Permitting, Inspection, and Enforcement Procedures for Erosion and Sediment Control on Division of Water Quality Capital Construction Projects

Lexington-Fayette
Urban County Government

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Permitting, Inspection, and Enforcement Procedures for Erosion and Sediment Control on Division of Water Quality Capital Construction Projects

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This publication was developed by the Tetra Tech / Third Rock Consultants Stormwater Program Management Team under contract to LFUCG for purposes of implementing the stormwater provisions of its Clean Water Act Consent Decree and/or its Kentucky Division of Water (KDOW) Municipal Separate Storm Sewer System (MS4) Permit.
Permitting, Inspection, and Enforcement Procedures for Erosion, Sediment, and Stormwater Control on Division of Water Quality Capital Construction Projects

DWQ Remedial Measures Plan Projects
DWQ RMP Program Manager: Bob Peterson
DWQ Program Management Consultant: Hazen and Sawyer
Construction Contract Administrators (CA): DWQ Consultants
Resident Project Representative (RPR): DWQ Consultants
ESC Plan Reviewer: DWQ Stormwater Section – Amad Al-Humadi
Land Disturbance Permit (LDP) Issuer: DOE New Development
Erosion and Sediment Control Compliance Inspector: RPR
Accela Data Entry: DWQ Compliance & Monitoring (C&M) – Kevin Lyne
Land Disturbance Permit (LDP) Permittee: Contractor

DWQ Wastewater Treatment Plant Capital Projects
DWQ Plant Engineer: Tiffany Rank
DWQ Project Manager: Varies
Construction Contract Administrators (CA): Rick Day, Rick Bowman
Resident Project Representatives (RPR): Varies
ESC Plan Reviewer: DWQ Stormwater Section – Amad Al-Humadi
Land Disturbance Permit (LDP) Issuer: DOE New Development
Erosion and Sediment Control Compliance Inspector: RPR
Accela Data Entry: DWQ Construction Management – Jody Scrivner
Land Disturbance Permit (LDP) Permittee: Contractor

DWQ Stormwater, Water Quality, and Capacity Assurance Capital Projects:
DWQ Section Managers: Greg Lubeck, Jennifer Carey, or Craig Prater
DWQ Project Manager: Varies
Construction Contract Administrator (CA): Rick Day
Resident Project Representatives (RPR): Rick Day or Bill Warren
ESC Plan Reviewer: DWQ Stormwater Section – Amad Al-Humadi
Land Disturbance Permit (LDP) Issuer: DOE New Development
Erosion and Sediment Control Compliance Inspector: RPR
Accela Data Entry: DWQ Construction Management – Jody Scrivner
Land Disturbance Permit (LDP) Permittee: Contractor
Permitting Procedures

1. Contractor shall develop a Stormwater Pollution Prevention Plan / Erosion and Sediment Control Plan (SWPPP/ESC Plan). A SWPPP/ESC Plan template is on the LFUCG website at https://www.lexingtonky.gov/new-development. On some projects, the construction contract documents may contain a SWPPP/ESC Plan prepared by LFUCG’s consultant for purposes of establishing bid quantities. If the Contractor chooses to use this SWPPP/ESC Plan to obtain the required permits, the Contractor takes sole responsibility for the content of the SWPPP/ESC Plan and the implementation of the plan during construction.

2. Contractor must submit an application for a Land Disturbance Permit to the LFUCG Division of Engineering before beginning project construction. The permit application is available at https://aca3.accela.com/lexky/.

3. For projects with a disturbed area of > 1 acre, the contractor must submit a Notice of Intent (NOI) to the KY Division of Water (KDOW) and obtain KYR10 Permit coverage before beginning construction of any kind on the site. The NOI can be submitted electronically at http://dep.ky.gov/formslibrary/Documents/KYR10PermitPage.pdf.

4. Contractor cannot start project work until they have obtained the LFUCG Land Disturbance Permit and KYR10 Permit coverage (if applicable – see above).

5. Amad Al-Humadi will review the SWPPP/ESC Plan, confirm that the Contractor has obtained KYR10 Permit coverage (if applicable – see above), and authorize the Contractor to install the initial BMPs.

6. Contractor then installs the initial BMPs, prior to project work (general excavation, grading, etc.).

7. Amad Al-Humadi inspects the installation of the initial BMPs and authorizes DOE New Development to issue the Land Disturbance Permit. Contractor then begins the project.
Contractor Responsibilities

Contractor shall:

1. Develop a SWPPP/ESC Plan, or review and agree to use the SWPPP/ESC Plan prepared by LFUCG’s consultant, or amend it as needed.

2. Attend a pre-construction conference with LFUCG.

3. Post the LFUCG Land Disturbance Permit and KYR10 Permit (if applicable) on the project sign at the site, and keep a copy of the SWPPP/ESC Plan on site and available for review.

4. Follow the SWPPP/ESC Plan; revise and redline it as conditions change on the site.

5. Install and maintain BMPs to prevent sediment from washing into streets, storm sewers, and streams. All runoff from disturbed areas must pass through a BMP before leaving the site.

6. Maintain a 50-foot vegetative buffer strip along perennial and intermittent streams (including impounded streams), wetlands, sinkholes, and inlets.

7. If work must be done within 50 feet of a perennial or intermittent stream, wetland, sinkhole, or inlet, complete work as soon as possible and stabilize the area within 24 hours after completing work.

8. Conduct an ESC inspection at least once every 7 calendar days and within 24 hours after each rainfall of 0.5 inches or greater (or 4 inches of snow or greater).

9. Complete and sign the inspection form after each inspection. Keep the completed inspection forms on site and available for review.

10. Stabilize inactive portions of the site with straw, blanket, seed, or other cover within 14 days of no activity, and provide permanent stabilization within 14 days of reaching final grade.

11. If the project has a KYR10 Permit, file a Notice of Termination with the KY Division of Water and forward to the LFUCG Division of Engineering and LFUCG Division of Water Quality when construction has been completed and the site is stabilized. Final stabilization is defined as follows from KYR10: “All soil disturbing activities at the site have been completed and either of the two following criteria are met – a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.”

12. Respond promptly to Verbal Warnings and Notices of Violation from LFUCG regarding correcting ESC problems.
Inspection Procedures for the Resident Project Representative

Weekly Field Inspections

1. Ensure the LFUCG Land Disturbance Permit and KYR10 Permit are posted at the site
2. Ensure SWPPP/ESC Plan is available for review
3. Ensure that the weekly and rain event completed inspection forms are available for review
4. Walk the perimeter of the entire site
5. Note downgradient controls:
   - Inspect ditches and sheet flow areas
   - Silt fences working?
   - Ditches vegetated / stabilized?
   - Significant sediment discharges?
6. Walk around internal disturbed areas
   - Idle for more than 14 days . . . stabilized?
7. Inspect all inlets and ditches
   - Inlets protected, ditches stabilized?
8. Check out material / fuel storage areas
   - Spills? Leaks? Leaching pollutants? Litter / waste managed?
9. Inspect concrete washout(s)
10. Inspect the construction entrance / exit
11. Inspect the 50-foot vegetative buffer strip adjacent to waterways. The buffer strip must be stabilized within 24 hours of any approved construction activity in the buffer strip.
12. Communicate inspection findings to Contractor, note issues that need attention
13. Complete the LFUCG inspection checklist
14. Submit an electronic copy of the completed checklist to the Project Manager and the Accela Data Entry Contact person on page 1.
15. Inspect the site the next working day after a storm event of 0.5 inches or greater. Complete the inspection checklist and submit a copy to the Project Manager

Important Items for the Permittee / Contractor / RPR to Verify:

- Posted permits, plans, and inspection reports
- Graded / inactive areas stabilized with seed, mulch, blankets, mats, etc.
- Stabilized, non-eroding ditches
- Maintained silt fences and protected curb / drop inlets
- No mud on the street
- Trash and litter managed
- No disturbance in the 50-foot buffer zone adjacent to streams, wetlands, sinkholes, and inlets, unless approved; areas within the 50-foot buffer must be stabilized within 24 hours
Enforcement Procedures

1. The Contractor will be paid for erosion and sediment control based upon a schedule of values established within the Measurement and Payment section of the specifications (e.g., 25% paid once initial ESCs have been installed and LDP obtained, 50% paid in equal monthly payments for maintenance over the construction period, 25% paid for removal of ESCs and final stabilization). The intent of this provision is to pay the Contractor for ESC maintenance for each month that the BMPs are maintained and functioning properly.

2. The RPR shall follow the attached *Compliance Assistance Guidance for DWQ Capital Project RPRs* and implement the *Escalating Enforcement Process* described below.

<table>
<thead>
<tr>
<th>DWQ Capital Project</th>
<th>Escalating Enforcement Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remedial Measures Program</td>
<td>The RPR shall escalate the issue to the RMP Program Manager and RMP Program Management Consultant’s Project Manager</td>
</tr>
<tr>
<td>Wastewater Treatment Plants</td>
<td>The RPR shall escalate the issue to the DWQ Section Manager and the DWQ Construction Contract Administrator</td>
</tr>
<tr>
<td>Stormwater Section</td>
<td></td>
</tr>
<tr>
<td>MS4/Water Quality Section</td>
<td></td>
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<tr>
<td>Sanitary Sewers</td>
<td></td>
</tr>
<tr>
<td>Capacity Assurance Program</td>
<td></td>
</tr>
</tbody>
</table>

3. DWQ will use all available means in the contract to obtain compliance, including:
   a. withholding payment
   b. notifying the Contractor that LFUCG intends to initiate the process for declaring that the Contractor is in default of the contract and specifying a deadline for addressing the ESC deficiencies
   c. initiating the process for calling the ESC Performance Bond
   d. issuing Notices of Violation (NOVs)
   e. stopping work
## Compliance Assistance Guidance for DWQ Capital Project RPRs

<table>
<thead>
<tr>
<th>Observed Condition</th>
<th>Verbal Warning to Correct within 3-5 days (See Note 1)</th>
<th>Verbal Warning to Correct within 24 hours (See Note 1)</th>
<th>Escalate the Issue Immediately in Accordance with Table 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Entrance to Public Road</td>
<td>Rock pad poorly installed/maintained</td>
<td>Rock pad not installed</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Small amount of sediment on road</td>
<td>Rock pad completely covered with soil</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Significant amount of sediment on road</td>
<td></td>
</tr>
<tr>
<td>Unstabilized Areas</td>
<td>Flat inactive disturbed areas not stabilized in 14 days</td>
<td>Ditches not stabilized immediately after construction</td>
<td>Disturbed, inactive slopes not stabilized within 14 days</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Disturbed, inactive slopes above waterways, wetlands, floodplains, critical areas$^2$ not stabilized within 24 hours</td>
</tr>
<tr>
<td>Inlet Protection</td>
<td>Sediment needs to be removed around inlet protection</td>
<td>Curb inlet protection not in place or improperly installed</td>
<td>Discharge of concrete wash water, chemicals, other pollutants into inlets, streams, wetlands, etc.</td>
</tr>
<tr>
<td>Silt Fencing</td>
<td>Does not match SWPPP/ESC Plan but critical areas$^2$ and roads are protected</td>
<td>Silt fence not installed per plan and critical areas$^2$ and roads are not protected</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Does not comply with Stormwater Manual but is functional</td>
<td>Blowouts have occurred with discharge of sediment to critical areas$^2$</td>
<td>Large quantities of sediment in critical areas$^2$</td>
</tr>
<tr>
<td></td>
<td>Needs maintenance/repair, but is not near an inlet or surface water</td>
<td>Not trenched in, is not functional</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Silt fence needs repairs in critical areas$^2$</td>
<td></td>
</tr>
<tr>
<td>Soil Stockpiles</td>
<td>No perimeter controls, downstream BMPs in place</td>
<td>No perimeter controls, downstream BMPs not in place</td>
<td></td>
</tr>
<tr>
<td>Permit Violations</td>
<td>Permit expired</td>
<td>Site not permitted (No LDP or KDOW NOI)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Permit not posted or available on site</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Contact name/phone not posted</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>No self-inspection reports; reports not on site</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Self-inspection reports not current</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>SWPPP/ESC Plan not on site</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Unapproved construction activities in 50-foot buffer zone around sinkholes, streams, wetlands, etc.</td>
<td>Construction has started, BMPs not installed</td>
<td></td>
</tr>
</tbody>
</table>

1. Escalate the issue in accordance with Table 1 after the 2nd Verbal Warning.
2. Critical areas are areas within 25 feet of a stream, wetland, sinkhole, or inlet.