



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

LEONARD K PETERS
SECRETARY

January 30, 2015

Response to Public Comments
KPDES No.: KYG840000 (KYG84)
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: A comment was made to modify the definition of process wastewater to match the definition in the Effluent Limitations Guideline (ELG) of “Process wastewater shall mean any wastewater used in the slurry transport of mined material, air emissions control, or processing exclusive of mining.”

RESPONSE 1: DOW agrees that the definition of process wastewater in the draft KYG84 was more stringent than the ELG and has revised the definition in the final document to match.

COMMENT 2: A comment was made to remove the requirement of an open surface recycle pond when discharging process wastewater as an open surface pond is not a requirement of the ELG.

RESPONSE 2: The DOW has removed the requirement of an open surface recycle pond requirement for discharging process wastewater, as it is up to the discretion of the applicant to decide how best to recycle the process wastewater.

COMMENT 3: A comment was made to include the words, “to the maximum extent practicable” in the requirements for recycle of process wastewaters as it is not always practicable to recycle.

RESPONSE 3: DOW has made the wording change as this was originally intended to be included since it was already in the fact sheet. Additional wording was added to clarify that the discharge of process wastewater would not be allowed if recycling does not occur, which is consistent with the ELG.

RESPONSE TO COMMENTS

KPDES Permit No.: KYG840000

AI No.: 35050

Page 2

COMMENT 4: A request was made to delete Section 3.3 of the permit which requires elements of the Groundwater Protection Plan (GPP) be incorporated into the Best Management Practices Plan (BMPP).

RESPONSE 4: Section 3.3.1 of the final Permit has been modified. Those elements of the GPP that are required by 401 KAR 5:037 may be included in the BMPP. Additionally the requirement for a GPP was included as an additional requirement in Section 5.10 of the final Permit.

COMMENT 5: One commenter recommended clarification be added into the permit for when a Socioeconomic Demonstration and Alternative Analysis (SDAA) needs to be submitted with the e-NOI.

RESPONSE 5: Clarification has been added to the permit to describe when an SDAA is required to be submitted. The permit now reads as:

6.1.2. NOI Submission Deadlines

Operators seeking initial coverage for a new facility shall electronically submit the eNOI-KYG84 and required attachments (Mining Reclamation Plan (MRP) map, USGS 71/2-minute quadrangle map with the facility location, line drawing showing water flow through the facility, and Socioeconomic Demonstration and Alternative Analysis (SDAA) form) a minimum of 90 days prior to commencement of discharge.

Operators seeking modification of an existing coverage to address facility modifications shall electronically submit an updated eNOI-KYG84 and required attachments (MRP map, USGS 71/2-minute quadrangle map with the facility location, line drawing showing water flow through the facility, and SDAA form (when expanded)) a minimum of 90 days prior to the modification of the facility.

Operators seeking renewal of existing coverages shall electronically submit an updated eNOI-KYG84 and required attachments (MRP map, USGS 71/2-minute quadrangle map with the facility location, and line drawing showing water flow through the facility) within 90 days of the effective date of the permit. Failure to submit the updated eNOI-KYG84 within the specified timeframe shall result in the termination of coverage.

COMMENT 6: A comment was made to allow a BMP Outline to substitute for a full BMP Plan if the outline could demonstrate that the BMP Plan requirements would be fulfilled by other facility plans, such as the Spill Prevention Control and Countermeasure (SPCC) Plans as it was allowed in the previous KYG84 permit and to avoid duplication of work.

RESPONSE 6: 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 7: A request was made to allow for monitoring of total suspended solids during controlled mine dewatering and settleable solids for non-controlled mine dewatering as each would provide adequate monitoring for each scenario and that potential permitting issues with the Department of Natural Resources (DNR) could be created.

RESPONSE TO COMMENTS

KPDES Permit No.: KYG840000

AI No.: 35050

Page 3

RESPONSE 7: After many in-depth discussions with DNR and regulated entities, DOW agrees that limitations for Total Suspended Solids are not appropriate for those discharges from the active mining area that occur as a result of a precipitation event(s) and independent of the efforts of the mine operator. Instead, these discharge events must meet a Daily Maximum limit of 0.5 ml/l Settleable Solids. This is consistent with technology-based requirements for coal mining operations discharging during precipitation events. This change has been incorporated into the final permit by adding an effluent limitations table in Section 2.1.

COMMENT 8: A request was made to remove Specific Conductivity from Table 1 of Section 2.1 of the permit as there are no water quality standards to compare the results to, the previous KYG84 permit did not require the monitoring and the Fact Sheet does not provide adequate justification for its inclusion.

RESPONSE 8: DOW has removed the requirement to monitor for Specific Conductivity for all discharges. Due to the calcium fraction of hardness for these operations being quite high, the toxicity of most metals in the effluent to aquatic organisms is decreased.

COMMENT 9: Requests were made both in favor of and in opposition to a second thirty-day public comment period.

RESPONSE 9: None of the changes made to the final permit necessitate a second public comment period. In light of this and in an effort to expedite the process of issuing coverages to permittees awaiting this renewal, the Division will not be extending the comment period.

COMMENT 10: A number of comments were made recommending wording changes for clarification of KYG84 requirements, correction of typographical errors, etc.

RESPONSE 10: The Division reviewed and considered these comments and made those changes deemed appropriate.

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.

RESPONSE TO COMMENTS
KPDES Permit No.: KYG840000
AI No.: 35050
Page 4

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. Goodman', with a long horizontal flourish extending to the right.

Peter T. Goodman, Director
Division of Water