



June 20, 2014

KANSAS ENGINEERING TECHNICAL NOTE NO. KS-5 (Revision 2)

SUBJECT: ENG–Temporary Permits Required for Streambank Activity

Purpose. To provide guidance on temporary permits needed for working along streambanks

Effective Date. Upon receipt

Stream Channel Activity

The Kansas Natural Resources Conservation Service (NRCS) is getting more actively involved in striving to reduce sediment above federal reservoirs and to control streambank erosion. Various types of rock weirs and stream barbs are being installed to redirect the flow direction away from the outside streambank along bends, thus, reducing bank erosion in these sections.

Frequently, the eroded bank is at such a steep angle (steeper than 0.75 foot horizontal to 1 foot vertical) that the bank above the top of the rock structure needs a much gentler slope.

To conduct earthwork movement within the defined bed and bank of the channel or on the streambanks, the landowner is required to obtain all of the applicable permits.

United States Army Corps of Engineers (USACE) Permit

When there is soil movement (dredge or fill) within the defined bed and bank of the stream channel of a streambank stabilization project, the sponsor or landowner must obtain a 404 permit from the USACE before commencing construction activity. In some cases, the USACE offices in Kansas are able to quickly authorize these projects by issuing a Nationwide 27 permit rather than going through a lengthier individual permit process that requires issuing a public notice. The Nationwide 27 permit can be used when the project is for stream enhancement, rather than just to protect an eroding streambank. The USACE will evaluate each project and determine on a case-by-case basis whether a project meets the Nationwide 27 permit criteria. Normally, the USACE requires the establishment of a riparian component when the activity is authorized by a Nationwide 27 permit. If the bank is too steep (greater than 3 feet horizontal to 1 foot vertical), then the riparian measure is unlikely to succeed.

Kansas Department of Agriculture, Department of Water Resources (DWR) Permit

When a stream or channel cross section is changed or modified, DWR is required to enforce a state statute addressing this activity.

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A stream obstruction permit from DWR is required to allow someone to obstruct a stream or change the course, current, or cross section of a stream. A permit is also required to modify any existing project. If the drainage area (DA) is less than 1 square mile in Zone 1, 2 square miles in Zone 2, or 3 square miles in Zone 3, a permit is not required. The zones are defined as follows:

- Zone 3–All geographic points within any county west of a line formed by the adjoining eastern boundaries of the following counties: Phillips, Rooks, Ellis, Rush, Pawnee, Edwards, Kiowa, and Comanche.
- Zone 2–All geographic points within any county located east of Zone 3 and west of a line formed by the adjoining eastern boundaries of the following counties: Republic, Cloud, Ottawa, Saline, McPherson, Reno, Kingman, and Harper.
- Zone 1–All geographic points within any county located east of Zone 2.

Revetment construction is exempt from the permit requirement, provided that no other changes to the channel are being made.

A project is exempt from the permit requirement if it is limited to a land area measuring less than 25 feet along the stream length, the project obstructs less than 5 percent of the channel cross section, and floodplain fill outside the channel does not exceed 1 foot in depth.

Also a project is exempt from the permit requirement if it is located in an unincorporated area, has a watershed area of five square miles or less, and every part of the obstruction is located at least 300 feet from any property boundary.

United States Fish and Wildlife Service (USFWS) Permit

The Endangered Species Act, with some exceptions, prohibits activities affecting threatened and endangered species unless authorized by a permit. A proposed activity may also require a state permit from the Kansas Department of Wildlife, Parks, and Tourism (KDWPT). For permit applications and information on regulatory requirements, contact the [USFWS](#), Kansas Ecological Services Field Office, in Manhattan, Kansas. For state permits, contact the local KDWPT office.

National Pollutant Discharge Elimination System (NPDES) Permit–Environmental Protection Agency (EPA) and Kansas Department of Health and Environment (KDHE)

As of March 10, 2003, if a project will disturb 1.0 acre (43,560 square feet) or more of soil, such as sloping back the streambank for stabilization purposes and riparian buffer, a Construction Stormwater General NPDES permit will need to be obtained from KDHE. In addition to a number of items to submit, the permit requires an application fee. The time required for KDHE to issue the permit is officially 60 days; however, it is possible to get the permit in less time if the erosion and sediment control plan is reasonable and the paperwork is completed properly.

For a Construction Stormwater General NPDES permit, the following items will be needed:

- An area map showing the location and boundaries of the project site (United States Geological Survey [USGS] scale).
- A site plan and grading plan showing the erosion and sediment control measures proposed for the project.
- A sequence of erosion and sediment control during the construction.

- A summary of the project's stormwater pollution protection plan.

Some best management practices that can be used are as follows:

- Rock riprap as needed.
- Mulching and tacking of mulch with a 1-foot tall dike at the top of the bank.

For KDHE to consider the terms of the Construction Stormwater General NPDES permit met and terminate the permit, there must be vegetative cover over at least 70 percent of the area.

KDHE has a booklet entitled "National Pollution Discharge Elimination System–Stormwater Runoff from Construction Activities General Permit Packet" that explains the permit requirements and contains a copy of the permit application form. It is available at www.kdheks.gov/stormwater.

KDHE encourages people that are not required to obtain a Construction Stormwater General NPDES permit to develop, implement, and maintain a "project water quality protection plan" to address discharge during construction. There is no fee to submit this plan, and it normally takes 1 to 2 weeks to receive approval. The plan minimizes potential problems due to erosion and sediment-related complaints to KDHE from other people during construction.

NRCS Issues

This technical note does not contain NRCS compliance and the National Environmental Policy Act (NEPA) policy. All NRCS wetland activities are addressed by wetland policy in [General Manual Title 190, Subpart B, Part 410](#) and [Part KS410; Title 180–National Food Security Act Manual](#); all local, state, and federal laws, policy, and guidelines; and executive orders.

Contact

Technical assistance is available from NRCS at your local USDA Service Center (listed in the telephone book under United States Government). More information is also available on the Kansas Web site at <http://www.nrcs.usda.gov/wps/portal/nrcs/site/ks/home/>.

(signed)

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