

# Kentucky Agriculture Water Quality Act

## What is the Kentucky Agriculture Water Quality Act?

The Kentucky Agriculture Water Quality Act (KAWQA) (KRS 224.71-100 through 224.71-145) was enacted by the 1994 General Assembly. This historic and comprehensive law guides the state's agriculture and silviculture industries in efforts to address water quality issues associated with agriculture and silviculture. The KAWQA plays a substantial role in implementing Kentucky's Nutrient Reduction Strategy for managing the nutrients and other pollutants from agricultural sources. The Kentucky Agriculture Water Quality Act created the Kentucky Agriculture Water Quality Authority, which consists of member farmer and industry representatives and state agencies and organizations.

## Who does the Kentucky Agriculture Water Quality Act affect?

The KAWQA requires all landowners/landusers with ten (10) or more acres that are being used for agriculture or silviculture operations to develop and implement a water quality plan. Individual plans are based on best management practices (BMPs) suggested in the Kentucky Agriculture Water Quality Plan.

## How are agriculture and silviculture defined under the Agriculture Water Quality Act?

### Agriculture

"Agriculture operation" means any farm operation on a tract of land, including all income-producing improvements and farm dwellings, together with other farm buildings and structures incident to the operation and maintenance of the farm, situated on ten (10) contiguous acres or more of land used for the production of livestock, livestock products, poultry, poultry products, milk, milk products or silviculture products or for the growing of crops such as, but not limited to, tobacco, corn, soybeans, small grains, fruits and vegetables or devoted to and meeting the requirements and qualifications for payments to agriculture programs under an agreement with the state or federal government.

### Silviculture

"Silviculture" generally means the part of forestry that involves growing and harvesting of trees.

## What is the Kentucky Agriculture Water Quality Plan?

The Kentucky Agriculture Water Quality Statewide Plan is the guidance document consisting of BMPs from six different areas:

- Silviculture
- Pesticides and Fertilizers
- Farmstead
- Crops
- Livestock
- Streams and Other Waters

Each BMP includes definitions and descriptions, regulatory requirements, Agriculture Water Quality Authority requirements, design information, practice maintenance, technical assistance, cost-share assistance, recommendations and references. This statewide plan serves as a guide to individual landowners/landusers as they develop water quality plans for their individual operations.

## What is the process for developing and implementing a water quality plan?

The Kentucky Online Gateway (KOG) web portal contains an online tool (Ky Ag Water Quality Planning Tool; located in the EEC eForms section) to be used by landowners to assess their operation and identify best management practices to be included in their individual plan. After identifying the BMPs, landowners/land users implement these practices on their land. Assistance to complete the plan can be obtained through a variety of technical agencies, including local conservation districts and UK cooperative extension offices.

## Simplifying compliance

### How is compliance with the Agriculture Water Quality Act managed?

The Division of Water (DOW) is charged with the responsibility to ensure compliance with the Agriculture Water Quality Act. This approach is carried out via the division's Agriculture Water Quality Act Corrective Measures Protocols.

### Reasons for a DOW inspection

- Routine inspection of a permitted agriculture facility
- Response to a complaint

## DOW inspectors will

- Ensure that an Agriculture Water Quality Plan (AWQP) has been completed and properly implemented (may require a consult with conservation district, etc.).
- Determine whether the AWQP is adequately protecting waters of the Commonwealth (largely visual or via other monitoring that conditions may require).

## DOW protocol for taking action

- Direct owner/operator to seek assistance from the conservation district.
- Notify the local conservation district of the issue.
- Conduct a follow-up inspection unless the conservation district notifies DOW that the issue has been resolved to their satisfaction.

## Conservation District (CD) responsibilities

- CD board chairman to notify owner/operator of intent to address the problem.
- Outline, in writing, options available for technical and financial assistance and consequences for noncompliance; copy DOW.
- Notify DOW if/when issues are resolved.
- Coordinate with DOW on necessary follow-up inspections.

## Reasons for enforcement

- Failure to seek assistance with development or implementation of AWQP
- Failure to develop or implement a Corrective Measures Plan
- Water quality violations

## Consequences of noncompliance

- DOW enforcement actions (KRS 224.70-100 to 224.71-140)
- Bad Actor Provisions (KRS 224.71-130(2))

If any person engaged in agriculture operations fails or refuses to comply or respond to the written notice, unless excused or extended by the Division of Water, the person shall be deemed a "bad actor" and shall be subject to enforcement action for violations of KRS 224.71-100 to 224.71-140 as well as loss of eligibility for further financial assistance.