Erosion and sedimentation 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.
 - Sediment and erosion control measures, such as check-dams constructed of any material, silt fencing, hay bales, etc., 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, design and placement of temporary erosion control measures shall not be conducted in such a manner that may result in instability of streams that are adjacent to, upstream, or downstream of the structures. All sediment and erosion control devices shall be removed and the natural grade restored within the completion timeline of the activities.
 - Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse.
 - Removal of riparian vegetation shall be limited to that necessary for equipment access.
 - To the maximum extent practicable, all in-stream work under this certification shall be performed under low-flow conditions.
 - 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 in which such in-stream work is unavoidable, then it shall be performed in such a manner and duration as to minimize turbidity and disturbance to substrates and bank or riparian vegetation.
 - Any fill shall be of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters and/or cause violations of water quality standards. If rip-rap is utilized, it should be of such weight and size that bank stress or slump conditions will not be created because of its placement.

General Certification--Nationwide Permit # 3

Maintenance

Page 3

- If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when such work will be done.
- Should evidence of stream pollution or jurisdictional 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) 928-2380.

Non-compliance with the conditions of this general certification or violation of Kentucky state water quality standards may result in civil penalties.



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FRANKFORT, KENTUCKY 40601

**General Certification--Nationwide Permit # 13
Bank Stabilization**

This General Certification is issued March 19, 2017, in conformity with the requirements of Section 401 of the Clean Water Act of 1977, as amended (33 U.S.C. §1341), as well as Kentucky Statute KRS 224.16-050.

For this and all nationwide permits, the definition of surface water is as per 401 KAR 10:001 Chapter 10, Section 1(80): Surface Waters means 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 to be surface waters of the commonwealth.

Agricultural operations, as defined by KRS 224.71-100(1) conducting activities pursuant to KRS 224.71-100 (3), (4), (5), (6), or 10 are deemed to have certification if they are implementing an Agriculture Water Quality Plan pursuant to KRS 224.71-145.

For all other operations, the Commonwealth of Kentucky hereby certifies under Section 401 of the Clean Water Act (CWA) that it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 10, established pursuant to Sections 301, 302, 304, 306 and 307 of the CWA, will not be violated for the activity covered under NATIONWIDE PERMIT 13, namely Bank Stabilization, provided that the following conditions are met:

1. The activity will not occur within surface waters of the Commonwealth identified by the Kentucky Division of Water as Outstanding State or National Resource Water, Cold Water Aquatic Habitat, or Exceptional Waters.
2. The activity will not occur within surface waters of the Commonwealth identified as perpetually-protected (e.g. deed restriction, conservation easement) mitigation sites.
3. The activity will impact less than 1/2 acre of wetland/marsh.

General Certification--Nationwide Permit # 13

Bank Stabilization

Page 2

4. The activity will impact less than a cumulative 500 linear feet of stream. If opposite banks are stabilized, impacts to both banks are summed together to calculate the cumulative impact.
5. The use of creek rock, grouted rip-rap, poured/unformed concrete, poured asphalt, or asphalt pieces is not authorized under this certification.
6. The activity will not impact waters of the Commonwealth identified by the Kentucky Division of Water as impaired with the impairment source including channelization or habitat loss.
7. Stream impacts covered under this General Water Quality Certification and undertaken by those persons defined as an agricultural operation under the Agricultural Water Quality Act must be completed in compliance with the Kentucky Agricultural Water Quality Plan (KWQP)
8. 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.
9. Activities that do not meet the conditions of this General Water Quality Certification require an Individual Section 401 Water Quality Certification.
10. Activities qualifying for coverage under this General Water Quality Certification are subject to the following conditions:
 - Projects requiring in-stream stormwater detention/retention basins shall require individual water quality certifications.
 - Erosion and sedimentation 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.
 - Sediment and erosion control measures, such as check-dams constructed of any material, silt fencing, hay bales, etc., 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, design and placement of temporary erosion control measures shall not be conducted in such a manner that may result in instability of streams that are adjacent to, upstream, or downstream of the structures. All sediment and erosion control devices shall be removed and the natural grade restored within the completion timeline of the activities.

General Certification--Nationwide Permit # 13

Bank Stabilization

Page 3

- Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse.
- Removal of riparian vegetation shall be limited to that necessary for equipment access.
- To the maximum extent practicable, all in-stream work under this certification shall be performed under low-flow conditions.
- 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 in which such in-stream work is unavoidable, then it shall be performed in such a manner and duration as to minimize turbidity and disturbance to substrates and bank or riparian vegetation.
- Any fill shall be of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters and/or cause violations of water quality standards. If rip-rap is utilized, it should be of such weight and size that bank stress or slump conditions will not be created because of its placement.
- If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when such work will be done.
- Should evidence of stream pollution or jurisdictional 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) 928-2380.

Non-compliance with the conditions of this general certification or violation of Kentucky state water quality standards may result in civil penalties.



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300 SOWER BOULEVARD
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General Certification--Nationwide Permit # 14 Linear Transportation Projects

This General Certification is issued March 19, 2017, in conformity with the requirements of Section 401 of the Clean Water Act of 1977, as amended (33 U.S.C. §1341), as well as Kentucky Statute KRS 224.16-050.

For this and all nationwide permits, the definition of surface water is as per 401 KAR 10:001 Chapter 10, Section 1(80): Surface Waters means 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 to be surface waters of the commonwealth.

Agricultural operations, as defined by KRS 224.71-100(1) conducting activities pursuant to KRS 224.71-100 (3), (4), (5), (6), or 10 are deemed to have certification if they are implementing an Agriculture Water Quality Plan pursuant to KRS 224.71-145.

For all other operations, the Commonwealth of Kentucky hereby certifies under Section 401 of the Clean Water Act (CWA) that it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 10, established pursuant to Sections 301, 302, 304, 306 and 307 of the CWA, will not be violated for the activity covered under NATIONWIDE PERMIT 14, namely Linear Transportation Projects, provided that the following conditions are met:

1. The activity will not occur within surface waters of the Commonwealth identified by the Kentucky Division of Water as Outstanding State or National Resource Water, Cold Water Aquatic Habitat, or Exceptional Waters.
2. The activity will not occur within surface waters of the Commonwealth identified as perpetually-protected (e.g. deed restriction, conservation easement) mitigation sites.
3. The activity will impact less than 1/2 acre of wetland/marsh.

General Certification--Nationwide Permit # 14

Linear Transportation Projects

Page 2

4. The activity will impact less than 300 linear feet of surface waters of the Commonwealth. Stream realignment greater than 100 feet and in-stream stormwater detention/retention basins are not covered under this general water quality certification.
5. For complete linear transportation projects, all impacts shall not exceed a cumulative length of 500 linear feet within each Hydrologic Unit Code (HUC) 14.
6. Any crossings must be constructed in a manner that does not impede natural water flow.
7. Stream impacts covered under this General Water Quality Certification and undertaken by those persons defined as an agricultural operation under the Agricultural Water Quality Act must be completed in compliance with the Kentucky Agricultural Water Quality Plan (KWQP).
8. 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.
9. Activities that do not meet the conditions of this General Water Quality Certification require an Individual Section 401 Water Quality Certification.
10. Activities qualifying for coverage under this General Water Quality Certification are subject to the following conditions:
 - Projects requiring in-stream stormwater detention/retention basins shall require individual water quality certifications.
 - Erosion and sedimentation 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 (401 KAR 10:031 Section 2 and KRS 224.70-100).
 - Sediment and erosion control measures, such as check-dams constructed of any material, silt fencing, hay bales, etc., 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, design and placement of temporary erosion control measures shall not be conducted in such a manner that may result in instability of streams that are adjacent to,

General Certification--Nationwide Permit # 14

Linear Transportation Projects

Page 3

upstream, or downstream of the structures. All sediment and erosion control devices shall be removed and the natural grade restored within the completion timeline of the activities.

- Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse.
- Removal of riparian vegetation in the utility line right-of-way shall be limited to that necessary for equipment access.
- To the maximum extent practicable, all in-stream work under this certification shall be performed under low-flow conditions.
- 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 in which such in-stream work is unavoidable, then it shall be performed in such a manner and duration as to minimize turbidity and disturbance to substrates and bank or riparian vegetation.
- Any fill shall be of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters and/or cause violations of water quality standards. If rip-rap is utilized, it should be of such weight and size that bank stress or slump conditions will not be created because of its placement.
- If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when such work will be done.
- Should evidence of stream pollution or jurisdictional 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 KDOW shall be notified immediately by calling (800) 928-2380.

Non-compliance with the conditions of this general certification or violation of Kentucky state water quality standards may result in civil penalties.



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300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

General Certification--Nationwide Permit # 18 Minor Discharges

This General Certification is issued March 19, 2017, in conformity with the requirements of Section 401 of the Clean Water Act of 1977, as amended (33 U.S.C. §1341), as well as Kentucky Statute KRS 224.16-050.

For this and all nationwide permits, the definition of surface water is as per 401 KAR 10:001 Chapter 10, Section 1(80): Surface Waters means 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 to be surface waters of the commonwealth.

The Commonwealth of Kentucky hereby certifies under Section 401 of the Clean Water Act (CWA) that it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 10, established pursuant to Sections 301, 302, 304, 306 and 307 of the CWA, will not be violated for the activity covered under NATIONWIDE PERMIT 18, namely Minor Discharges, provided that the following conditions are met:

1. The activity will not occur within surface waters of the Commonwealth identified by the Kentucky Division of Water as Outstanding State or National Resource Water, Cold Water Aquatic Habitat, or Exceptional Waters.
2. The activity will not occur within surface waters of the Commonwealth identified as perpetually-protected (e.g. deed restriction, conservation easement) mitigation sites.
3. The activity will impact less than 300 linear feet of surface waters of the Commonwealth.
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

General Certification--Nationwide Permit # 18

Minor Discharges

Page 2

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.

5. Activities that do not meet the conditions of this General Water Quality Certification require an Individual Section 401 Water Quality Certification.
6. Activities qualifying for coverage under this General Water Quality Certification are subject to the following conditions:
 - Projects requiring in-stream stormwater detention/retention basins shall require individual water quality certifications.
 - Erosion and sedimentation 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.
 - Sediment and erosion control measures, such as check-dams constructed of any material, silt fencing, hay bales, etc., 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, design and placement of temporary erosion control measures shall not be conducted in such a manner that may result in instability of streams that are adjacent to, upstream, or downstream of the structures. All sediment and erosion control devices shall be removed and the natural grade restored within the completion timeline of the activities.
 - Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse.
 - Removal of riparian vegetation in the utility line right-of-way shall be limited to that necessary for equipment access.
 - To the maximum extent practicable, all in-stream work under this certification shall be performed under low-flow conditions.
 - 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 in which such in-stream work is unavoidable, then it shall be performed in such a manner and duration as to minimize turbidity and disturbance to substrates and bank or riparian vegetation.
 - Any fill shall be of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters and/or cause violations of water quality standards. If rip-rap is utilized, it should be of such weight and size that bank stress or slump conditions will not be created because of its placement.

General Certification--Nationwide Permit # 18

Minor Discharges

Page 3

- If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when such work will be done.
- Should evidence of stream pollution or jurisdictional 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) 928-2380.

Non-compliance with the conditions of this general certification or violation of Kentucky state water quality standards may result in civil penalties.



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COMMISSIONER

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FRANKFORT, KENTUCKY 40601

General Certification--Nationwide Permit # 45
Repair of Uplands Damaged by Discrete Events

This General Certification is issued March, 19, 2017, in conformity with the requirements of Section 401 of the Clean Water Act of 1977, as amended (33 U.S.C. §1341), as well as Kentucky Statute KRS 224.16-050.

For this and all nationwide permits, the definition of surface water is as per 401 KAR 10:001 Chapter 10, Section 1(80): Surface Waters means 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 to be surface waters of the commonwealth.

The Commonwealth of Kentucky hereby certifies under Section 401 of the Clean Water Act (CWA) that it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 10, established pursuant to Sections 301, 302, 304, 306 and 307 of the CWA, will not be violated for the activity covered under NATIONWIDE PERMIT 45, namely Repair of Uplands Damaged by a Discrete Event, provided that the following conditions are met:

1. The activity will not occur within surface waters of the Commonwealth identified by the Kentucky Division of Water as Outstanding State or National Resource Water, Cold Water Aquatic Habitat, or Exceptional Waters.
2. The activity will not occur within surface waters of the Commonwealth identified as perpetually-protected (e.g. deed restriction, conservation easement) mitigation sites.
3. The activity will impact less than 1/2 acre of wetland/marsh.
4. The activity will impact less than 300 linear feet of surface waters of the Commonwealth.
5. 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

General Certification--Nationwide Permit # 45
Repair of Uplands Damaged by Discrete Event
Page 2

Commonwealth so that existing uses of the water body or downstream waters are precluded.

6. Activities that do not meet the conditions of this General Water Quality Certification require an Individual Section 401 Water Quality Certification.
7. Activities qualifying for coverage under this General Water Quality Certification are subject to the following conditions:
 - Projects requiring in-stream stormwater detention/retention basins shall require individual water quality certifications.
 - Erosion and sedimentation 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.
 - Sediment and erosion control measures, such as check-dams constructed of any material, silt fencing, hay bales, etc., 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, design and placement of temporary erosion control measures shall not be conducted in such a manner that may result in instability of streams that are adjacent to, upstream, or downstream of the structures. All sediment and erosion control devices shall be removed and the natural grade restored within the completion timeline of the activities.
 - Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse.
 - Removal of riparian vegetation shall be limited to that necessary for equipment access.
 - To the maximum extent practicable, all in-stream work under this certification shall be performed under low-flow conditions.
 - 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 in which such in-stream work is unavoidable, then it shall be performed in such a manner and duration as to minimize turbidity and disturbance to substrates and bank or riparian vegetation.
 - Any fill shall be of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters and/or cause violations of water quality standards. If rip-rap is utilized, it should be of such weight and size that bank stress or slump conditions will not be created because of its placement.
 - If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when such work will be done.

General Certification--Nationwide Permit # 45
Repair of Uplands Damaged by Discrete Event
Page 3

- Should evidence of stream pollution or jurisdictional 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) 928-2380.

Non-compliance with the conditions of this general certification or violation of Kentucky state water quality standards may result in civil penalties.

**COMMONWEALTH OF KENTUCKY
ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
DIVISION OF WATER**

**APPLICATION FOR PERMIT TO CONSTRUCT ACROSS OR ALONG A STREAM
AND / OR WATER QUALITY CERTIFICATION**

Chapter 151 of the Kentucky Revised Statutes requires approval from the Division of Water prior to any construction or other activity in or along a stream that could in any way obstruct flood flows or adversely impact water quality. *If the project involves work in a stream, such as bank stabilization, dredging or relocation, a 401 Water Quality Certification (WQC) from the Division of Water will be required.* This completed form will be forwarded to the Water Quality Branch for WQC processing. The project may not start until all necessary approvals are received from the KDOW. For questions concerning the WQC process, contact the WQC section at 502/564-3410.

If the project will disturb more than 1 acre of soil, A Notice of Intent for Storm Water Discharges will also be required. Forms can be obtained at <http://water.ky.gov/permitting/pages/generalpermits.aspx>

1. **OWNER:** _____
Give name of person(s), company, governmental unit, or other owner of proposed project.

MAILING ADDRESS: _____

TELEPHONE #: _____ **EMAIL:** _____

2. **AGENT:** _____
Give name of person(s) submitting application, if other than owner.

ADDRESS: _____

TELEPHONE #: _____ **EMAIL:** _____

3. **ENGINEER:** _____ **P.E. NUMBER:** _____
Contact Division of Water if waiver can be granted.

TELEPHONE #: _____ **EMAIL:** _____

4. **DESCRIPTION OF CONSTRUCTION:** _____
List the items to be constructed in the floodplain

5. **COUNTY:** _____ **NEAREST COMMUNITY:** _____

6. **USGS QUAD NAME** _____ **LATITUDE/LONGITUDE:** _____

7. **STREAM NAME:** _____ **WATERSHED SIZE (in acres):** _____

8. **LINEAR FEET OF STREAM and/or ACRES OF WETLAND IMPACTED:** _____

9. **DIRECTIONS TO SITE:** _____

10. **IS ANY PORTION OF THE REQUESTED PROJECT NOW COMPLETE?** Yes No If yes, identify the completed portion on the drawings you submit and indicate the date activity was completed. DATE: _____

11. **ESTIMATED BEGIN CONSTRUCTION DATE:** _____

12. **ESTIMATED END CONSTRUCTION DATE:** _____

13. **HAS A PERMIT BEEN RECEIVED FROM THE US ARMY, CORPS OF ENGINEERS?** Yes No If yes, attach a copy of that permit.

14. **THE APPLICANT *MUST* ADDRESS PUBLIC NOTICE:**

(a) **PUBLIC NOTICE HAS BEEN GIVEN FOR THIS PROPOSAL BY THE FOLLOWING MEANS:**

_____ **Public notice in newspaper having greatest circulation in area** (provide newspaper clipping or affidavit)

_____ **Adjacent property owner(s) affidavits** (Contact Division of Water for requirements.)

(b) _____ **I REQUEST WAIVER OF PUBLIC NOTICE BECAUSE:**

_____ Contact Division of Water for requirements.

15. **I HAVE CONTACTED THE FOLLOWING CITY OR COUNTY OFFICIALS CONCERNING THIS PROJECT:**

_____ Give name and title of person(s) contacted and provide copy of any approval city or county may have issued.

16. **LIST OF ATTACHMENTS:** _____

_____ List plans, profiles, or other drawings and data submitted. Attach a copy of a 7.5 minute USGS topographic map clearly showing the project location.

17. I, _____ (owners Initials) **CERTIFY THAT THE OWNER OWNS OR HAS EASEMENT RIGHTS ON ALL PROPERTY ON WHICH THIS PROJECT WILL BE LOCATED OR ON WHICH RELATED CONSTRUCTION WILL OCCUR** (for dams, this includes the area that would be impounded during the design flood).

18. **REMARKS:** _____

I hereby request approval for construction across or along a stream as described in this application and any accompanying documents. To the best of my knowledge, all the information provided is true and correct.

SIGNATURE: _____
Owner or Agent sign here. (If signed by Agent, a Power of Attorney should be attached.)

DATE: _____

SIGNATURE OF LOCAL FLOODPLAIN COORDINATOR:

_____ Permit application will be returned to applicant if not properly endorsed by the local floodplain coordinator.

DATE: _____

SUBMIT APPLICATION AND ATTACHMENTS TO:

**Floodplain Management Section
Division of Water
300 Sower Boulevard
Frankfort, KY 40601**

KENTUCKY DIVISION OF WATER

USER GUIDE FOR FINDING LISTINGS OF SPECIAL USE WATERS

QUESTION: WILL THIS ACTIVITY OCCUR WITH SURFACE WATERS OF THE COMMONWEALTH IDENTIFIED BY THE KENTUCKY DIVISION OF WATER AS OUTSTANDING STATE OR NATIONAL RESOURCE WATER, COLD WATER AQUATIC HABITAT, EXCEPTIONAL WATERS?

- The interactive [Special Use Waters](http://eppcapp.ky.gov/spwaters/) website enables users to search surface waters by River Basin listed as: Outstanding State Resource Waters designated use; antidegradation category waterbodies (exceptional and reference reach); State Wild Rivers; and federally designated wild or scenic rivers in tabular format (<http://eppcapp.ky.gov/spwaters/>).

Kentucky.gov

Home

EEC Division of Water

Kentucky's Special Waters

What are Special Waters?
Click [here](#) to find out!

Search by River Basin

- Look at the map above, determine the general location of your stream.
- Click the "Run Basin Report" button below to find the list of Special Use Waters in your watershed.

[Run Basin Report](#)

Search by Designation Type

- Once you have referred to the map provided to find the correct River Basin for the location of the surface water in question, click the "Run Basin Report" button (the report defaults to the Big Sandy River Basin). If one is unsure of the river basin, the "Search by Designation Type" will display statewide tabular listings of each type of special water.

Choose Basin: Choose basin from the dropdown list provided, then click the "Run Report" button. The report defaults to the Big Sandy basin.

Waterbody Name	Counties	Boundary	Upstream Mile Point	Downstream Mile Point	Length of Designated Segment	Acres (Reservoirs and Lakes)	Cold Water Aquatic Habitat
Paint Creek	Johnson	River Mile 8.3 (Paintsville Lake Dam) to Levisa Fork	8.3	0	8.3		Y
Paintsville Lake	Johnson, Morgan	Entire reservoir				1139	Y
Hobbs Fork	Martin	Mouth to Headwaters	3.9	0	3.9		
Hobbs Fork Unidentified Tributary	Martin	Hobbs Fork of Pigeonroot Fork to Headwaters	0.55	0	0.55		
Lower Pigeon Branch	Pike	Left Fork to Headwaters	1.9	0.6	1.3		
Russell Fork	Pike	Clinch Field RR Yard off Hwy 80 to Virginia State	16.5	15	1.5		

- Select the correct basin from the “Choose Basin” dropdown list provided, and then click the "Run Report" button. This search provides a table that lists of Special Use Waters in each River Basin in Kentucky which can be selected for export (Excel or Acrobat [PDF]). Please note that there could be more than one page of listings.

QUESTION: WHAT ARE SPECIAL WATERS?

- Click [Special Use Waters](http://water.ky.gov/waterquality/Pages/SpecialUseWaters.aspx) to find out background information, definitions, and maps (<http://water.ky.gov/waterquality/Pages/SpecialUseWaters.aspx>). Special use waters are rivers, streams and lakes listed in Kentucky Administrative Regulations (KAR) that are worthy of additional protection (<http://lrc.ky.gov/kar/401/010/401/010/026.htm>) and (<http://www.lrc.ky.gov/kar/401/010/030.htm>). These special uses include outstanding state resource waters, outstanding national resource waters, coldwater aquatic habitat, reference reach and exceptional waters, as well as other categories. Not included as special use waters are waterbodies designated by default as Warm Water Aquatic Habitat (WAH), Primary Contact Recreation (PCR), and Secondary Contact Recreation (SCR) and Domestic Water Supply (DWS).

SPECIAL USE WATER DEFINITIONS:

- **Outstanding state resource waters** (OSRW) includes certain unique waters of the Commonwealth, including those with federally threatened or endangered species (401 KAR 10:031, Section 8).
- **Outstanding National Resource Waters** (ONRW) are waters that meet the requirements for an outstanding state resource water classification and are of national ecological or recreational significance (401 KAR 10:030, Section 1).
- **Coldwater Aquatic Habitats** (CAH) means surface waters and associated substrate that will support indigenous aquatic life or self-sustaining or reproducing trout populations on a year-round basis (401 KAR 10:031, Section 4).
- **Exceptional Waters** means waterbodies whose quality exceeds that necessary to support propagation of fish, shellfish and wildlife and recreation in and on the water. Waters placed in this category are reference reach waters, Kentucky Wild Rivers, some outstanding state resource waters and waters with "excellent" fish or macroinvertebrate communities (401 KAR 10:030 Section 1).
- **Reference Reach Waters** are a representative subpopulation of the least-impacted streams within a bioregion. These streams serve as chemical, physical and biological models from which to determine the degree of impairment (physical, chemical or biological) to similar stream systems in each representative bioregion. These are not necessarily pristine streams, but represent those least-disturbed conditions that are attainable in each bioregion.
- **Kentucky Wild Rivers** are portions of nine rivers of exceptional quality and aesthetic character have been designated as [Kentucky Wild Rivers](#). Each Wild River is actually a linear corridor encompassing all visible land on each side of the river up to a distance of 2,000 feet. Wild Rivers are designated by the state General Assembly in recognition of their unspoiled character and outstanding water quality and natural characteristics. In order to protect their features and quality, land-use changes are regulated by a permit system, and certain highly destructive land-use changes (for example, clear-cutting and strip mining) are prohibited within corridor boundaries.
- **Federal Scenic River Areas** is a classification of the Wild and Scenic Rivers Act (PL 90-542) and means those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.
- **Federal Wild River Areas** is a classification of the Wild and Scenic Rivers Act (PL 90-542) and means those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

For more information on Kentucky's Special Use Waters, please contact:

Andrea Fredenburg

Kentucky Division of Water

300 Sower Blvd.

Frankfort, KY. 40601

Phone: 502-782-6950

E-Mail: Andrea.Fredenburg@ky.gov

KENTUCKY DIVISION OF WATER
GUIDELINES FOR ONE-STEP REMOVAL OF STREAM FLOW OBSTRUCTIONS

PURPOSE

Log jams, fallen trees, sediment (silt, sand and/or gravel), debris, garbage and other materials can build up and obstruct flow in ditches, streams, culverts and under bridges during periods of heavy rainfall. These obstructions may create an increased risk of flooding, property and infrastructure damage, and increased erosion and sedimentation. Although excessive amounts of these materials may obstruct flow, it is important to remember that natural debris and sediment play important roles in aquatic ecosystems. Obstruction removal is only a temporary fix unless the long-term sources of materials are addressed. If done improperly or excessively, obstruction removal operations and activities may have negative impacts on-site as well as upstream and downstream.

This document is intended to provide guidance for the one-step removal of flow obstructions from streams in the Commonwealth in an environmentally sound manner. No two streams are alike, but many share common problems and characteristics, so these guidelines have been designed for broad application and are quite general. **If this guidance is applied where obstructed flow conditions exist and the one-step removal practices are followed, then 401 Water Quality Certification is not required; however anyone considering doing activities in and around streams should be aware that other federal and/or state regulations may apply.** Failure to follow these guidelines may result in violations of laws and with potential penalties and remediation actions required (401 KAR 10:031; KRS 224.70-100, 33 USC § 1341).

This guidance provides descriptions of stream obstruction conditions and one-step removal practices which involve removing materials before placing them outside of the channel and floodplain. Materials should never be stockpiled in the stream channel, stream banks or floodplain.

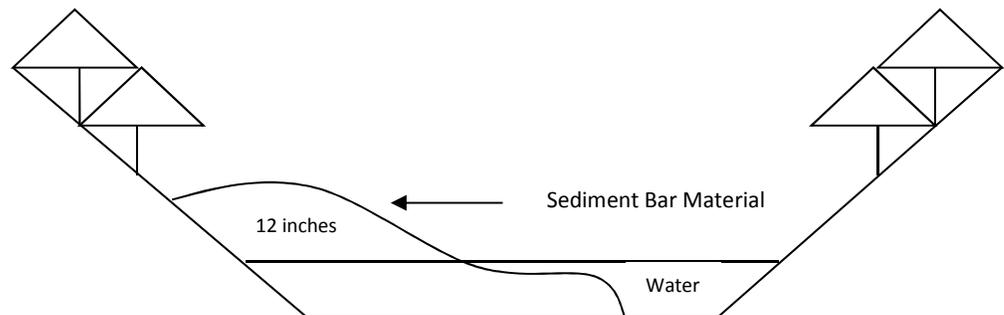
STREAM OBSTRUCTION CONDITIONS

- **Minor Stream Obstruction Conditions**- These obstructions may contain various amounts of debris and sediments but do not pose a risk. These materials are a natural part of stream systems and are usually washed downstream or relocated during high flow events. It is recommended that channels which have minor flow obstructions be left alone.
- **Moderate Stream Obstruction Conditions** - For large accumulations of material that span the entire width of the stream and are creating backwater effects, it is recommended that these materials be pulled or lifted out of the stream using tools such as axes, chain saws, cables, portable winches or floats. In the case of sediment removal, small machinery could be used operated from one side of the bank or other temporary access point (i.e., bridge, low-water crossing, or road).
- **Major Stream Obstruction Conditions** – For major obstructions that have created obstructed flow conditions and caused erosion and/or flooding, the use of small machinery may be the only effective way to remove obstructions. Access should occur from one side of the bank or other temporary access point (i.e., bridge, low-water crossing, or road). For areas prone to frequent obstructions, inspections should be made following high flow events.
- **Special Stream Conditions**- Stream segments that possess unique, sensitive or especially valuable biotic resources should be dealt with on a case-by-case basis and the Kentucky Division of Water must be contacted regarding authorization for the work. Examples include; areas harboring threatened or endangered aquatic species, mussel beds, spawning and rearing areas. These designated areas are listed and updated here: <http://eppcapp.ky.gov/spwaters/>.

ONE-STEP REMOVAL GUIDELINES

To help to ensure that one-step removal activities will not negatively impact streams, we recommend the following best management practices be used:

- The material removed from the channel or floodway should be placed sufficiently upland/landward outside of the floodplain enough to prevent the runoff from re-entering streams and/or wetlands;
- The temporary or permanent disposal and/or side-casting of removed material into wetlands, stream tributaries, side ditches, or other surface water is not allowed under one-step removal and would require appropriate state and federal authorizations before the work is done;
- The removal of vegetation should be limited to the removal of dead snags, loose debris and live vegetation which obstructs stream flow. The stumps and roots of trees and/or shrubs should be left undisturbed to protect against erosion.
- Where obstruction removal is needed, access routes for efficient operation of equipment should be selected to minimize disturbance to the floodplain and riparian areas. All work should be performed outside of the flowing section(s) of the stream preferably from the bank or other temporary access point;
- All disturbed areas outside of the stream channel should be restored to original conditions, reseeded or replanted with native riparian species and mulched in order to prevent erosion and sedimentation; please refer to the following for a suggested riparian species list:
<http://water.ky.gov/permitting/Lists/Working%20in%20Streams%20and%20Wetlands/Attachments/1/SpeciesList.pdf>;
- If necessary, equipment which can scoop or lift material out of the channel from the stream bank is recommended for this type of work as long as material is not pushed against the banks or piled in the channel;
- Activities should take place during low-flow or no flow conditions (during late summer or fall);
- Removal of materials should not be conducted during the fish-spawning season (April 15 to June 15);
- Precautions should be taken to prevent petroleum products such as lubricating, engine, or transmission oils and greases, etc. from entering surface waters. Washing, fueling, or servicing of equipment is prohibited where spillage or wash water can impact surface waters;
- For sediment bar excavation, only the material more than 12 inches above the normal water elevation should be removed.



- Agricultural operations, as defined by KRS 224.71-100(1) conducting activities pursuant to KRS 224.71-100 (3), (4), (5), (6), or 10 shall be implementing an Agriculture Water Quality Plan pursuant to KRS 224.71-145.
- The commercial excavation, removal, and sale of gravel requires a permit from the Department of Natural Resources, Division of Mine Reclamation and Enforcement, Non-Coal Review Branch. Please contact Fred Buckner at 502-564-2340 or FredW.Buckner@ky.gov. <http://dmre.ky.gov/Non-Coal%20Review%20Branch/Pages/default.aspx>;

If you have any questions about this guidance, please contact the Kentucky Division of Water, Water Quality Certification Section at (502) 782-6970 or <http://water.ky.gov/permitting/Pages/KYWaterQualityCertProg.aspx>.