

**401 KAR 5:080. Criteria and standards for the Kentucky Pollutant Discharge Elimination System.**

RELATES TO: KRS 224.10-110, 224.18-760, 40 C.F.R. 122.21, 122.29, 125.1, 125.2, 125.3, 125.10, 125.11, 125.31, 125.32, 125.70, 125.71, 125.72, 125.73, 401.15

STATUTORY AUTHORITY: KRS 224.10-100, 224.16-050, 224.70-100, 224.70-110, 40 C.F.R. 122, 125

**CERTIFICATION STATEMENT:**

**NECESSITY, FUNCTION, AND CONFORMITY:** KRS 224.10-100 authorizes the cabinet to issue, continue in effect, revoke, modify, suspend or deny under conditions as the cabinet may prescribe, permits to discharge into any waters of the Commonwealth. KRS 224.16-050 authorizes the cabinet to issue federal permits pursuant to 33 U.S.C. 1342(b) of the Federal Water Pollution Control Act, 33 U.S.C. 1251-1387. This administrative regulation establishes the criteria and standards for the KPDES permitting system.

Section 1. Definitions. Definitions established in 40 C.F.R. 122.2 shall apply for the interpretation of the federal regulations cited within this administrative regulation.

Section 2. Criteria and standards for technology-based treatment standards shall be as established in:

- (1) 40 C.F.R. 125.1;
- (2) 40 C.F.R. 125.2; and
- (3) 40 C.F.R. 125.3.

Section 3. Criteria for issuance of permits to aquaculture projects shall be as established in:

- (1) 40 C.F.R. 125.10; and
- (2) 40 C.F.R. 125.11.

Section 4. Criteria and standards for determining fundamentally different factors shall be as established in:

- (1) 40 C.F.R. 125.30;
- (2) 40 C.F.R. 125.31; and
- (3) 40 C.F.R. 125.32.

Section 5. Criteria for determining alternative effluent limitations for the control of a thermal component of a discharge shall be as established in:

- (1) 40 C.F.R. 125.70;
- (2) 40 C.F.R. 125.71;
- (3) 40 C.F.R. 125.72; and
- (4) 40 C.F.R. 125.73.

Section 6. Special KPDES program requirements related to new sources and new discharges shall be as established in 40 C.F.R. 122.29.

Section 7. Toxic pollutants shall be as established in 40 C.F.R. 401.15..

Section 8. The level of effluent quality attainable through the application of secondary or equivalent treatment shall be as established in:

- (1) 40 C.F.R. 133.100;
- (2) 40 C.F.R. 133.101;
- (3) 40 C.F.R. 133.102;
- (4) 40 C.F.R. 133.103;
- (5) 40 C.F.R. 133.104; and
- (6) 40 C.F.R. 133.105.

Section 9. Modifications, Exceptions, and Additions to Cited Federal Regulations.

- (1) "Waters of the United States" shall be modified to "Waters of the Commonwealth" in the federal regulations cited in this administrative regulation;
  - (2) "Director" shall be modified to "cabinet" in the federal regulations cited in this administrative regulation;
  - (3) "NPDES" shall be modified to "KPDES" in the federal regulations cited in this administrative regulation; and
  - (4) The notification requirements related to applications for a thermal variance shall be modified to add the notification of interstate agencies in 40 C.F.R. 125.72(d).
- (401 KAR 005:080. 9 Ky.R. 879; 1141; eff. 6-1-1983; 12 Ky.R. 559; eff. 12-10-1985; 20 Ky.R. 3290; 21 Ky.R. 436; eff. 8-24-1994; TAm eff. 8-9-2007; 35 Ky.R. 2559; 36 Ky.R. 403; eff. 9-25-2009; 44 Ky.R. 2625; eff. 11-1-2018; Crt eff. 10-28-2025.)