Kentucky
Energy and Environment Cabinet
Department for Natural Resources

Reclamation Advisory Memorandum

From: Carl E. Campbell, Commissioner C.E.C.

Date: May 3, 2011

Subject: KPDES Permits for Coal Mining Activities: Permitting, Reporting and On-site Record-Keeping Requirements

RAM # 150

This RAM supersedes RAM 149. Effective Date: As noted by section.

Introduction

The Kentucky Department for Natural Resources (DNR) is providing this document as a service to the regulated community and as a courtesy to the Department for Environmental Protection (DEP) Division of Water (DOW). RAM 150 clarifies the contents of the superseded RAM 149.

This memorandum serves to clarify Kentucky Pollutant Discharge Elimination System (KPDES) permitting and Discharge Monitoring Report (DMR) requirements for coal mining activities. It also includes requirements to provide information about the laboratory that provides KPDES DMR data and SMCRA surface water and groundwater monitoring data for each permit.

KPDES Permits and Coverage Requirements (Effective Date: April 1, 2011)

1. Every new (NW) SMCRA permit is required to have KPDES permit coverage prior to initiation of any disturbance of the permit area. This requirement includes underground-only permits and road-only permits.

2. A KPDES application is required to be submitted to DOW for every subsequent SMCRA permitting action that adds more than one (1) surface acre. The only exception to this rule is acreage added to an existing SMCRA permit exclusively in response to a non-compliance issued by the DNR Division of Mine Reclamation and Enforcement (DMRE) or DEP Division of Enforcement (DENF).

3. KPDES coverage begins with issuance of the KPDES permit and must be maintained for the entire SMCRA permit area through Phase III Bond Release.

4. These requirements apply to both KPDES Individual permits and Coal General permit coverages.

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(502) 564-6940 ☐ FAX (502) 564-5698 ☐ e-mail: Carl.Campbell@ky.gov
TTY (502) 564-0183 (text telephone for the deaf, hard of hearing, or speech-impaired)

KPDES Reporting Requirements (Effective Date: Second Quarter 2011 DMR Submittal)

1. The KPDES permittee must begin submitting DMRs according to the frequency specified in the KPDES permit upon issuance of the KPDES permit or coverage regardless of the status of the permit area or permitted outfalls. This applies to both undisturbed permits and unconstructed outfalls.

2. The permittee must list on the DMR Cover Sheet for every DMR submittal all permitted KPDES outfalls for the permit and the KPDES discharge status for each outfall. Outfalls that have not been constructed should be shown with a status of **NC** (not constructed) and outfalls that have been removed should be shown with a status of **REM** (removed).

3. A discharge report is required for every approved outfall whether constructed, discharging or removed. An explanation is required in the DMR form comment box if the reported sampling frequency is less than that required by the KPDES permit conditions for the site.

4. If no discharge is recorded for a given outfall, a DMR must be submitted with "Y" in the No Discharge Report box and an explanation (for example, not constructed or removed, if appropriate) in the DMR form comments box. Your comments should explain how you know there was no discharge based on direct daily observation, or why there was no discharge based on the pond characteristics and precipitation information. Documentation to support your comments does not need to be submitted with the DMR, but should be available upon request of cabinet personnel. These requirements are effective as of the date of this RAM. Examples of the kinds of situations that might be documented are:

    a. Visual observation of no discharge (maintain a daily log of observations for documentation);
    b. No discharge due to lack of precipitation or because local precipitation did not exceed the design capacity of the pond. Examples of acceptable supporting information include, but are not limited to: the amount of precipitation in inches equivalent to the design storm (county specific) for the pond, height of freeboard, and precipitation data from a precipitation gauge maintained on the permit site or within a five (5) mile radius of the outfall that can be corroborated with NOAA or other official precipitation data.
    c. No discharge due to lack of disturbance or reclamation and revegetation of the acreage in the subwatershed that drains to the pond. Maintain documentation of the modeled amount of disturbed acreage and the actual disturbed or unreclaimed acreage in the pond subwatershed.

5. If alternate precipitation limits are requested, information must be submitted as part of the DMR to support the request. This information must include precipitation data from a precipitation gauge maintained on the permit site or within a five (5) mile radius that can be corroborated with NOAA or other official precipitation data, and may be supported by weir flow measurements, dated photographs, or equivalent proof of record.

6. Responses must be provided for all fields in the header of the DMR form for each outfall.

7. An explanation is required in the comments box of the DMR form for every self-reported exceedance.

Water Laboratory Information (Effective Date: April 1, 2011)

1. The permittee must include on each DMR cover sheet the name of the laboratory that provided the water data reported on the DMR.

2. The permittee must provide the Division of Mine Reclamation and Enforcement with the name and address of the water laboratory that will provide DMR data when the initial KPDES permit is issued for a site, and whenever a different water laboratory is engaged to provide the reported DMR data. The attached Water Laboratory Selection Notification Form should be sent by email or hardcopy to Clay Baxter, clay.baxter@ky.gov, Division of Mine Reclamation and Enforcement, #2 Hudson Hollow, Frankfort, KY 40601.

On-Site Records Required (Effective Date: April 1, 2011)

The following records and documents are required by the KPDES permit to be kept at the permit site (mine site) and to be readily available to cabinet inspectors upon request. These records and documents may be maintained as paper files on site, or may be maintained in electronic format by an on-site desktop or laptop computer complete with the means for viewing the files on site. Whether paper or electronic, all records and documents shall provide up-to-date information as required by the KPDES permit conditions.

1. A copy of the current KPDES permit or coverage.

2. A copy of the KPDES best management practices (BMP) plan for the site (reviewed and updated at the frequency specified by the KPDES permit or coverage, and as necessary).

3. BMP training and review records.

4. A copy of any required SPCC or GPP for the site.

5. A log of bypasses and overflows resulting in discharges from the site. These events should also be reported on the DMR for the quarter in which they occur.

6. An on-site precipitation log if alternate effluent limitations are to be requested and there is no other source of precipitation data within a five (5) mile radius that can be corroborated with NOAA or other official precipitation data.

If you have questions about the issues discussed in this RAM, please contact either the Director, Division of Mine Reclamation and Enforcement, #2 Hudson Hollow, Frankfort, Kentucky 40601, (502) 564-2340, or the Director, DEP Division of Water, 200 Fair Oaks Lane, Frankfort, KY 40601, (502) 564-3410. Additional information about KPDES permits can be found at: http://water.ky.gov/permitting/Pages/Mining.aspx

Attachment: Water Laboratory Selection Notification Form

WATER LABORATORY SELECTION NOTIFICATION

The purpose of this form is to notify the Division of Mine Reclamation and Enforcement of the laboratory that will provide water data reported on the KPDES Discharge Monitoring Report (DMR) forms or surface and groundwater monitoring forms for an individual SMCRA permit or permittee. This form should be submitted when the KPDES permit is issued and whenever there is a change of laboratory providing either DMR or surface and groundwater data. If this change applies to more than one permit, please attach a list of DNR permit numbers and KPDES permit numbers that are affected by the change. The form should be sent by email or hard copy to:
Clay Baxter, DMRE, 2 Hudson Hollow, Frankfort, KY 40601. Email: clay.baxter@ky.gov

INITIAL OR NEW WATER DATA PROVIDER

SMCRA Permittee:			
SMCRA Permit Number:		KPDES Permit Number:	
Water Data Provider:			
Address:		Telephone:	
Lab Contact Person:		Email:	
Type Data provided ("X"):	DMR	SW	GW
Start Date:		Start Quarter:	
Authorized Representative:		Date:	

ADDITIONAL WATER DATA PROVIDER

SMCRA Permittee:			
SMCRA Permit Number:		KPDES Permit Number:	
Water Data Provider:			
Address:		Telephone:	
Lab Contact Person:		Email:	
Type Data provided ("X"):	DMR	SW	GW
Start Date:		Start Quarter:	
Authorized Representative:		Date:	