

KPDES



**KENTUCKY POLLUTANT
DISCHARGE ELIMINATION
SYSTEM**

PERMIT

**AUTHORIZATION TO DISCHARGE UNDER THE
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM**

PERMIT NO.: KY0002917

AGENCY INTEREST NO.: 1642

Pursuant to Authority in KRS 224,

Department of the Army
ENV MGT DIV (IMSE-KNX-PWE-Directorate of Public Works)
125 6th Avenue, Suite 325
Fort Knox, Kentucky 40121-5719

is authorized to discharge from a facility located at

U.S. Army Garrison Command, Fort Knox
Fort Knox, Hardin, Bullitt, and Meade Counties, Kentucky

to receiving waters named

Mill Creek, Ohio River, Otter Creek, Salt River

in accordance with effluent limitations, monitoring requirements and other conditions set forth in this permit.

This permit shall become effective on April 1, 2020.

This permit and the authorization to discharge shall expire at midnight, March 31, 2025.

January 19, 2020

Date Signed

A handwritten signature in black ink, appearing to read "Paul P. Miller".

**Paul P. Miller, Director
Division of Water**

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SECTION 1

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1.1. Compliance Monitoring Locations (Outfalls)

The following table lists the outfalls authorized by this permit, the location and description of each, and the DOW assigned KPDES outfall number:

TABLE 1.					
Outfall No.	Outfall Type	Latitude (N)	Longitude (W)	Receiving Water	Description of Outfall
003	Instream	37.88306°	85.91417°	Mill Creek	Upstream point without influence of stormwater runoff from facility
004	Instream	37.91556°	85.90028°	Mill Creek	Downstream point with influence of stormwater runoff from facility
005	Instream	37.86306°	86.00442°	Otter Creek	Upstream point without influence of stormwater runoff from facility
006	Instream	37.89528°	86.02469°	Otter Creek	Downstream point with influence of stormwater runoff from facility
007	External	37.92419°	85.97062°	Sinkhole	Stormwater from closed residential landfill
008	External	37.92779°	85.96873°	Sinkhole	Stormwater from closed residential landfill
009	External	37.92401°	85.96671°	Sinkhole	Stormwater from closed residential landfill
010	External	37.92504°	85.96556°	Sinkhole	Stormwater from closed residential landfill
011	External	37.92213°	85.96859°	Sinkhole	Stormwater from closed residential landfill
012	External	37.92555°	85.96138°	Otter Creek	Stormwater runoff from active CDD landfill
013	External	37.92706°	85.96068°	Otter Creek	Stormwater runoff from active CDD landfill
017	External	37.94861°	85.86139°	Salt River	Groundwater from classified area
019	External	37.99639°	85.98932°	Ohio River	Groundwater from the water well field

1.2. Effluent Limitations and Monitoring Requirements

Beginning on the effective date and lasting through the term of this permit, discharges from Outfalls 003, 004, 005, and 006 shall comply with the following effluent limitations:

TABLE 2.									
EFFLUENT LIMITATIONS								MONITORING REQUIREMENTS	
Effluent Characteristic	Units	Loadings (lbs./day)		Concentrations				Frequency	Sample Type
		Monthly Average	Daily Maximum	Minimum	Monthly Average	Daily Maximum	Maximum		
Stream Flow	MGD	Report	Report	N/A	N/A	N/A	N/A	1/Quarter	Instantaneous
pH	SU	N/A	N/A	Report	N/A	N/A	Report	1/Quarter	Grab
Total Suspended Solids	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Hardness (as mg/l CaCO ₃)	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Antimony	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Year	Grab
Total Recoverable Arsenic	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Year	Grab
Total Recoverable Cadmium	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Year	Grab
Total Recoverable Copper	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Year	Grab
Total Recoverable Lead	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Year	Grab
Total Recoverable Mercury	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Year	Grab
Total Recoverable Nickel	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Year	Grab
Total Recoverable Silver	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Year	Grab
Total Recoverable Thallium	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Year	Grab
Total Recoverable Zinc	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Year	Grab

Beginning on the effective date and lasting through the term of this permit, discharges from Outfalls 007 and 008 shall comply with the following effluent limitations:

TABLE 3.									
EFFLUENT LIMITATIONS								MONITORING REQUIREMENTS	
Effluent Characteristic	Units	Loadings (lbs./day)		Concentrations				Frequency	Sample Type
		Monthly Average	Daily Maximum	Minimum	Monthly Average	Daily Maximum	Maximum		
Flow	MGD	Report	Report	N/A	N/A	N/A	N/A	1/Quarter	Instantaneous
pH	SU	N/A	N/A	6.0	N/A	N/A	9.0	1/Quarter	Grab
Total Suspended Solids	mg/l	N/A	N/A	N/A	30	60	N/A	1/Quarter	Grab

Beginning on the effective date and lasting through the term of this permit, discharges from Outfall 009 shall comply with the following effluent limitations:

TABLE 4.									
EFFLUENT LIMITATIONS								MONITORING REQUIREMENTS	
Effluent Characteristic	Units	Loadings (lbs./day)		Concentrations				Frequency	Sample Type
		Monthly Average	Daily Maximum	Minimum	Monthly Average	Daily Maximum	Maximum		
Flow	MGD	Report	Report	N/A	N/A	N/A	N/A	1/Quarter	Instantaneous
pH	SU	N/A	N/A	6.0	N/A	N/A	9.0	1/Quarter	Grab
Total Suspended Solids	mg/l	N/A	N/A	N/A	30	60	N/A	1/Quarter	Grab
Hardness (as mg/l CaCO ₃)	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Antimony	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Arsenic	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Cadmium	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Copper	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Lead	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Mercury	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Nickel	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Silver	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Thallium	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Zinc	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab

Beginning on the effective date and lasting through the term of this permit, discharges from Outfall 010 shall comply with the following effluent limitations:

TABLE 5.									
EFFLUENT LIMITATIONS								MONITORING REQUIREMENTS	
Effluent Characteristic	Units	Loadings (lbs./day)		Concentrations				Frequency	Sample Type
		Monthly Average	Daily Maximum	Minimum	Monthly Average	Daily Maximum	Maximum		
Flow	MGD	Report	Report	N/A	N/A	N/A	N/A	1/Quarter	Instantaneous
pH	SU	N/A	N/A	6.0	N/A	N/A	9.0	1/Quarter	Grab
Total Suspended Solids	mg/l	N/A	N/A	N/A	30	60	N/A	1/Quarter	Grab

Beginning on the effective date and lasting through the term of this permit, discharges from Outfall 011 shall comply with the following effluent limitations:

TABLE 6.									
EFFLUENT LIMITATIONS								MONITORING REQUIREMENTS	
Effluent Characteristic	Units	Loadings (lbs./day)		Concentrations				Frequency	Sample Type
		Monthly Average	Daily Maximum	Minimum	Monthly Average	Daily Maximum	Maximum		
Flow	MGD	Report	Report	N/A	N/A	N/A	N/A	1/Quarter	Instantaneous
pH	SU	N/A	N/A	6.0	N/A	N/A	9.0	1/Quarter	Grab
Total Suspended Solids	mg/l	N/A	N/A	N/A	30	60	N/A	1/Quarter	Grab
Hardness (as mg/l CaCO ₃)	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Antimony	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Arsenic	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Cadmium	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Copper	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Lead	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Mercury	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Nickel	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Silver	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Thallium	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Zinc	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab

Beginning on the effective date and lasting through the term of this permit, discharges from Outfalls 012 and 013 shall comply with the following effluent limitations:

TABLE 7.									
EFFLUENT LIMITATIONS								MONITORING REQUIREMENTS	
Effluent Characteristic	Units	Loadings (lbs./day)		Concentrations				Frequency	Sample Type
		Monthly Average	Daily Maximum	Minimum	Monthly Average	Daily Maximum	Maximum		
Flow	MGD	Report	Report	N/A	N/A	N/A	N/A	1/Quarter	Instantaneous
pH	SU	N/A	N/A	6.0	N/A	N/A	9.0	1/Quarter	Grab
Total Suspended Solids	mg/l	N/A	N/A	N/A	30	60	N/A	1/Quarter	Grab
Hardness (as mg/l CaCO ₃)	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Antimony	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Arsenic	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Cadmium	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Copper	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Lead	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Mercury	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Nickel	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Silver	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Thallium	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Total Recoverable Zinc	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab

Beginning on the effective date and lasting through the term of this permit, discharges from Outfall 017 shall comply with the following effluent limitations:

TABLE 8.									
EFFLUENT LIMITATIONS								MONITORING REQUIREMENTS	
Effluent Characteristic	Units	Loadings (lbs./day)		Concentrations				Frequency	Sample Type
		Monthly Average	Daily Maximum	Minimum	Monthly Average	Daily Maximum	Maximum		
Flow	MGD	Report	Report	N/A	N/A	N/A	N/A	1/Quarter	Instantaneous
pH	SU	N/A	N/A	6.0	N/A	N/A	9.0	1/Quarter	Grab
Total Suspended Solids	mg/l	N/A	N/A	N/A	30	60	N/A	1/Quarter	Grab
Oil & Grease	mg/l	N/A	N/A	N/A	10	15	N/A	1/Quarter	Grab
Chloride	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab
Hardness (as CaCO ₃)	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Quarter	Grab

Beginning on the effective date and lasting through the term of this permit, discharges from Outfall 019 shall comply with the following effluent limitations:

TABLE 9.									
EFFLUENT LIMITATIONS								MONITORING REQUIREMENTS	
Effluent Characteristic	Units	Loadings (lbs./day)		Concentrations				Frequency	Sample Type
		Monthly Average	Daily Maximum	Minimum	Monthly Average	Daily Maximum	Maximum		
Flow	MGD	Report	Report	N/A	N/A	N/A	N/A	1/Month	Instantaneous
pH	SU	N/A	N/A	6.0	N/A	N/A	9.0	1/Month	Grab
Total Suspended Solids	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Month	Grab
Chloride	mg/l	N/A	N/A	N/A	Report	Report	N/A	1/Month	Grab

1.3. Standard Effluent Requirements

The discharges to Waters of the Commonwealth shall not produce floating solids, visible foam or a visible sheen on the surface of the receiving waters.

SECTION 2

STANDARD CONDITIONS

2. STANDARD CONDITIONS

The following conditions apply to all KPDES permits.

2.1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of KRS Chapter 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Any person who violates applicable statutes or who fails to perform any duty imposed, or who violates any determination, permit, administrative regulation, or order of the Cabinet promulgated pursuant thereto shall be liable for a civil penalty as provided at KRS 224.99.010.

2.2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit.

2.3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2.4. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

2.5. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2.6. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

2.7. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

2.8. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

2.9. Inspection and Entry

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

2.10. Monitoring and Records

- (1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five (5) years (or longer as required by 401 KAR 5:065, Section 2(10) [40 CFR 503]), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.
- (3) Records of monitoring information shall include:
 - a) The date, exact place, and time of sampling or measurements;
 - b) The individual(s) who performed the sampling or measurements;
 - c) The date(s) analyses were performed;
 - d) The individual(s) who performed the analyses;
 - e) The analytical techniques or methods used; and
 - f) The results of such analyses.
- (4) Monitoring must be conducted according to test procedures approved under 401 KAR 5:065, Section 2(8) [40 CFR 136] unless another method is required under 401 KAR 5:065, Section 2(9) or (10) [40 CFR subchapters N or O].
- (5) KRS 224.99-010 provides that any person who knowingly violates KRS 224.70-110 or other enumerated statutes, or who knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall be guilty of a Class D felony and, upon conviction, shall be punished by a fine of not more than \$25,000, or by imprisonment for not less than one (1) year and not more than five (5) years, or by both fine and imprisonment for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.

2.11. Signatory Requirement

- (1) All applications, reports, or information submitted to the Director shall be signed and certified pursuant to 401 KAR 5:060, Section 4 [40 CFR 122.22].

(2) KRS 224.99-010 provides that any person who knowingly provides false information in any document filed or required to be maintained under KRS Chapter 224 shall be guilty of a Class D felony and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000), or by imprisonment, or by fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.

2.12. Reporting Requirements

2.12.1. Planned Changes

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(1) The alteration or addition to a permitted facility may meet one (1) of the criteria for determining whether a facility is a new source in KRS 224.16-050 [40 CFR 122.29(b)]; or

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under KRS 224.16-050 [40 CFR 122.42(a)(1)].

(3) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2.12.2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2.12.3. Transfers

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under KRS 224 [CWA; see 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory].

2.12.4. Monitoring Reports

Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.

(2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 401 KAR 5:065, Section 2(8) [40 CFR 136], or another method required for an industry-specific waste stream under 401 KAR 5:065, Section 2(9) or (10) [40 CFR subchapters N or O], the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.

(3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

2.12.5. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.

2.12.6. Twenty-four-Hour Reporting

(1) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(2) The following shall be included as information which must be reported within twenty-four (24) hours under this paragraph.

- a) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See §122.41(g))
- b) Any upset which exceeds any effluent limitation in the permit.
- c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within twenty-four (24) hours.

(3) The Director may waive the written report on a case-by-case basis under 40 CFR 122.41 (l), if the oral report has been received within twenty-four (24) hours.

2.12.7. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Sections 2.12.1, 2.12.4, 2.12.5 and 2.12.6, at the time monitoring reports are submitted. The reports shall contain the information listed in Section 2.12.6.

2.12.8. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

2.13. Bypass

2.13.1. Definitions

(1) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

2.13.2. Bypass Not Exceeding Limitations

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Section 2.13.3 and 2.13.4.

2.13.3. Notice

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Section 2.12.6.

2.13.4. Prohibition of Bypass

(1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

- a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- c) The permittee submitted notices as required under Section 2.13.3.

(2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three (3) conditions listed above in Section 2.13.4.

2.14. Upset**2.14.1. Definition**

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2.14.2. Effect of an Upset

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Section 2.14.3 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2.14.3. Conditions Necessary for a Demonstration of Upset

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) The permitted facility was at the time being properly operated; and
- (3) The permittee submitted notice of the upset as required in Section 2.12.6; and
- (4) The permittee complied with any remedial measures required under Section 2.4.

2.14.4. Burden of Proof

In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

SECTION 3
BEST MANAGEMENT PRACTICES PLAN (BMPP)
REQUIREMENTS

3. BEST MANAGEMENT PRACTICES PLAN (BMPP) REQUIREMENTS

The permittee shall develop and implement a Best Management Practices Plan (BMPP) consistent with 401 KAR 5:065, Section 2(4).

3.1. Applicability

These conditions apply to all permittees who use, manufacture, store, handle, or discharge any pollutant listed as: (1) toxic under Section 307(a)(1) of the Clean Water Act; (2) oil, as defined in Section 311(a)(1) of the Act; (3) any pollutant listed as hazardous under Section 311 of the Act; or (4) is defined as a pollutant pursuant to KRS 224.1-010(35) and who have operations which could result in (1) the release of a hazardous substance, pollutant, or contaminant, or (2) an environmental emergency, as defined in KRS 224.1-400, as amended, or any regulation promulgated pursuant thereto (hereinafter, the "BMP pollutants"). These operations include material storage areas; site runoff; in-facility transfer, process and material handling areas; loading and unloading operations, and sludge and waste disposal areas.

3.2. Plan

The permittee shall develop and implement a BMPP consistent with 401 KAR 5:065, Section 2(4) pursuant to KRS 224.70-110, which prevents or minimizes the potential for the release of "BMP pollutants" from ancillary activities through site runoff; spillage or leaks, sludge or waste disposal; or drainage from raw material storage.

3.3. Implementation

The permittee shall implement the BMPP upon the commencement of regulated activity. Modifications to the plan as a result of ineffectiveness or plan changes to the facility shall be implemented as soon as possible.

3.4. General Requirements

The BMPP shall:

- (1) Be documented in narrative form, and shall include any necessary plot plans, drawings, or maps.
- (2) Establish specific objectives for the control of toxic and hazardous pollutants.
 - a. Each facility component or system shall be examined for its potential for causing a release of "BMP pollutants" due to equipment failure, improper operation, natural phenomena such as rain or snowfall, etc.
 - b. Where experience indicates a reasonable potential for equipment failure (e.g., a tank overflow or leakage), natural condition (e.g., precipitation), or other circumstances which could result in a release of "BMP pollutants", the plan should include a prediction of the direction, rate of flow, and total quantity of the pollutants which could be released from the facility as result of each condition or circumstance.
- (3) Establish specific BMPs to meet the objectives identified under paragraph (2) b of this section, addressing each component or system capable of causing a release of "BMP pollutants".
- (4) Include any special conditions established in part b of this section.
- (5) Be reviewed by engineering staff and the site manager.

3.5. Specific Requirements

The plan shall be consistent with the general guidance contained in the publication entitled "NPDES Best Management Practices Guidance Document", and shall include the following baseline BMPs as a minimum:

- (1) BMP Committee
- (2) Reporting of BMP Incidents
- (3) Risk Identification and Assessment
- (4) Employee Training
- (5) Inspections and Records
- (6) Preventive Maintenance
- (7) Good Housekeeping
- (8) Materials Compatibility
- (9) Security
- (10) Materials Inventory

3.6. SPCC Plans

The BMPP may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under Section 311 of the Clean Water Act and 40 CFR Part 112, and may incorporate any part of such plans into the BMPP by reference.

3.7. Hazardous Waste Management

The permittee shall assure the proper management of solids and hazardous waste in accordance with the regulations promulgated under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1978 (RCRA) (40 U.S.C. 6901 et seq.) Management practices required under RCRA regulations shall be referenced in the BMP plan.

3.8. Documentation

The permittee shall maintain a copy of the BMPP at the facility and shall make the plan available upon request to EEC personnel.

3.9. BMPP Modification

The permittee shall modify the BMPP whenever there is a change in the facility or change in the operation of the facility that materially increases the potential for the release of "BMP pollutants".

3.10. Modification for Ineffectiveness

The BMPs and the BMPP shall be reviewed and appropriate modifications implemented to utilize other practicable measures if any of the following events occur:

- (1) As a result of either a fixed or episodic event-driven evaluation, the permittee determines the selected BMPs are not achieving the established performance benchmarks;
- (2) As a result of an evaluation or inspection by Cabinet personnel; or
- (3) A release of any petroleum-based product, toxic or hazardous substance.

SECTION 4

OTHER CONDITIONS

4. OTHER CONDITIONS

4.1. Schedule of Compliance

The permittee shall attain compliance with all requirements of this permit on the effective date of this permit unless otherwise stated.

4.2. Other Permits

This permit has been issued under the provisions of KRS Chapter 224 and regulations promulgated pursuant thereto. Issuance of this permit does not relieve the permittee from the responsibility of obtaining any other permits or licenses required by this Cabinet and other state, federal, and local agencies.

4.3. Continuation of Expiring Permit

This permit shall be continued in effect and enforceable after the expiration date of the permit provided the permittee submits a timely and complete application in accordance with 401 KAR 5:060, Section 2(4).

4.4. Antidegradation

For those discharges subject to the provisions of 401 KAR 10:030 Section, 1(3)(b)5, the permittee shall install, operate, and maintain wastewater treatment facilities consistent with those identified in the SDAA submitted with the KPDES permit application.

4.5. Reopener Clause

This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved in accordance with 401 KAR 5:050 through 5:080, if the effluent standard or limitation so issued or approved:

(1) Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or

(2) Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of KRS Chapter 224 when applicable.

4.6. Outfall Signage

Ohio River

The permittee shall comply with the permanent marker requirements of ORSANCO's Pollution Control Standards.

Other Waterbodies

This KPDES permit establishes monitoring points, effluent limitations, and other conditions to address discharges from the permitted facility. In an effort to better document and clarify these locations the permittee should place and maintain a permanent marker at each of the monitoring locations.

SECTION 5

MONITORING AND REPORTING REQUIREMENTS

5. MONITORING AND REPORTING REQUIREMENTS

5.1. KPDES Outfalls

Discharge samples and measurements shall be collected at the compliance point for each KPDES Outfall identified in this permit. Each sample shall be representative of the volume and nature of the monitored discharge.

5.2. Sufficiently Sensitive Analytical Methods

Analytical methods utilized to demonstrate compliance with the effluent limitations established in this permit shall be sufficiently sensitive to detect pollutant levels at or below the required effluent limit, i.e. the Method Minimum Level shall be at or below the effluent limit. In the instance where an EPA-approved method does not exist that has a Method Minimum Level at or below the established effluent limitation, the permittee shall:

- (1) Use the method specified in the permit; or
- (2) The EPA-approved method with an ML that is nearest to the established effluent limit.

It is the responsibility of the permittee to demonstrate compliance with permit parameter limitations by utilization of sufficiently sensitive analytical methods.

5.3. Certified Laboratory Requirements

All laboratory analyses and tests required to demonstrate compliance with the conditions of this permit shall be performed by a laboratory holding the appropriate general or field-only certification issued by the Cabinet pursuant to 401 KAR 5:320.

5.4. Submission of DMRs

The completed DMR for each monitoring period must be entered into the DOW approved electronic system no later than midnight on the 28th day of the month following the monitoring period for which monitoring results were obtained.

For more information regarding electronic submittal of DMRs, please visit the Division's website at: <https://eec.ky.gov/Environmental-Protection/Water/SubmitReport/Pages/NetDMR.aspx> or contact the DMR Coordinator at (502) 564-3410.