

Kansas Water Pollution Control General Permit
and Authorization to Discharge

STORMWATER RUNOFF FROM CONSTRUCTION ACTIVITIES

Under the National Pollutant Discharge Elimination System

Pursuant to the Provisions of Kansas Statutes Annotated 65-164 and 65-165; the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.; the "Clean Water Act"); and the Kansas Surface Water Quality Standards (K.A.R. 28-16-28 et seq.); this general NPDES permit authorizes the permittee to discharge stormwater runoff from construction activities on the site described in the authorized Notice of Intent (NOI) in accordance with the limitations and conditions set forth in this general NPDES permit.

Submission of a complete NOI does not automatically provide coverage under this general NPDES permit. Coverage is provided and discharge authorized when the Kansas Department of Health and Environment (KDHE) authorizes the NOI. A signed and dated copy of the authorized NOI will be provided to the permittee.

This general NPDES permit is effective **January 18, 2002** through **December 31, 2006**. This general NPDES permit authorization supersedes all previous permits, agreements, decrees, or orders, in effect between KDHE and the permittee for the discharge of stormwater runoff from construction activities at the site specified in the authorized Notice of Intent (NOI).

The permittee is authorized to use the general NPDES permit to cover the construction activities described in the authorized NOI from the date the NOI is authorized by the Department through the expiration date of this general NPDES permit.

Secretary, Kansas Department of Health and Environment

January 18, 2002
Date

AUTHORIZED ACTIVITY DESCRIPTION:

Large Construction Activity

Large construction activity consists of any activity (e.g. clearing, grubbing, excavating, grading, etc.) which disturbs a cumulative total of five (5.0) or more acres or that is part of a larger common plan of development or sale which will disturb a cumulative total of five or more acres.

Small Construction Activity

On or before January 9, 2003, owners or operators who may discharge stormwater runoff from small construction activity on or after March 10, 2003 shall apply for authorization to discharge stormwater runoff from their construction site. Small construction activity consists of any activity (e.g. clearing, grubbing, excavating, grading, etc.) which disturbs a cumulative total area equal to one (1.0) acre; or greater than one (1.0) acre and less than five (5.0) acres. Activity which disturbs less than one (1.0) acre is considered to be small construction activity when the site is part of a larger common plan of development or sale which will disturb a cumulative total area equal to one (1.0) acre; or greater than one (1.0) acre and less than five (5.0) acres.

Upon issuance of this General Permit, owners or operators who intend to engage in large construction activity or, after March 9, 2003 in small construction activity, shall obtain authorization to discharge stormwater runoff from construction activities under this general NPDES permit prior to commencing construction at the project site. To obtain authorization to discharge stormwater runoff, the owner or operator of a construction site shall submit a Notice of Intent (NOI) at least 60 days prior to removing vegetation or disturbing soil at the site. To be authorized, the NOI shall be submitted in accordance with Part IV of this general NPDES permit. The authorized NOI represents authorization by the Kansas Department of Health and Environment (KDHE) to discharge stormwater runoff from construction activities under the provisions of this general NPDES permit. When KDHE authorizes the NOI for a construction site, the owner or operator is authorized to discharge stormwater runoff from construction activities under the provisions of this general NPDES permit and may commence construction at the construction site described in the NOI in accordance with the terms and conditions expressed in this general NPDES permit and in conformance with the stormwater pollution prevention plan developed for the site.

Rather than submitting an NOI, owners or operators who intend to engage in small construction activity may request a rainfall erosivity waiver. To receive a waiver, the owner or operator of a construction site shall submit a rainfall erosivity waiver application form at least 60 days prior to removing vegetation or disturbing soil at the site. To be authorized, the small construction activity must have a low predicted rainfall potential which corresponds to a rainfall erosivity factor of less than 5 as calculated by the Revised Universal Soil Loss Equation [RUSLE]. The rainfall erosivity waiver application form is available on the [Kansas Stormwater Website](#) (see endnote 1, page 13). Copies can also be obtained by writing to KDHE at the address on page 10. Prior to commencing construction, the owner or operator must receive a copy of the authorized rainfall erosivity waiver from KDHE.

Owners or operators of construction activities which disturb less than one acre (< 1.0 acres), and which are not part of larger common plan of development or sale, must have authorization to discharge stormwater runoff from construction activities under this general NPDES permit when KDHE believes the water quality impact warrants consideration.

Any owner or operator who is subject to NPDES permit requirements for stormwater runoff from construction activities and who discharges stormwater runoff from construction activities prior to receiving authorization from KDHE is in violation of both State and Federal laws.

PREFACE

The purpose of this general permit is to implement the Federal Water Pollution Control statutes and regulations; permit discharges of stormwater runoff from construction sites subject to National Pollutant Discharge Elimination System (NPDES) permit requirements; protect the waters of the State; and minimize off site migration of sediments and contaminants.

This general permit does not authorize the placement of fill materials in flood plains, the obstruction of stream flow, directing stormwater runoff across private property, increasing stormwater runoff flow, changing the channel of a defined drainage course, etc. This general permit is intended to address only the quality of the stormwater runoff and to minimize off site migration of sediments and contaminants.

The issuance of an authorization to discharge under this general NPDES permit allows a project owner or operator, after implementation of the project site stormwater pollution protection plan, to commence construction site soil disturbing activities which will produce or potentially produce a discharge of contaminated stormwater into waters of the State of Kansas. Applicants for coverage under this general NPDES permit which have the potential to impact threatened or endangered species or historical sites can obtain information regarding regulatory requirements or special conditions which may be applicable to the activities covered by this permit from the Kansas Department of Wildlife and Parks or the Kansas State Historical Society respectively.

Other appropriate agencies should be contacted to determine the need for additional permits, authorizations, or requirements, if any. In particular the applicant should contact the **local separate storm sewer agency (see endnote 2, page 14)**. Other agencies the applicant should contact include the United States Army Corps of Engineers; Kansas Department of Agriculture, Division of Water Resources; and any other local governments or agencies which are not listed herein that may have jurisdiction.

Authorization to Discharge under this general permit does not constitute approval of the project under the provisions of the Environmental Coordination Act, K.S.A. 82a-326(a)(4) and (b).

Part I. WHO MUST APPLY

The owner or operator of any project which may discharge stormwater runoff from construction activities must have authorization to discharge stormwater runoff from construction activities under this general NPDES permit, or must apply for coverage under an individual NPDES permit.

Owners or operators of large construction activities which may disturb five or more acres, or are part of a larger common plan of development or sale which may disturb a cumulative total of five or more acres, must have authorization to discharge stormwater runoff from construction activities.

Owners or operators of small construction activities that are in progress on or begin after March 10, 2003 must have authorization to discharge stormwater runoff from construction activities under this general NPDES permit. Small construction activities are those which may disturb one acre or more, and less than five acres, or which are part of a larger common plan of development or sale which may disturb a cumulative total area of one acre or more, and less than five acres.

Owners or operators of construction activities which disturb less than one acre (< 1.0 acres), and which are not part of larger common plan of development or sale, must have authorization to discharge stormwater runoff from construction activities under this general NPDES permit when KDHE believes the water quality impact warrants consideration.

Most municipalities are presently exempt from the general NPDES permit requirements for discharging stormwater runoff from large or small construction activities. On or after March 10, 2003, all MS4 operators engaged in large or small construction activities must have authorization to discharge stormwater runoff from construction activities under this general NPDES permit.

Part II. WHAT THIS PERMIT COVERS

This general permit authorizes the discharge of stormwater runoff from construction activities until the project is complete and final stabilization is achieved.

Upon issuance of this General Permit, owners or operators who intend to engage in large construction activity, or small construction activity in progress after March 9, 2003, must receive authorization to discharge stormwater runoff from construction activities.

This general permit also authorizes the following non-stormwater discharges from construction sites during the life of the project:

1. flushing water hydrants and potable water lines,
2. water without cleansers, detergents, solvents or additives used for rinsing streets or structures; and
3. irrigation to establish vegetation.

Part III. WHAT THIS PERMIT OR THE RAINFALL EROSION WAIVER DOES NOT COVER

KDHE cannot authorize a discharge of stormwater runoff from construction activities which violates the provisions of this general NPDES permit.

This general NPDES permit does **not** authorize:

1. construction activities on sites within Kansas which are located on Indian lands, (**see endnote 3, page 14**);
2. construction activities which may discharge stormwater runoff one-half stream mile or less from a Critical Water Quality Management Area; an Exceptional State Water; an Outstanding National Resource Water; or a Special Aquatic Life Use Water unless KDHE specifically grants coverage by this general permit (**see endnote 4, page 14**);
3. construction activities which may discharge stormwater runoff which violates the Kansas Surface Water Quality Standards;
4. construction activities which may discharge stormwater runoff which violates the applicable requirements of a local stormwater pollution prevention program;

5. construction activities which may adversely affect threatened or endangered species as listed in K.A.R. 115-15-1 et seq.; and
6. construction activities which may affect any identified historical or archeological sites listed or eligible for listing on the National Register of Historic Places.

This general NPDES permit does not relieve the permit holder of the obligation to obtain other approvals, permits, licenses, or documents of sanction which may be required by other federal, state, or local government agencies.

This general permit also does not authorize any other discharge of sewage, pollutants or wastewater to waters of the State including for example:

hazardous substances or oil from an on-site spill or improper handling and disposal practices;

wash and/or rinse waters from concrete mixing equipment including ready mix concrete trucks; or

wastewater generated from wet air pollution control equipment for asphalt plants, or the containment of scrubber water in lined ponds.

KDHE reserves the right to deny coverage under this general permit to applicants for stormwater runoff from construction or earth disturbing activities at sites which have contaminated soils which will be disturbed by the construction activity.

Individual Permits Required due to Denial or Non-Compliance

If the NOI for coverage under this general NPDES permit is denied by KDHE, then the applicant is not eligible for coverage under this general permit and shall apply for an individual NPDES permit.

The permittee shall apply for an individual NPDES permit at least 180 days prior to commencing construction. Construction shall not commence until the individual NPDES permit is issued.

Part IV. HOW TO APPLY

Submission of a Notice of Intent (NOI) for Stormwater Runoff From Construction Activities requests authorization for coverage under this general NPDES permit. **Completion of the NOI does not provide automatic coverage under the general permit.** Coverage under this general permit begins when KDHE authorizes the discharge of stormwater runoff from construction activities.

To receive authorization to discharge stormwater runoff, the owner or operator of a construction site shall submit a Notice of Intent (NOI) at least 60 days prior to removing vegetation or disturbing soil at the site. To be authorized, the NOI shall be submitted in accordance with this part of the general NPDES permit.

Requests for waiving any of the applicable requirements of this general NPDES permit will not be considered unless accompanied by the appropriate plans or proposals which support the request.

An NOI can be downloaded from the [KDHE Stormwater Website](#) (see endnote 1, page 13) or obtained from KDHE at the address given in Part IX of this general NPDES permit.

A complete application for coverage under the general permit must be submitted or it will not be processed. To be considered complete an NOI must bear an authorized signature; and be accompanied by the annual permit fee for the first year; an erosion control plan describing the measures which will be taken to prevent stormwater contamination; a detailed site plan identifying the location of controls or best management practices; and a map of the construction site including the location stormwater runoff leaves the site and the receiving waters. The Stormwater Pollution Prevention plan does not have to accompany the NOI.

Enclose a check for the first year of the annual permit fee specified in K.A.R. 28-16-56 et seq. as amended. Make the check payable to "KDHE". Per K.A.R. 28-16-56 et seq., as amended, the current annual permit fee for this general permit is \$60. An annual bill will be sent to the contact person requesting a permit fee until such time as the permit holder submits a Notice of Termination (NOT).

The applicant needs to submit a copy of the authorized NOI and all supporting documentation to

the operator of the local Municipal Separate Storm Sewer System (MS4) and obtain any permits or approvals which may be required under the local Stormwater Management Program. A partial list of MS4 operators which have, or which may have, a Stormwater Management Program is available on the [KDHE Stormwater Website](#) (endnote 1, page 13) or upon written request to KDHE Bureau of Water Industrial Programs Section.

Part V. STARTING CONSTRUCTION ACTIVITY

The owner or operator who has applied for coverage under this general NPDES permit is not authorized to discharge stormwater runoff from construction activities described in the NOI until receiving authorization from KDHE for the discharge.

When the owner or operator receives the authorized NOI for the construction project, the owner or operator may commence construction at the site described in the authorized NOI under the provisions of this general NPDES permit.

A copy of the authorized NOI for the specific project shall be posted at the construction site or shall be readily available at the permit site.

Part VI. CONTINUING CONSTRUCTION ACTIVITY

To maintain a valid permit for the duration of the project, the permit holder shall pay an annual permit fee as specified in K.A.R. 28-16-56 et seq. as amended. Make the check payable to "KDHE". An annual bill will be sent to the contact person requesting a permit fee until such time as the permit holder submits a Notice of Termination (NOT).

This general permit will expire **December 31, 2006**. Should KDHE through no fault of the permit holder fail to issue a new permit with an effective date on or before the expiration date of the previous permit, the conditions of this general NPDES permit continue in force until the effective date of a new general NPDES permit.

The permit holder who has a valid authorization to discharge stormwater runoff from construction activity under the conditions of the expiring general NPDES permit will continue to be covered until the effective date of the new permit. Any construction project which commences prior to the expiration date of this general NPDES permit shall abide by the

conditions of this general permit until the effective date of the successor general permit. Upon the effective date of the successor general NPDES permit, the permit holder shall abide by the terms and conditions of the successor general permit.

The permit holder who has submitted a timely and complete application for coverage under this general NPDES permit does not have to submit a new NOI upon expiration of this general permit.

Any project commenced after the effective date of the successor permit shall abide by the terms and conditions of the successor permit. An NOI applying for coverage under the general NPDES permit for stormwater runoff from construction activities submitted within 60 days of the expiration date of this general NPDES permit shall be considered an application for coverage under the successor general NPDES permit.

If the permittee wishes to continue construction activities regulated by this general NPDES permit after the expiration date of this permit, the permittee must continue to pay the annual fee, and continue to abide by the terms and conditions of this general permit until the effective date of the successor general NPDES permit. On and after the effective date of the successor general NPDES permit, the permit holder must abide by the terms and conditions of the successor permit; and continue paying the annual permit fee; or apply for an individual NPDES permit no later than 60 days prior to continuing construction activities. The permittee is not required to submit a new NOI for continuing coverage under the successor general NPDES permit unless modifications, changes or discoveries were made during the life of the project which may affect coverage under the successor general NPDES permit.

Part VII. STORMWATER POLLUTION PREVENTION PLAN REQUIREMENTS AND GUIDELINES

Before starting construction the permittee shall develop a Stormwater Pollution Prevention plan (SWP2 plan) which is specific to the construction activities which are to be employed at the site authorized by this general permit to discharge stormwater runoff. The permittee shall fully implement the provisions of the SWP2 plan required under this part as a condition of this general permit throughout the term of the construction project.

The purpose of the SWP2 plan is to ensure the design, implementation, management, and maintenance of "Best Management Practices" (BMPs) in order to reduce the amount of sediment and other pollutants in stormwater runoff from construction activities; comply with the Kansas Surface Water Quality Standards; and ensure compliance with the terms and conditions of this general permit.

The permittee shall select, install, utilize, operate, and maintain the BMPs in accordance with the concepts and methods described in Environmental Protection Agency (EPA) document number EPA 832-R-92-005, entitled ***Stormwater Management for Construction Activities - Developing Pollution Prevention Plans and Best Management Practices***, published in September, 1992 (see endnote 5, page 14). The permittee is not limited to the BMPs provided in the EPA guidance manual. Other pollution or erosion controls must utilize practices with similar effectiveness, and the permittee should develop BMPs with the goal of site specific effectiveness in mind.

General SWP2 Plan Requirements

SWP2 plans developed for large construction activities shall be prepared under the supervision of and sealed by a professional engineer or landscape architect licensed in the State of Kansas or a certified professional in erosion and sediment control (see endnote 6, page 14). SWP2 plans developed for small construction activities shall be prepared by a professional engineer or landscape architect or certified professional in erosion and sediment control see endnote 6, page 14.

The permittee shall ensure the BMPs are properly installed at the locations and relative times specified in the SWP2 plan. Margin or border BMPs, such as vegetation strips, to control stormwater runoff where it leaves the site boundary, shall be installed or marked for preservation before general site clearing is started. Stormwater runoff from disturbed areas which leave the site shall pass through an appropriate impediment to sediment movement, such as a sedimentation basin, sediment trap, silt fence, etc., prior to leaving the construction site.

The permittee shall amend and update the SWP2 plan as appropriate during the term of the construction activity. Amendments to SWP2 plans for large construction activities shall be prepared under the supervision of and sealed by a professional

engineer or landscape architect licensed in the state of Kansas, or a certified professional in erosion and sediment control (see endnote 6, page 14).

Amendments to SWP2 plans for small construction activities shall be prepared under the supervision of and sealed by a professional engineer or landscape architect licensed, or a certified professional in erosion and sediment control (see endnote 6, page 14). The permittee shall amend the SWP2 plan, at a minimum, whenever:

there is a change in design, operation, or maintenance of BMPs;

there is a change in the design of the construction project which could significantly affect the quality of the stormwater runoff or the use of designated BMPs;

the permittee's inspections indicate deficiencies in the SWP2 plan or any BMP;

KDHE notifies the permittee of deficiencies in the SWP2 plan;

the SWP2 plan is determined to be ineffective in significantly minimizing or controlling erosion and sedimentation (e.g. there is evidence, such as excessive site erosion, or excessive sediment deposits in streams or lakes); or

KDHE determines violations of Surface Water Quality Standards may occur or have occurred.

The permittee shall provide a copy of the SWP2 plan to KDHE; or EPA upon request.

The permittee shall notify each contractor or entity (including utility crews, and city employees or their agents) who will perform work at the site of the existence of the SWP2 plan and what action or precautions shall be taken while on-site to minimize the potential for erosion and the potential for damaging any BMP. The notification shall be in writing.

The permittee shall provide contractors who are responsible for installation, operation, or maintenance of any BMP a copy of the SWP2 plan. The permittee shall have each such contractor sign a KDHE Contractor Certification form. The permittee shall provide a copy of this form to KDHE; or EPA upon

request.

The permittee, a duly authorized representative, and/or the contractor(s) responsible for installation, operation, and maintenance of the BMPs shall keep a current copy of the SWP2 plan on the project site.

Contents of SWP2 Plan.

Site Description. The permittee's SWP2 plan shall include all of the information provided in the NOI. The SWP2 plan shall expand upon the NOI information in order to make the SWP2 plan a working document which contractors and site construction workers can use to guide the installation and maintenance of BMPs.

Description of Best Management Practices. The permittee's SWP2 plan shall include a description of the BMPs they will use at the site. The SWP2 plan shall provide the following general information for each BMP which will be used one or more times at the site:

a physical description of the BMP;

the site and physical conditions which must be met for effective use of the BMP;

the BMP installation / construction procedures, including typical drawings; and

operation and maintenance procedures for the BMP.

The SWP2 plan shall provide the following information for each specific instance where a BMP is to be installed:

whether the BMP is temporary or permanent;

where, in relation to other site features, the BMP is to be located;

when, in relation to each phase of the construction procedures to complete the project, the BMP will be installed; and

what site conditions must be met before removal of the BMP, if the BMP is not a permanent BMP.

Temporary and Permanent Non-Structural BMPs.

Examples of non-structural BMPs which the permittee should consider specifying in the SWP2 plan include: temporary seeding, final seeding, mulching, geotextiles, sod stabilization, protection of existing vegetation for use as buffer strips (especially along drainage courses), protection of trees, preserving existing stream channels as overflow areas when channel shortening is allowed, soil stabilizing emulsions and tackifiers, mulch tackifiers, preservation of mature vegetation, stabilized site entrances/exits, and other appropriate BMPs.

The permittee's SWP2 plan shall require existing vegetation to be preserved where practical, and the time period for soil areas to be without vegetative cover is to be minimized to the extent practical.

Clearing and grubbing within 50 feet of a defined drainage course should be avoided.

Where changes to defined drainage courses are to occur as part of the project, clearing and grubbing within 50 feet of the defined drainage course should be delayed until all materials and equipment necessary to complete the drainage change are on site.

Changes to defined drainage courses shall be completed as quickly as possible once the work has been initiated. The area impacted by the construction of the drainage course change is to be re vegetated or protected from erosion as soon as possible.

Where soil disturbing activities are scheduled to be stopped in an area, the disturbed areas shall be protected from erosion by maintaining the erosion control BMPs, or stabilizing the area with mulch or other similarly effective soil stabilizing BMPs.

Temporary and Permanent Structural BMPs.

Examples of structural BMPs which the permittee should consider specifying in the SWP2 plan include: diverting flows from undisturbed areas away from disturbed areas, silt (filter fabric or straw bale) fences, earthen diversion dikes, drainage swales, sediment traps, rock check dams, subsurface drains (to gather or transport water for surface discharge elsewhere), pipe slope drains (to carry concentrated flow down a slope face), level spreaders (to distribute concentrated flow into sheet flow), storm drain inlet protection and outlet protection, reinforced soil retaining systems, gabions, temporary or

permanent sediment basins, and other appropriate BMPs.

Sedimentation Basins.

The permittee's SWP2 plan shall require a sedimentation basin, where feasible, for each drainage area with 10 or more acres disturbed at one time. The sediment basin needs to be designed and maintained to provide at least 3,600 cubic feet of storage per acre drained. Where use of a sediment basin of this size is impractical, the SWP2 plan shall evaluate and specify other similarly effective BMPs to be employed to minimize erosion and control sediment. The permittee's SWP2 plan shall require the sediment basin be maintained until final stabilization of the area served by the sediment basin. The 3,600 cubic feet of storage area per acre drained criteria does not apply to flows from areas where such flows are diverted around both the disturbed area and the sediment basin.

The permittee's SWP2 plan shall require both temporary and permanent sedimentation basins to have a stabilized emergency spillway to minimize the potential for erosion of the emergency spillway or sediment basin embankment.

Permanent Stormwater Management.

The permittee's SWP2 plan shall include a description of the measures that will be installed during construction to control pollutants in stormwater runoff that will occur after construction activity has been completed. These would include drainage channels or systems; outlet control devices, detention basins, oil water separators, catch basins, etc. This general permit does not require the permittee or his contractors to operate or maintain these measures beyond the date of KDHE's acceptance of the Notice of Termination.

Additional Site Management BMPs. The permittee's SWP2 plan shall address other BMPs, as required by site activities, to prevent contamination of stormwater runoff. Such BMPs include:

solid and hazardous waste management including: providing trash containers and regular site clean up for proper disposal of solid waste such as scrap building material, product/material shipping waste, food containers, and cups; and providing containers and proper disposal for waste

paints, solvents, and cleaning compounds, etc.;

providing portable toilets for proper disposal of sanitary sewage;

storing construction materials away from drainage courses and low areas; and

installing containment berms and using drip pans at fuel and liquid storage tanks and containers.

Site Inspections by Permittee

The permittee shall ensure the construction site is inspected on a regular schedule and within twenty-four hours of the end of a storm which results in precipitation of 0.5 inches or greater. The frequency of regular inspections should be proportional to the amount of construction activity. The permittee should increase the frequency of inspections when construction activity increases. Regularly scheduled inspections shall at a minimum be once per month. For disturbed areas which have not been finally stabilized all installed BMPs and other pollution control measures shall be inspected for proper installation, operation and maintenance. Locations where stormwater runoff leaves the site shall be inspected for evidence of erosion or sediment deposition. Any deficiencies shall be noted in a report of the inspection and corrected within seven calendar days of the inspection. The permittee shall promptly notify the site contractors responsible for operation and maintenance of BMPs of deficiencies.

A report of each inspection shall be made. The inspection report is to include the following minimum information: inspector's name, date of inspection, observations relative to the effectiveness of the BMPs, actions taken or necessary to correct deficiencies, and listing of areas where construction operations have permanently or temporarily stopped.

The inspection report shall be signed by the permittee or by the person performing the inspection if duly authorized in accordance with Part IX, Signatory Requirements, of this general permit.

The permittee shall maintain site inspection reports on-site or with at the records storage location identified in the NOI. The permittee shall provide a copy of the site inspection reports to KDHE; or EPA upon request.

Part VIII. PROJECT COMPLETION

The permittee shall notify KDHE of the project completion by submitting a Notice of Termination (NOT). The permittee shall sign the NOT and mail it to KDHE at the address given in Part IX of this general permit.

When the soil disturbing activities are complete, and the final stabilization has been achieved, the permittee can terminate coverage under this general permit by submitting the NOT. The project is considered to be stabilized when either perennial vegetation, pavement, buildings, or structures using man-made materials cover all areas which have been disturbed. Vegetation must have a density of at least 70 percent of undisturbed areas at the site.

Part IX. GENERAL REQUIREMENTS OF THIS PERMIT

Records

The permittee shall maintain all records required by this general permit for a period of three (3) years following the date on the NOT. All records shall be kept on-site or in a readily available location identified in the NOI until final stabilization has been completed. After final stabilization has been completed, records may be maintained at the permittee's main office.

Records shall be readily available during normal business hours.

Records which shall be maintained by the permittee include, but are not limited to;

- The NOI authorized by KDHE, and supporting documentation used to apply for authorization under this general permit;
- the SWP2 plan for the site named in the authorized NOI, and any amendments to the SWP2;
- all site inspection records;
- all contractor's certifications;
- clearance letters, from KDWP or KSHS, if required to obtain coverage under this general permit;
- Individual Lot Certification (ILC) forms;
- and the NOT.

Except for data determined to be confidential *under*

33 USC Section 1318, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. Effluent data shall not be considered confidential. Knowingly making any false statement on any such report or tampering with equipment to falsify data may result in the imposition of criminal penalties as provided for in 33 USC Section 1319 and KSA 65-170c.

All forms, reports, or other correspondence (except the Notice of Intent (NOI), the Notice of Termination (NOT), and the Notice of Transfer of Ownership (NOTO)) shall be accompanied by a KDHE Document Certification form.

Contact Address

Applicants can download copies of all notifications, forms, references, or the general NPDES permit from the [KDHE Stormwater Website](http://www.kdhe.state.ks.us/stormwater/index.html) at:

<http://www.kdhe.state.ks.us/stormwater/index.html>

All notifications, forms, reports, or other correspondence which must be submitted to KDHE as required by this general permit shall be sent to:

Kansas Department of Health and Environment
Bureau of Water, Industrial Programs Section
1000 SW Jackson, Suite 420
Topeka, KS 66612 - 1367

Duty to Comply.

The permittee shall comply with all conditions of this general permit. Any noncompliance with this general permit constitutes a violation of the CWA, K.S.A. 65-164 and 65-165, and/or K.A.R. 28-16-28 et seq. Noncompliance may result in enforcement action; termination of this authorization; denial of a permittee's application for continuing coverage; or amendment of this authorization.

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

After implementation of the stormwater pollution prevention plan, if stormwater discharges adversely affect water quality, or causes violations of any other provision of this general NPDES permit, the permittee

shall modify and implement the stormwater pollution prevention plan to address the non-compliance.

Failure to comply with the requirements of the general permit subjects the permittee to enforcement actions including revocation of the authorization to discharge under this general permit, a requirement to discontinue the permitted activity, fines and/or possible imprisonment.

Duty to Provide Information and Site Access

The permittee shall furnish to KDHE; the EPA; or any local agency having jurisdiction for any aspect of the project, any information which is requested to determine compliance with this general permit.

When the permittee becomes aware they failed to submit any relevant facts or submitted incorrect information to KDHE, they shall promptly submit such facts or information to KDHE at the address given in Part IX.

The permittee shall allow the Director or an authorized representative of KDHE, the EPA, or, local agency having jurisdiction over the project, upon the presentation of proper credentials and other documents as may be required by law, to:

enter upon the site where a regulated construction project or activity is located or conducted or where records must be kept under the conditions of this general permit;

obtain samples of any discharge to waters of the State;

have access to and copy at reasonable times, any records which must be kept under the conditions of this general permit; and

inspect any facilities or equipment (including monitoring equipment and BMPs).

Signatory Requirements

The Notice of Intent (NOI), the Notice of Termination (NOT), and the Notice of Transfer of Ownership (NOTO) and all forms, reports, or other correspondence which must be submitted to KDHE as required by this general permit shall be signed and certified by the permittee or his duly authorized representative.

The Notice of Intent, all SWP2 plans, inspection reports or information either submitted to KDHE or the operator of a separate storm sewer system, or which this general permit requires to be maintained by the permittee, shall be signed and certified by the permittee or his duly authorized representative.

The permittee shall certify all forms, reports, or other correspondence (except the NOI, NOT, and NOTO) which do not have a signature block by submitting a signed KDHE Document Certification form.

Signature Delegation.

A person is a duly authorized representative only if the authorization is made in writing by the permittee and submitted to KDHE. The authorization may be to a specific person or to a specified position within the permittee's organization. The authorization may be for all aspects of the project or only for a portion of the project, such as inspection reports.

If the signature delegation is no longer accurate because a different individual or organizational position has responsibility for a particular aspect or for the overall operation of the construction site, the permittee shall send a new authorization to KDHE.

Chemical and Sewage Spills

In case of a spill emergency call: (24 hours a day)

U.S. EPA National Response Center: (800) 424-8802

Kansas Division of Emergency Management: (KDEM)
(785) 296-3176

KDHE: (24 hours a day) (785) 296-0614

KDHE may also be reached at (785) 296-1679 during regular business hours. KDEM may also be reached at (785) 296-3176 during regular business hours.

Hazardous Substance and Oil Spill Reporting.

The permittee or authorized representative is required to notify the U.S. EPA National Response Center (800-424-8802) in accordance with the requirements of 40 CFR 117 and 40 CFR 302 as soon as the discharge of any hazardous substance or oil in excess of the reportable quantity has been discovered. A reportable quantity of oil is the quantity which causes a "film or sheen upon or discoloration of the surface of the water or adjoining shorelines or causes a

sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines." Reportable quantities for hazardous substances are listed in the cited CFRs.

The permittee is also required to notify the Local Emergency Planning Agency and the [Kansas Division of Emergency Management](#) (KDEM). The [Kansas Division of Emergency Management](#) may also be reached 24 hours a day at (785) 296-3176.

Sewage, Wastes, Materials, and Substances - Spill Reporting.

Any discharge or escape of sewage, substances, materials, or wastes, as set forth in K.S.A. 65-171d, which are, or threaten to contaminate or alter any of the properties of the waters of the State or pollute soil in a detrimental, harmful, or injurious manner or create a nuisance, shall immediately be reported to the Kansas Department of Health and Environment. The report shall be made by the permittee, or the owner of the spilled materials, or their respective authorized representative.

In the case of discharges under conditions other than those allowed in a valid NPDES permit, the report shall be made by the permittee or his duly authorized representative. The report shall be made by telephone to [KDHE](#) at 785-296-1679 during regular business hours or 785-296-0614 during non-business hours in accordance with K.A.R. 28-48-1 et seq.

Nothing in this general permit shall be construed to preclude KDHE's institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the CWA (33 U.S.C. Section 1321); the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); K.S.A. 65-161 et seq.; or under state or federal statutes or regulations governing oil or hazardous substances or wastes.

Requiring a Different NPDES Permit

The Director may require the permittee to apply for and obtain an individual permit or different general permit if:

the permittee is not in compliance with the conditions of this general permit;

the discharge no longer qualifies for this general permit due to changed site conditions or regulations; or

information becomes available which indicates water quality standards have been, or may be violated.

The permittee will be notified in writing of the need to apply for an individual permit or a different general permit. When an individual permit or different general permit is issued to the authorized permittee, the applicability of this general permit to the permittee is automatically terminated upon the effective date of the individual or different general permit, whichever the case may be.

Transfer of Ownership

Entire Tract. Coverage under this general NPDES permit is transferable. The current permittee and the new permittee shall complete a Notice of Transfer of Ownership (NOTO) form and send it to KDHE at the address given in Part IX of this general permit.

The permittee named on the first page of the authorized NOI shall submit a Notice of Transfer of Ownership (NOTO) and a Notice of Termination (NOT) bearing original signatures within 14 days of the transfer of title to the entire permitted tract.

Individual Lot or Lots. The permittee who transfers ownership of a lot or parcel of the overall permitted area and the new owner or operator of the lot or parcel shall complete an Individual Lot Certification (ILC) form for each lot, lots or parcels sold. The ILC does not constitute a transfer of the permit. The ILC is an agreement between the new owner or operator of the lot or parcel and the permittee to implement the SWP2 plan and the conditions of the general NPDES permit cooperatively.

The permittee shall maintain these ILC forms on site, or in the readily available location identified in Section I of the NOI. The permittee shall provide ILC forms to KDHE; EPA; or any other government agency upon request.

Part X. STANDARD CONDITIONS

In addition to the conditions specified in this general permit, the permittee shall comply with the following Standard Conditions.

Proper Operation and Maintenance

The permittee shall effectively operate and maintain all pollution control measures and systems necessary to achieve compliance with the terms and conditions of this general permit at all times.

Pollution control systems, erosion control measures or best management practices which require maintenance shall be maintained, repaired or replaced in a timely manner to avoid discharging stormwater runoff laden with pollutants or sediment which adversely impacts water quality.

The permittee shall take all necessary steps to minimize or prevent any adverse impact to waters of the State resulting from noncompliance with any requirements specified in this permit, including any monitoring as necessary to determine the nature and impact of the noncomplying discharge. When necessary to maintain compliance with the permit conditions, the permittee shall halt or reduce those activities under its control.

When necessary to achieve compliance with the terms and conditions of this general permit, the permittee shall install, operate and maintain backup systems or auxiliary facilities to supplement the erosion control measures and best management practices proposed in the NOI.

Severability

The provisions of this general permit are severable, and if any provision of this general permit, or the application of any provision of this general permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this general permit, shall not be affected thereby.

Permit Modifications and Terminations

As provided by K.A.R. 28-16-62, after notice and opportunity for a hearing, this general permit may be modified, suspended, revoked, or terminated in whole or in part during its term for cause as provided for, but not limited to those set forth in K.A.R. 28-16-62 and K.A.R. 28-16-28b through f.

The permittee shall furnish to the Director, within a reasonable amount of time, any information which the Director may request to determine whether cause

exists for modifying, revoking and reissuing, or terminating this general permit.

Change in discharge

All discharges authorized herein shall be consistent with the requirements and conditions of this permit.

Any modification or change in the project scope which increases the amount of soil disturbed by 10% or more; or any change in the pollution control measures or best managements practices; or any change in the discharge location(s); which affects a receiving water not listed in the NOI shall be reported to KDHE at least sixty (60) days prior to implementation. Such changes must be approved by KDHE before the modifications to the project can be implemented. The SWP2 plan shall be updated to reflect significant changes to the project in accordance with the applicable requirements of this general permit.

Discovery during Construction

In the event soil contamination or hazardous substances are discovered at the site during construction activities, the permittee shall report the discovery to KDHE verbally within 24 hours, and within 5 business days in writing.

Any discovery during construction activities which affects a threatened or endangered species, or a historical or archeological site, or in the receiving water body, needs to be reported to the KDWP or KSHS. Until site evaluations have been completed and instruction have been provided by the appropriate agencies, construction activities in the affected area need to be avoided.

If soil contamination, hazardous substances, threatened or endangered species, or historical or archeological sites are discovered during construction activities, the SWP2 plan shall be updated to reflect this new information in accordance with the requirements and conditions of this general permit.

Removed substances

Solids, sludge, sediments, or other pollutants removed in the course of treatment or control of stormwater runoff shall be properly managed, in accordance with applicable statutes and regulations to prevent pollution of surface water, groundwater, or soil.

Civil, Criminal, and Administrative Penalties

Kansas law provides for civil and criminal punishment including fines and imprisonment for violations of this general permit.

Nothing in this general permit shall be construed to relieve the permittee from civil, criminal, and/or administrative penalties as provided for in K.S.A. 65-171f, K.S.A. 65-170d, K.S.A. 65-167, and 33 U.S.C. Section 1319 (enforcement). Knowingly making any false statement on any report or tampering with equipment to falsify data may result in the imposition of criminal penalties as provided for in 33 U.S.C. Section 1319 and K.S.A. 65-170c.

Property Rights

The issuance of this general permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property, nor any invasion of personal rights, nor any infringement or violation of Federal, State or local laws or regulations. This general permit in no way reduces or eliminates the permittee's responsibilities to landowners whose property may be traversed by stormwater runoff from the project site either before, during, or after construction of the planned project. It is the permittee's responsibility to obtain any necessary approvals from any affected property owner.

Duty to Mitigate

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

Bypass

Any diversion or bypass of facilities necessary to maintain compliance with the general permit is prohibited except where necessary to prevent loss of human life, personal injury, or severe property damage, and where no feasible alternative to the bypass exists.

Any bypass which occurs during construction activities which may affect a threatened or endangered species, or a historical or archeological site, on site or in the receiving water body, shall be reported to KDHE verbally within 24 hours, and within 5 business days in writing.

If a bypass occurs during construction activities, the conditions of this general permit. SWP2 plan shall be updated to prevent future occurrences in accordance with the requirements and

ENDNOTES

1. The general NPDES permit, application forms, guidance material, the rainfall erosivity waiver application, and reference material is available at the [KDHE Stormwater Website: www.kdhe.state.ks.us/stormwater/index.html](http://www.kdhe.state.ks.us/stormwater/index.html). The website also provides links to EPA guidance documents and the instructions for the rainfall erosivity calculation, [Fact Sheet 3.1 - Storm Water Phase II Final Rule Construction Rainfall Erosivity Waiver](#)

Material available on the [KDHE Stormwater Website](http://www.kdhe.state.ks.us/stormwater/index.html) includes; the General NPDES Permit; Notice of Intent; Notice of Termination; Notice of Transfer of Ownership; Document Certification form; Contractors Certification form; Individual Lot Certification form; and the Definitions and Acronyms; in Adobe Acrobat Reader format (pdf).

Reference material available on the [KDHE Stormwater Website](http://www.kdhe.state.ks.us/stormwater/index.html) includes Frequently Asked Questions; the Fact Sheet: Erosion Control for Home Builders; the Rainfall Erosivity Waiver Application; a list of Exceptional State Waters, Special Aquatic Life Use Waters and Outstanding National Resource Waters; a list of Public Water Supply Surface Water Intakes and the complete Kansas Surface Water Register; in Adobe Acrobat Reader format (pdf).

A list of MS4 operators who have or may be required to have a local stormwater pollution prevention program is also available on the [KDHE Stormwater Website](http://www.kdhe.state.ks.us/stormwater/index.html). This list is provided maintained for information only, and will not necessarily include all MS4 operators with a local program.

2. The owner or operator must determine whether discharging stormwater runoff from construction activities on the site are subject to any local applicable requirements. To determine the local requirements applicable to each construction project, the owner or operator must contact the local Municipal Separate Storm Sewer System (MS4) operator. At the time of permit issuance, Kansas City, Topeka and Wichita regulate discharges of stormwater runoff from construction activities. During the life of this general NPDES permit, small, medium and large MS4 operators which operate MS4s in urbanized areas may develop local requirements for discharging stormwater runoff from construction activities. MS4 operators may be any level of government or any public entity as described in the definitions and are not limited to just municipalities. A list of MS4 operators who have or may be required to have a local stormwater pollution prevention program is available on the [KDHE Stormwater Website](http://www.kdhe.state.ks.us/stormwater/index.html). This list is provided maintained for information only, and will not necessarily include all MS4 operators with a local program.

3. If the applicant uncertain if the project is located on Indian Lands, please contact the Bureau of Indian Affairs at (785) 486-2161 or the EPA Region VII Office of Policy and Management, Program Integration Branch at (913) 551-7045. EPA is the permitting authority on Indian lands. To request authorization to discharge stormwater runoff from construction activities conducted on Indian lands, the applicant must contact EPA.

4. To determine if your project is located near one of these areas find the stream segment(s) or lake(s) which receive(s) the stormwater runoff on the Kansas Surface Water Register Maps, then check the designated uses of the stream segment(s) or lake(s) in the Kansas Surface Water Register. Applicants can download a copy of the Surface Water Register from the [KDHE Stormwater Website](http://www.kdhe.state.ks.us/stormwater/index.html). Copies of the Kansas Surface Water Register & Maps can be obtained by writing to KDHE at the address provided on page 10.

5. This document is available through [National Technical Information Services](http://www.ntis.gov) (NTIS) at www.ntis.gov. The NTIS publication number is PB92-235951. The NTIS order desk phone number is (800) 553-6847. EPA document 832-R-92-005 may also be downloaded from the [EPA Stormwater Program](http://www.epa.gov/stormwater) website in Adobe Acrobat Reader format (pdf) at cfpub1.epa.gov/npdes/home.cfm?program_id=6. This document is also available through the EPA Water Resources Center at (202) 260-7786.

6. Certification as a professional in erosion and sediment control (CPESC) is available through the Soil and Water Conservation Society and the International Erosion Control Association. Call 1-800-THE-SOIL, 1-800-843-7645 or

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go to the website www.ieca.org for more information.