

# 2017 Construction Stormwater General Permit Requirements

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# Regulatory Background

- **1972 Federal Water Pollution Control Act (Clean Water Act)**
  - Regulated Point Sources
- **1987 Clean Water Act Amendments**
  - Regulated Stormwater Point Sources
- **EPA Implementation Regulations:**
  - 40 CFR 122
  - 40 CFR 450

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# EPA Regulation 40 CFR 450 Construction & Development

- Dec. 1, 2009**      **CFR Issued with Turbidity Limit**
- Jan. 4, 2011**      **Turbidity Limit Suspended**
- March 2, 2012**      **KDHE Permit Issued w/o Limit**
- March 6, 2014**      **Revised 40 CFR 450 Issued**
- Aug. 1, 2017**      **New Permit Issued, Expires 2022**  
**(18-month Grandfather Clause until Jan. 31, 2019)**
- Aug. 7, 2017**      **Permit Revised for Clarity**

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# EPA Regulation 40 CFR 450

## March 6, 2014 Revisions (red):

*Infeasible.* Infeasible means not technologically possible, or not economically practicable and achievable in light of best industry practices.

(7) Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted; and

(8) Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

# EPA Regulation 40 CFR 450

## March 6, 2014 Revisions (continued):

(b) Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. In arid, semiarid, and drought- stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority. Stabilization must be completed within a period of time determined by the permitting authority. **In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed.**

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# EPA Regulation 40 CFR 450

## March 6, 2014 Revisions (continued):

(2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. **Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use);**

# Who Must Apply for a Permit and Who is Exempt:

- Owner(s) or Operators of Construction Activities  $\geq 1$  acre must apply for permit

Note: Contaminated sites generally require a permit even if under 1 acre.

- Routine Maintenance  $<5$  acres is Exempt:
  - Maintain the Original Line and Grade,
  - Hydraulic Capacity, or
  - Original Purpose of the Facility
- Demolition is Exempt
- Soil Plow Activities are Exempt
- Agriculture and Oil & Gas Projects are Exempt
  - Discharge of groundwater by oil & gas not exempt

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# Who Must Apply for a Permit and Who is Exempt:

## Agriculture exemption includes runoff from:

- ✓ Orchards
- ✓ Cultivated crops
- ✓ Pastures
- ✓ Range and forest lands

## Agriculture exemption Does Not include:

- ✓ Certain waterway/drainage structures
- ✓ Concentrated Animal Feeding Operations
- ✓ Construction of a structure including:  
Pen, Garage, Barn, Shed, Stall, Storage Building,  
Residence, or Office

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# Who Must Apply for a Permit and Who is Exempt:

**Demolition exemption:** The following activities are exempt provided they do not involve soil excavation, grading, clearing, grubbing or other soil disturbing construction activities:

- ✓ structural demolition
- ✓ filling of basements
- ✓ removal of debris
- ✓ remove/replace pavement  
(even when exposing erodible soils)

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# Who Must Apply for a Permit and Who is Exempt:

## Soil plow exemption includes:

linear opening up to 2 feet wide using soil plow equipment that:

- immediately fills the opening with removed soil or by closure of the sidewalls

Area disturbed by a soil plow that opens more than a 1-foot width must immediately be seeded or stabilized with mulch or similar soil stabilizing measure.

# Who Must Apply for a Permit and Who is Exempt:

## Construction Support Activities - Permit Considerations:

- concrete batch plants
- asphalt plants
- borrow sites
- soil disposal sites

Include sites in project SWP2 Plan or site owner/operator must obtain separate permit (regardless of size) if:

- At or adjacent to project site; or
- Support site runoff significantly impacts same receiving waters as project

Otherwise treat as separate “stand-alone” project and obtain permit if  $\geq 1$  acre will be disturbed

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# Additional Considerations

## Public Emergencies:

- *Soil disturbing activities may proceed without delay to avoid imminent danger to public health & environment*
- *Submit NOI within 30 days of initial soil disturbance*

## Separate permits may be required for subdivisions:

- *roads & utilities*
- *site grading & development*

# To Obtain Permit Coverage

**The Owner/Operator Must:  
(Prior to Construction)**

- **Submit Notice of Intent (NOI)**
- **Obtain KDHE Authorization**
- **Develop SW Pollution Prevention Plan**

# Notice of Intent (NOI) Submittal

- NOI Form with Owner Signature & \$60
- Topo Map of Site and 1 Mile Beyond  
(indicate receiving surface waters)
- **Sequence of Construction and related BMPs**
- Site Plan(s) showing BMPs
- Summary of other Management Practices
- Sediment Basin Design Information
- KDWP&T, KSHS, etc. correspondence

# Who is an Owner or Operator?

**"Owner(s) or operator(s)" - the party or parties that meet the following two criteria:**

- 1) They have operational control over the site specifications;**
- 2) They have day-to-day operational control of the site activities necessary to ensure compliance.**

# 2017 Permit Overview

## Allowable Non-Stormwater Discharges (with appropriate erosion/sediment controls)

- Flushing hydrants & potable water lines
- Water from rinsing streets & structures (no soap/etc.)
- Irrigation to establish vegetation
- Uncontaminated non-turbid groundwater
- Emergency fire-fighting activities
- Water to control dust
- Uncontaminated A/C or compressor condensate
- Uncontaminated foundation or footing drains
- Uncontaminated dewatering wastewaters

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# 2017 Permit Overview

## Discharges Not Allowed:

- Oil/Hazardous Substances from Spills, etc.
- Concrete Wash or Rinse Waters
- Wastewater from Wet Air Pollution Controls
- Containment of Asphalt Plant Scrubber Water in Ponds
- Contaminated Groundwater
- Washout of Stucco, Paint, Form Release Oils, etc.
- Fuels, Oils, etc. from Vehicle/Equipment O&M
- Soaps, Solvents from Vehicle/Equipment Washing
- Dewatering Discharges unless using Appropriate BMPs

# Stormwater Pollution Prevention Plan (SWP3)

- A site specific plan to implement, manage and maintain "Best Management Practices" (BMPs) developed by a licensed/certified:
  - Engineer
  - Geologist
  - Architect
  - Landscape Architect
  - Certified Professional in Erosion and Sediment Control (CPESC)

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# Stormwater Pollution Prevention Plan (SWP3)

**Reduce sediment and other pollutants in stormwater discharges based on:**

- **Permit's requirements**
- **Best Professional Judgment (BPJ)**
- **Generally accepted & scientifically defensible guidance**
- **Concepts and methods in EPA guidance documents**

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# Stormwater Pollution Prevention Plan (SWP3)

**Fully implement the SWP3 throughout construction as a permit condition to:**

- **Ensure compliance with the general permit**
- **Comply with the Kansas Surface Water Quality Standards**

**KDHE expects stormwater discharged in compliance with permit to meet surface water quality standards**

# EPA Regulation 40 CFR 450 SWP3 Requirements (Part 7 of Permit)

## Provide Erosion & Sediment Controls to Minimize Pollutant Discharge:

- Control Stormwater Volume & Velocity
- Minimize Channel/Bank Erosion at Discharge Points
- Minimize Amount of Soil Exposed
- Minimize Disturbance of Steep Slopes
- Provide Natural Buffers around Streams
- Direct Runoff to Vegetated Areas
- Maximize Infiltration
- Minimize Soil Compaction
- Preserve Topsoil

# EPA Regulation 40 CFR 450 SWP3 Requirements (Part 7 of Permit)

## Provide Erosion & Sediment Controls to Minimize Pollutant Discharge (cont.):

- Stabilize Disturbed Areas when Activities Cease and will not Resume for More Than 14 Days
- Provide Appropriate Controls for Dewatering
- Provide Appropriate Controls for Concrete Washout
- Minimize Pollutant Discharge from Wash Waters
- Minimize Rain Exposure of Building Materials, etc.
- Minimize Pollutant Discharge from Spills/Leaks
- Implement Spill/Leak Prevention & Response
- Basin Outlets must Withdraw Water from the Surface

# SWP3 Requirements

- *Specify BMP types, locations and phasing*
- *Install border BMPs before general site clearing*
- *Provide BMP installation, operation & maintenance procedures*
- *All runoff from disturbed areas to pass through appropriate sediment control before discharge*
- *Require inspections*

# Inspection Requirements

## *Establish a regular inspection schedule:*

- *Establish routine inspection monitoring periods of 14 days (or less than 14 days if specified in SWP3)*
- *Perform an inspection by the end of the next day\* after 0.5" or greater rain event*

*\* Note: New permit excludes Saturdays, Sundays and Federal Holidays from rain event inspections*

- *Perform at least one routine inspection or one rain event inspection within each monitoring period*



# Inspection Requirements (cont.)

*Determine rain amounts from daily rainfall totals:*

- *local weather station reports\**; or
- *regular on-site rain gauge monitoring*

*\* Note: NWS daily totals are based on 1200 GMT reporting (7 AM CDT / 6 AM CST)*

*Inspection is required when rainfall of  $\geq 0.5''$  is observed in a single day or over two consecutive days if 1<sup>st</sup> day total is  $< 0.5''$*

# Inspection Requirements (cont.)

- *Inspect entire site except for areas that are final stabilized (documented 70% grass density)*
- *Record deficiencies*
- *Correct deficiencies in 7 days unless infeasible*
  - *Must document reason why infeasible and provide timeframe to correct as soon as feasible*
- *Prepare report within 24 hours: include date, observations, inspector's name & signature*

# Exceptions to Inspection Requirements

*When access is unsafe or infeasible:*

- *Document reason why unsafe or infeasible*

- *Monitor and document conditions daily\**

*\* Note: Excluding Saturdays, Sundays, Federal Holidays*

- *Inspect by end of next day when safe & feasible*

*Disturbed areas frozen or ice/snow covered:*

- *Note such conditions on inspection report*

- *Record when area thaws on subsequent report*

# Exceptions to Inspection Requirements

*Rain event inspections are not required for inactive project sites where:*

- *Soil disturbing activities have permanently ceased*
- *Final stabilization activities are completed and documented in SWP3, but grass < 70% density*

*At least one routine inspection is required each monitoring period (14 days or less)*

# Additional SWP3 Requirements

- *Include BMPs for other site activities, such as:*
  - *Solid and hazardous waste:*
    - *trash, scrap, shipping wastes, etc.*
  - *Paint & cleaning wastes (containment & disposal)*
  - *Portable toilets*
  - *Store construction materials away from drainage channels and low areas*
  - *Provide containment and drip pans for fuel tanks and liquids containers*

# Sediment Basin Requirements

- *Required, where feasible, for each drainage area with 10 acres or more disturbed at one time*
- *Must meet minimum size requirements or, when impractical, provide similarly effective BMPs*
- *Outlet must withdraw from surface:*
  - *Weir, spillway, solid riser or Faircloth skimmer*
- *Sediment cleanout at 20% required capacity*
- *Include a stabilized emergency spillway*
- *May remove sediment basin when < 10 acres remain to be final stabilized in drainage area*

# Faircloth Skimmer

[www.fairclothskimmer.com](http://www.fairclothskimmer.com)



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# More SWP3 Requirements

- Immediately stabilize stream crossings (bank to bank)
- Minimize dust generation
- Install velocity dissipation devices and/or liners as needed in drainage channels to reduce erosion
- Provide inlet protection downstream of disturbed areas



# Stabilization Requirements

## Stabilization of Disturbed Areas:

- Initiate stabilization immediately when soil disturbing activities cease and will not resume for >14 days
- stabilize with mulch or similar soil stabilizing BMP
- Complete initial stabilization activities within 14 days (not 21 days) after soil disturbing activities cease

## Stabilization of Iced, Frozen or Snow Covered Areas:

- Such disturbed areas are considered stabilized until thawed
- Such areas must be stabilized within 14 days following the first inspection finding the area thawed.

# Stabilization Requirements (cont.)

## Stabilization of Disturbed Areas:

- Initiate stabilization immediately when soil disturbing activities cease and will not resume for >14 days
- stabilize with mulch or similar soil stabilizing BMP
- Complete initial stabilization activities within 14 days (not 21 days) after soil disturbing activities cease

# Stabilization Requirements (cont.)

## Stabilization of Steep Slopes:

- Immediately stabilize slopes  $\geq 40\%$  when activities permanently cease or will not resume in 7 days
- Use geotextiles or mats on slopes  $\geq 40\%$  being vegetated
- Divert concentrated flows, if possible, away from disturbed slopes  $\geq 40\%$  (2.5H:1V)

# Exception to Stabilization

**Stabilization is not required if the intended function of area necessitates it remain disturbed, including:**

- Dirt tracks, courts and amenities intended to remain unstabilized
- Disturbed floors and banks of ponds and basins below the anticipated pool elevation.

# Exception to Stabilization (cont.)

**Stabilization is not required if the intended function of area necessitates it remain disturbed, including:**

- Soil stockpiles such as structural soils and clays (but not topsoil) intended for a use that prohibits introduction of vegetation, mulch or other foreign materials into soil
- landscape areas that prohibit the introduction of vegetation, mulch or foreign materials prior to placement of final landscaping features including areas prepared for final sod application

# More SWP3 Requirements

## ● Amendment of Project:

- When adding  $\geq 1$  acre or find contamination, etc.:
  - Submit Revised NOI, plans and letter of explanation
  - Amendments to the SWP3 must be supervised by a licensed or certified professional

## ● Modification of SWP3:

- Includes all SWP3 changes that are not Amendments
- Document modifications on SWP3 plan sheets
- Maintain log of modifications including:
  - Date & Description of modification
  - Name & Title of the person authorizing modification

# More Permit Requirements

- Modification of SWP3 (continued):
  - Modifications not required to be submitted to KDHE
  - Relocation or reconfiguration of a sediment basin or basin outlet requires supervision of licensed or certified professional
- Notify contractors or entities performing work at site of the SWP3 and provide access to the plan
  - Contractor certification form is no longer required



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**[www.kdheks.gov/stormwater](http://www.kdheks.gov/stormwater)**

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