

**224.16-040 Factors to be considered when issuing federal permits, requiring long-term control plans, or enforcing federal Water Pollution Control Act.**

When issuing permits under KRS 224.16-050 for discharges consisting of combined sewer overflows, requiring and approving long-term control plans for wet weather discharges from combined or separate sanitary sewer systems, or enforcing provisions of the federal Water Pollution Control Act, 33 U.S.C. secs. 1251 et seq., the cabinet shall consider the following, to the extent allowable under this chapter and the federal Water Pollution Control Act:

- (1) Limitations on a community's financial capabilities and ability to raise or secure necessary funding;
- (2) Affordability of control options;
- (3) An evaluation of the effectiveness and affordability of control technologies;
- (4) Promotion of green infrastructure;
- (5) Reducing economic impacts on regulated entities, other state and local governmental entities, and residents of the Commonwealth;
- (6) Allowing for reasonable accommodations for regulated entities and other state and local governmental entities when inflexible standards and fines would impose a disproportionate financial hardship in light of the environmental benefits to be gained;
- (7) Giving preference, where proposed by a permittee, to control options that meet presumption approach performance criteria and demonstrate significant pollution reduction rather than mandating specific designs;
- (8) Allowing adequate time and flexibility for implementation schedules when justified by a clear environmental benefit, a community's ability to raise or secure adequate funds, an analysis concluding that the costs of a shorter implementation schedule outweigh the benefits of faster implementation, or other factors; and
- (9) Factors set forth in the United States Environmental Protection Agency's "Combined Sewer Overflow Control Policy" that may ease the cost burdens of implementing long-term control plans, including but not limited to small system considerations, the attainability of water quality standards, and the development of wet weather standards.

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**History:** Created 2010 Ky. Acts ch. 143, sec. 1, effective July 15, 2010.