

Goals of the review/ certification procedure

- Assure that 404 activity applicants are informed about the five **P**'s of 401 certification and reduce chances of water quality standard violations.
- Assure COE permit performance standards are met without jeopardizing the integrity of water resources, agencies, processes, or the applicants and their activities.
- Recognize the public and other agency concerns in reviewing and certifying 404 activities.

Local officials are encouraged to be involved in this process in their city or county. Maintaining channel integrity can reduce future maintenance of stream channel alterations. Increased downstream flooding as a result of channel alteration can be avoided. Streams can retain the natural characteristics that make them desirable for recreational activities.



For more information or if you have questions about permits related to surface water please contact:

- Your Local Planning and/or Zoning Office — look under county or city government in the phone book.
- KDHE, Division of Environment, Bureau of Water, Nonpoint Source Section — Bldg. 283, Forbes Field, Topeka, KS 66620. (785) 296-4195.
- Kansas Department of Agriculture, Division of Water Resources — 901 South Kansas Ave., 2nd Floor, Topeka, KS 66612-1283. (785) 296-2933.
- Corps of Engineers, Kansas City District — 200 Federal Building, Kansas City, MO 64106-2896. (816) 983-3654.

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Prepared by KDHE in cooperation with
**Kansas State University
Agricultural Experiment Station
and Cooperative Extension Service**

MF-2329

March 1998

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File code: Engineering 4-5

MS3-98—200

PROTECT DRINKING WATER

EMPOWERING LOCAL DECISION MAKERS

I N K A N S A S

DO YOU NEED A Stream Alteration Permit?



**A TOOL TO HELP
ASSURE QUALITY OF LIFE
IN LOCAL COMMUNITIES**

Stream alteration permits

Construction activities that affect wetlands and surface waters often need permits. This brochure acquaints you with what projects need permits and who issues them.

The Clean Water Act and its amendments establish certain conditions under which permits are required. Activities that involve dredge and fill of stream channels or wetlands require a Section 404 Permit from the Army Corps of Engineers (COE). Examples are placing fill material in, or excavating from, surface waters, including lakes, rivers, streams, creeks, and wetlands.

Work in, on, over, and under a navigable water also requires a 404 Permit. Examples are bridge construction, channel straightening, and wetland draining. Before a COE 404 Permit is issued, a Section 401 "Water Quality Certification" is required from KDHE to verify that the project is in compliance with the state water quality standards.

Possible outcomes of Section 401 reviews

- The water quality certification is granted when the project does not violate water quality standards;
- The certification is denied because there is no practical way to avoid water quality standards violation as the project is designed; or
- The project is conditionally certified. Conditions are attached that require action to minimize impact on water quality.

These conditions become part of the COE permit and are enforceable.

The COE also can issue a provisional permit if KDHE does not certify the project; however, this permit is not valid until the 401 Water Quality Certification has been issued.

KDHE considers Five P's when reviewing applications

KDHE weighs five considerations, the five **P's**, when evaluating a permit application:

1. **P**otential for the project to violate water quality standards or create a pollution problem.
2. **P**romulgated surface water quality standards or conditions to be met per KAR 28-16-28e.
3. **P**actices to be implemented to assure water quality standards are not violated or undesirable water quality conditions are not created.
4. **P**ossible consequences if practices are not implemented and violations occur.
5. **P**rovisions for variance. If it can be shown that certification conditions will impact social or economic development, the applicant is advised of the variance provisions of KAR 28-16-18f(c)(3).

What the review can accomplish

The application process provides water quality protection information to those involved in potentially polluting activities. The review

process, with local participation, can help prevent unnecessarily damaging activities.

Local planners are an important part of the process, because pre-development consultations with engineers and developers can identify activities that will need permits. These discussions, which should take place in the project's design phase, also are an opportunity to discuss alternatives that are less environmentally disruptive and that enhance the project's long-term viability.

For example, channelization of a stream may be avoided by using soil bioengineering technology. Alternatives may include avoiding rip rap or long lengths of concrete-lined streams.

Public input is important

When a permit and certification are required, KDHE and COE jointly issue a public notice. This notice describes the planned activity and gives the public and other agencies the opportunity to comment on the project or to suggest modifications.

Stream obstruction permit

Any construction activity that changes or diminishes the course, current, or cross section of any stream in Kansas requires a *Permit to Construct Obstruction* from Kansas Department of Agriculture, Division of Water Resources (DWR). Such construction includes weirs, low water crossing, dam, intake structure, outfall, boat ramp, pipeline crossing, bridge, culvert, etc. Any activity which controls or regulates floodwater such as fills or levees require a levee permit from DWR.