



STEVEN L BESHEAR
GOVERNOR

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
DIVISION OF WATER
200 FAIR OAKS LANE
FRANKFORT, KENTUCKY 40601
www.kentucky.gov
January 30, 2015

LEONARD K PETERS
SECRETARY

Response to Public Comments
KPDES No.: KYG110000 (KYG11)
AI No.: 35050
All Counties, Kentucky

Dear Commenter:

Your comments concerning the above-referenced draft permit have been reviewed and responses prepared in accordance with Kentucky Pollutant Discharge Elimination System (KPDES) regulation 401 KAR 5:075, Section 12. The comments have been briefly described below and our responses to those comments follow:

- COMMENT 1:** Suggestions were made to reduce the monitoring requirements from monthly to either annually or bi-annually due to the seasonal nature of some of the facilities or the increased costs of monitoring.
- RESPONSE 1:** DOW concurs about the seasonal nature of the industry and has thus reduced the monitoring requirements in the final Permit from monthly to quarterly.
- COMMENT 2:** A comment was received that questioned why ready-mix concrete producers are being grouped under the same general permit as asphalt producers and also questions why oil & grease would need to be monitored at a concrete plant as oil & grease isn't present except in vehicles.
- RESPONSE 2:** The ready-mix concrete and asphalt producers were combined into a single general permit because both are construction-related activities that are expected to produce similar pollutant discharges, one of those pollutants being for the potential of oil & grease. Oil & Grease is a potential pollutant from any industry that utilizes heavy mechanical equipment and thus reasonable potential exists for oil & grease and a limit has been included in the permit.
- COMMENT 3:** Comments were received concerning the possible inclusion of stormwater as a process wastewater. One commenter recommended the definition of process wastewater be re-evaluated, and another commenter requested that "stormwater from processing and loading areas" be removed from the definition of process wastewaters as it could be interpreted to be more stringent than the effluent guidelines.

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RESPONSE 3: DOW has reevaluated the process wastewater definition in the permit and has thus revised the definition to help clarify that stormwater that does not mix with process wastewater is not considered a process wastewater. To that end the “stormwater from processing and loading areas” portion has been removed in the final Permit.

COMMENT 4: Suggestions were received to remove the Total Suspended Solids (TSS) limitation and require monitoring instead as the limits set are not realistic for the industries or would require major investments in Best Management Practices (BMPs) and increased size of sediment ponds.

RESPONSE 4: DOW has further evaluated the types of treatments being implemented at the effected industries and has thus changed the limitations for TSS to monitoring requirements. However, additional BMP provisions have been added to the permit to reduce the discharge of TSS pollutants.

COMMENT 5: A request was received to delete Section 3.3 of the permit which requires the BMP Plan to incorporate elements of the Groundwater Protection Plan as there are no regulations to justify this requirement.

RESPONSE 5: DOW concurs with this comment and has moved the requirement for a GPP out of the BMP plan section and has added the GPP as an additional requirement in Section 5.10 of the final Permit.

COMMENT 6: Suggestions were received to clarify in the permit when a Socioeconomic Demonstration and Alternative Analysis (SDAA) needs to be submitted with the e-NOI.

RESPONSE 6: Clarification has been added to Section 6.1.2 of the final Permit to describe when an SDAA is required to be submitted.

COMMENT 7: Requests were made to allow those companies currently permitted under a KYR00 general permit and/or a KNDOP permit be allowed to finish the term of their permits prior to submitting the eNOI- KYG11 for coverage under the KYG11.

RESPONSE 7: As indicated to those companies that received coverage under KYR00, those coverages will be automatically transferred to KYG11. Should additional information be required, notification will be sent to the permittee.

COMMENT 8: A request was made that all information, including sampling and discharge information submitted electronically to DOW, is kept confidential and not available to the public as this information is considered private.

RESPONSE 8: Per Kentucky Open Records Laws under KRS 61.870, all submitted documentation used by the agency is public record and therefore is required to be available for public inspection. Also, 40 CFR 122.7 does not allow for confidentiality to be claimed for information submitted as part of the permit application, the permit and any effluent data.

COMMENT 9: A request was made such that labs testing effluent samples not be required to be certified due to the potential increased costs of obtaining a certified lab.

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RESPONSE 9: For KPDES purposes, sample results are required to be analyzed by a certified lab as described in 401 KAR 5:320 and authorized under KRS 224.10-670.

COMMENT 10: A comment was received to allow the current Stormwater Pollution Prevention Plans (SWPPPs) that were written under the KYR00 general permit to be acceptable until such time as a SWPPP needs to be reviewed and rewritten and then can be converted to a BMP Plan.

RESPONSE 10: As stated in Section 3.2.1 of the final Permit, all or part of the SPCC or any such plan may be incorporated by reference into the BMP Plan.

COMMENT 11: A request was made for a second 30-day public comment period prior to the issuance of the permit.

RESPONSE 11: DOW disagrees that there is need for an additional public notice period.

Any person aggrieved by the issuance of a permit final decision may demand a hearing pursuant to KRS 224.10-420(2) within thirty (30) days from the date of the issuance of this letter. Any demand for a hearing on the permit shall be filed in accordance with the procedures specified in KRS 224.10-420, 224.10-440, 224.10-470, and the regulations promulgated thereto. The request for hearing should be submitted in writing to the Energy and Environment Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Energy and Environment Cabinet, Division of Water, 200 Fair Oaks Lane, Frankfort, Kentucky 40601. For your record keeping purposes, it is recommended that these requests be sent by certified mail. The written request must conform to the appropriate statutes referenced above.

If you have any questions regarding these responses, please contact the Surface Water Permits Branch at (502) 564-3410 or SWPBSupport@ky.gov.

Further information on procedures and legal matters pertaining to the hearing request may be obtained by contacting the Office of Administrative Hearings at (502) 564-7312.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter T. Goodmann', written in a cursive style.

Peter T. Goodmann, Director
Division of Water