Floodplain General Permit: An Introduction

Alex VanPelt
Kentucky NFIP Coordinator

To Protect and Enhance Kentucky’s Environment
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Outline

1) Old Permitting Process
2) Floodplain General Permit Overview
3) Permit Coverage
4) Exclusions & Eligibility
5) Permit Requirements & Other Conditions
6) Finding & Using the GP
Floodplain Permitting

Previous Permitting Process

- Kentucky Revised Statutes
  - KRS 151.250
    - “No person, city, county or other political subdivision of the state shall...[develop]...any area located adjacent to a river or stream or in the floodway of the stream so that such...[development]...will in any way affect the flow of water in the channel...unless...a permit [has been] issued...”
      - [apps.legislature.ky.gov/law/statutes/](apps.legislature.ky.gov/law/statutes/)
  - All proposed developments went through the same process, regardless of their impacts
Previous Permitting Process Cont.

• Previously, for ALL development in the 1% chance flood area, DOW required:
  • A Stream Construction Application completed by the applicant
  • A Public Notice in the form of a newspaper notification
    • Costly

• Permitting activities that had no appreciable effects on the Base Flood
Floodplain GP Rollout

- Floodplain General Permit (GP) was developed throughout 2019 and early 2020
- GP was Public Noticed in May 2020
  - All comments were addressed by DOW
- GP became effective July 1, 2020
  - Local coordinators were emailed directly
  - DOW’s website was updated

Floodplain General Permit

- Floodplain GP intended for common development activities that have no appreciable impact on the Base Flood
  - Pre approved & public noticed permit available to anyone in the Commonwealth
  - Simply print the GP off DOW’s website and that printout IS your state permit

- GP has Eligibility, Exclusions, and Conditions in it that permittees using it MUST comply with
Permit Coverage

GP Coverage

• Issued in accordance with KY Statute and Regulations
• Discusses how the GP works
  • “Development meeting the requirements of this General Permit shall have automatic coverage under this general permit…”
    • No application or public notice required
• “Work performed by or for the Permittee that does not fully conform to...this General Permit is subject to...enforcement actions pursuant to KRS 151.280...and KRS 151.125…”
• Permittee must contact DOW to determine if a Water Quality Certification or Stormwater Construction Permit is needed
• Permittee liable for any damage resulting from activities covered under the GP
Exclusions & Eligibility

Exclusions

- GP **DOES NOT** Apply if:
  - It’s not listed in the Eligible Activities in section 2.2;
  - If there is ANY change to BFE;
  - If a 404/401 Individual Permit is required by USACE or DOW;
    - Includes Special Use Waters, Exceptional Waters, or Outstanding State Resource Waters
      [watermaps.ky.gov/WaterHealthPortal](watermaps.ky.gov/WaterHealthPortal)
  - Proposal involves any residential, non-residential, appurtenant structures, or fill
  - Development of a dam
- DOW can require an individual floodplain permit at ANY time
Eligible Activities

- Development by the US Army Corps of Engineers
- Open space as outlined in 44 CFR 80.19;
- Vegetative and Riparian Buffers
- Stream obstruction removal (i.e. woody debris from a bridge/culvert), that follows the Watershed Friendly Stream Maintenance guidance;
- Normal Property Maintenance activities that are done by hand
  - Cuttings, plantings, temporary debris piles
  - Must be removed from site with in 15 days

Eligible Activities Cont.

- Below-grade swimming pool outside of the regulatory floodway;
- Placement of utility poles, open-frame towers, or monopole towers with below grade foundations;
- Below-grade utilities and subgrade drainage features;
- Open-style guardrail along an existing roadway;
- Geotechnical investigations, archeological investigations, or installation of monitoring wells;
Eligible Activities Cont.

- Repairs/maintenance to an existing shallow & narrow, man-made drainage-way. Cannot be mapped as having its own floodplain
- Development of a fence that does not impede flow during a base flood event;
- Locating a recreational vehicle that is fully licensed and ready for highway use in the floodplain for the base flood event for less than 180 consecutive days;

Eligible Activities Cont.

- Removal of gravel or vein materials from a stream for personal, non-commercial use;
  - Must meet watershed friendly stream maintenance guide
  - Cannot be sold or transported on public roads
  - 50 tons or less in 12 consecutive calendar months
- Development in a watershed less than one square mile (1 mi²)
  - Except buildings, fill, or dams
Permit Requirements & Other Conditions

Requirements

• For the GP to be valid, permittee must:
  • Have a copy on site;
  • Obtain a local floodplain permit;
  • All excess materials removed from the floodplain;
  • Disturbance should be minimized;
  • Mobile equipment in stream is prohibited; and
  • Take measures to prevent spills of fuel and lubricants from entering water. Must contact DOW if they do.
Other Conditions

• All other permits must be obtained;
• Application not required for GP;
• Permittee must comply with conditions and subject to enforcement
• Duty to provide information upon request
• Permittee must allow for inspection and entry to site

Finding & Using the GP
Floodplain GP Online

• Download your copy of the Floodplain GP today:
  • “Understand Your Flood Hazards” Webpage
  • Quick Links on the Right side

• Your printout IS your state permit
  • Local permits still required

Floodplain GP Online Cont.

• DOW Understand Your Flood Hazards page updated

• The ‘Apply for a Floodplain Permit’ section includes descriptions of:
  • General Permit
  • Individual Permit
  • Local Permits
Floodplain GP and Local Processes

• Local General Permit template is in development
  • Will give locals the option to automatically permit certain developments

• In the interim, locals should continue issuing local permits as they normally do

Don’t Panic!
Contact Info

• Alex VanPelt
  • Kentucky NFIP Coordinator
  alex.vanpelt@ky.gov
  (502) 782-7120  (Direct Line)
  Division of Water
  300 Sower Blvd., 3rd Floor
  Frankfort, KY 40601

• Shawn Hokanson
  • Water Resources Branch Manager
  shawn.hokanson@ky.gov
  (502) 782-6977  (Direct Line)
  Division of Water
  300 Sower Blvd., 3rd Floor
  Frankfort, KY 40601

Questions