

## Module 1: The Clean Water Act

### Section 4 Activity Option #2 Do I Need a Permit for That?



**Instructions:** Work with a partner or group to consider the following list of activities and determine if and what kind of water-related permit may be required to conduct the activity.

#### Helpful Resources:

- Kentucky Guide for Working in Stream Channels and Wetlands
- Kentucky Agriculture Water Quality Act brochure
- 40 CFR 122.23 or

#### Scenario 1: Case of the Driveway Dreams

You want to construct a small bridge over a creek as part of a driveway to the house you are planning to build. It will involve building a concrete pillar on each side of the stream to support the bridge. Do you need a permit? If so, what kind?

#### Scenario 2: Case of the Gravel Grabber

You own a big farm with a creek flowing through it, and you need some gravel to fill in potholes in your driveway and to add to a landscaping project in your yard. You plan to scoop some gravel out of your creek with a small front-end loader and transport it to where you need it. Do you need a permit? If so, what kind?

#### Scenario 3: Case of the Arid Apartments

You are planning to build an apartment complex of 3-acre plot of land that will disturb 1.5 acres. There are no natural waterways on the property. Do you need a permit? If so, what kind?

#### Scenario 4: The Case of the Safe Sampler

You want to collect a water sample in the creek that flows through the city park to determine if bacteria levels are safe for kids to wade in it. Do you need a permit? If so, what kind?

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#### **Scenario 5: Case of the Farm Ditch Digger**

You inherited a farm with a pond and a soybean field with multiple several irrigation ditches. You need to cut some new irrigation ditches to your field and maintenance your old ones. Your dad always just did what needed to be done and didn't ask questions, but you want to do things the right way. Do you need a permit?

#### **Scenario 6: Case of I Want a Willow**

You and your fellow nature enthusiasts are planning to work with the city to stabilize streambanks along about 1,000 feet of stream in your neighborhood. You plan to use mainly rock and the planting of willow tree stakes. Do you need a permit for that?

#### **Scenario 7: Case of Baa Baa Bliss**

You plan to begin raising about 1,000 sheep on your 400-acre plot of Bluegrass Bliss Farm. You plan to build a barn in which animals will be housed for 60 days during the winter. You plan to install a lagoon that will capture all of the manure runoff and will not ever discharge to a stream. Do you need a water-related permit for that?

#### **Scenario 8: Case of Shady Creek Ain't So Shady Anymore**

Your Friends of Shady Creek group want to plan a service day to remove invasive honeysuckle from the streambanks in the local park to make room for more desirable native plants. Do you need a permit for that?

#### **Scenario 9: Case of Squawking Ranch**

You plan to go big and start a farming operation with room to raise 100,000 chickens. Those birds are going to generate a lot of waste. Do you need a water-related permit for this?

#### **Scenario 10: Case of the Lending a Hand for the Logjam**

You and your neighbors are experiencing more flooding than usual on your property due to a logjam in the adjacent creek. You decide to schedule a neighborhood creek clearing party to free up the flow. Do you need a permit for that?

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### ANSWER KEY

#### Scenario 1: Case of the Driveway Dreams

You want to construct a small bridge over a creek as part of a driveway to the house you are planning to build. It will involve building a concrete pillar on each side of the stream to support the bridge. Do you need a permit? If so, what kind?

Answer: Yes, you will need a **US Army Corps of Engineers 404 General Permit**. This is required when placing dredged or fill material into a stream, wetland, lake or other water body regulated as “waters of the U.S.” Includes trenching, digging, dumping, berming, clearing or operating any type of equipment in a channel or wetland.

And, because you need a 404 permit, you will also need a **Kentucky 401 Water Quality Certification Permit** from the Division of Water to verify that water quality will not be negatively impacted by the project. Because your bridge will be covered by a 404 permit, a 401 permit will automatically be attached and will provide conditions or approaches that need to be used.

You will also need **KDOW Stream Construction and Floodplain Permits!** Luckily, there is a combined application for these two permits. The Stream Construction Permit is required for construction activities that take place in a stream channel or wetland. And, the Floodplain Permit is required for activities that take place in the 100-year floodplain.

Depending on your location, you also may need a permit from your local stormwater municipality.

For more info, check out the [“Guide for Working in Kentucky Stream Channels & Wetlands”](#) document.

#### Scenario 2: Case of the Gravel Grabber

You own a big farm with a creek flowing through it, and you need some gravel to fill in potholes in your driveway and to add to a landscaping project in your yard. You plan to scoop some gravel out of your creek with a small front-end loader and transport it to where you need it. Do you need a permit? If so, what kind?

Answer: Technically, as long as not one piece of the dredged gravel leaves your front-end loader and falls into the creek, you are fine. However if some of the material falls out of the bucket it would be an illegal discharge if you don’t have a permit. Therefore you need a **USACOE’s 404 permit and KDOW’s 401 permit** (as above) for sediment removal resulting in small channel disturbances or sediment discharges. (404 Nationwide Permit category #18 for Minor Discharges)

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#### Scenario 3: Case of the Arid Apartments

You are planning to build an apartment complex of 3-acre plot of land that will disturb 1.5 acres. There are no natural waterways on the property. Do you need a permit? If so, what kind?

Answer: Yes, even though there are no streams on the property, you will need a **KPDES Construction Stormwater Permit**, which is required for all projects that disturb one or more acres. If less than one acre is disturbed, a stormwater construction permit would not be necessary even though the total property size is greater than one acre. This permit will include a detailed plan that describes how pollutants and the volume of water running off of the construction site will be minimized.

#### Scenario 4: The Case of the Safe Sampler

You want to collect a water sample in the creek that flows through the city park to determine if bacteria levels are safe for kids to wade in it. Do you need a permit? If so, what kind?

Answer: No, you don't need a permit for to take a water sample from a waterway (Kentucky's waters are publicly owned). However, if you had to enter private property to take the sample, you should ask for landowner permission.

#### Scenario 5: Case of the Farm Ditch Digger

You inherited a farm with a pond and a soybean field with multiple several irrigation ditches. You need to cut some new irrigation ditches to your field and maintenance your old ones. Your dad always just did what needed to be done and didn't ask questions, but you want to do things the right way. Do you need a permit?

Answer: No, you do not need a permit. Under Section 404, the discharge of dredge or fill material "for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches" is not prohibited under the Clean Water Act.

#### Scenario 6: Case of I Want a Willow

You and your fellow nature enthusiasts are planning to work with the city to stabilize streambanks along about 1,000 feet of stream in your neighborhood. You plan to use mainly rock and the planting of willow tree stakes. Do you need a permit for that?

Answer: Yes, you will need **USACOE 404 and KDOW 401 permits** for undertaking this bank stabilization work.

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#### Scenario 7: Case of Baa-Baa Bliss

You plan to begin raising about 1,000 sheep on your 400-acre plot of Bluegrass Bliss Farm. You plan to build a barn in which animals will be housed for 60 days during the winter. You plan to install a lagoon that will capture all of the manure runoff and will not ever discharge to a stream. Do you need a water-related permit for that?

Answer: The facility is considered an AFO since animals are confined more than 45 days in a 12-month period and no crops or vegetation could be sustained in that area over the growing season. Since the facility has less than 3,000 sheep it is not considered a medium animal feeding operation. But because an agricultural waste handling system is present, a permit **No Discharge General Permit For a Small Animal Feeding Operation** is needed.

You do need a **Kentucky Agriculture Water Quality Plan**. All landowners or land users with 10 more acres used for agriculture or silviculture (forestry/logging) operations are required to have one of these plans.

#### Scenario 8: Case of Shady Creek Ain't So Shady Anymore

Your Friends of Shady Creek group want to plan a service day to remove invasive honeysuckle from the streambanks in the local park to make room for more desirable native plants. Do you need a permit for that?

Answer: No, you are free to chop away at those horrible invasives. You'd better make sure the city manager is ok with it first though!

#### Scenario 9: Case of Squawking Ranch

You plan to go big and start a farming operation with room to raise 100,000 chickens. Those birds are going to generate a lot of waste. Do you need a water-related permit for this?

Answer: Yes, this activity will be considered a medium Animal Feeding Operation (AFO), and you will need a **KPDES permit for wastewater management**. A medium AFO is one that stables or confines 37,500 to 124,999 chickens and uses other than a liquid manure handling system. (See 410 KAR 5:002 for definitions related to AFOs and 410 KAR 5:005 for info on permit needs.)

And, unless the barns and feeding areas are already constructed, you will need a **Stormwater Permit for Construction** as an activity if the construction will disturb more than one acre. Also, assuming this farm will encompass greater than 10 acres, you will need to create an **Agriculture Water Quality Plan**. And, because it is an AFO, you will also need a **Nutrient Management Plan** to make sure that you are not contributing to nutrient pollution in the host watershed.

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#### Scenario 10: Case of the Lending a Hand for the Logjam

You and your neighbors are experiencing more flooding than usual on your property due to a logjam in the adjacent creek. You decide to schedule a neighborhood creek clearing party to free up the flow. Do you need a permit for that?

Answer: No, you are free to work away at that logjam without a permit, as long as it's all done with manual labor. However, if Freddy decides to fire up his front-end loader to help out with some heavy duty equipment, you're going to need to apply for a 404/401 permit.