

Kansas Section 401 Water Quality Certification for Clean Water Act Section 404
Nationwide Permits (Dredge and Fill) Kansas Department of Health and Environment,
Bureau of Water. March 6, 2017 <http://www.kdheks.gov/nps/section401.html>

I. Authority

This certification is prepared pursuant to Clean Water Act (CWA) Section 401 and Kansas Administrative Regulation (K.A.R.) 28-16-28f(b)(1) by the Kansas Department of Health and Environment (KDHE).

II. Certification

All activities authorized by the U.S .Department of Army Corps of Engineers (USACE) proposed Nationwide Permits (NWP) published, in the Federal Register, and will go into effect on March 19, 2017, are not expected to result in violations of Kansas Water Quality Standards found at Kansas Administrative Regulations 28-16-28b through 28g, provided the person conducting the Corps of Engineers authorized activity adheres to the conditions set out by this certification. The public notice documenting the final issuance of the NWPs can be found at:

<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/publicnotices/2017-01-13%20NWP%202017%20Reissuance%20PN.pdf?ver=2017-01-13-160903-293>

Additionally, Kansas Regional Conditions for NWPs have been drafted by the Kansas City District USACE in coordination with state and federal agencies. Once issued, these conditions provide a general statewide framework for requirements for permitted activities considered by the Kansas City District USACE to have minimal impacts on the aquatic ecosystem. This water quality certification provides conditions and guidance to address local water quality needs of the permitted activities.

III. Limitations of this Certification: All Section 404 activities within the borders of Indian owned and operated lands are not covered by this certification. Individuals proposing projects which impact those waters are responsible for contacting the appropriate individual at the following numbers:

- a. Prairie Band Pottawatomie Indians, Planning Department, 785/966-2946
- b. Kickapoo Tribe in Kansas, Environmental Office, 785/486-2601
- c. Iowa of Tribe of Kansas and Nebraska, 785/595-3258
- d. Sac and Fox Tribe of Missouri, 785/742-4705

IV. General Conditions

1. **Certification Retention:** Nationwide permit recipients shall retain this water quality certification on the project site through the duration of the project to accommodate inspection.
2. **KDHE Notification:** Nationwide permit recipients shall email KDHE at NPS@kdheks.gov when construction starts.
3. **Kansas Water Pollution Control General Permit for Stormwater Runoff from Construction Activities:** This certification does not relieve the applicant of the responsibility to determine if the project is subject to the requirements of a **General NPDES Permit** and to secure such permit as necessary. Questions and inquiries may be directed to:

Kansas Department of Health and Environment
Bureau of Water – Industrial Program Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Phone 785/296-5549 or FAX: 785/296-0086
www.kdheks.gov/stormwater

4. **Project Water Quality Protection Plan:** Any person wishing to use a Section 404 Nationwide Permit shall prepare and follow a written project water quality protection plan (PWQPP.) The PWQPP shall identify components of the permitted activity (i.e. solid waste handling, fuel storage and leaks, sediment from construction etc.) which may or will result in the discharge of pollutants to waters of the state. For each component which may discharge pollutants to waters of the state, the plan shall set out the physical, structural and management measures to be implemented to prevent or minimize the discharge of pollutants to waters of the state. The PWQPP shall be posted or retained on site through the duration of the project (see Section VIII for additional information on preparing a PWPP). Activities requiring a construction stormwater permit, as described above, also require a stormwater pollution prevention plan which will serve as the PWQPP.

The permittee is required to submit the PWQPP to KDHE only if the project impacts Outstanding National Resource, Exceptional State or Special Aquatic Life Use Waters per condition No. 5 below.

5. **Outstanding National Resource Waters, Exceptional State and Special Aquatic Life Support Use Waters:** In the event the permitted activity occurs within one half (1/2) mile of an Outstanding National Resource Water as defined pursuant to **K.A.R. 28-16-28b (yy)** and **K.A.R. 28-16-28c(a)B(3)**, an Exceptional State Water pursuant to **K.A.R.**

28-16-28b(yy) and **K.A.R. 28-16-28c(a)B(2)**, or a Special Aquatic Life Support Use Water designated pursuant to **K.A.R. 28-16-28d(b)(2)(A)** and **K.A.R. 28-16-28d (c)**, the person responsible for initiating the activity shall submit a copy of the PWQPP to:

Kansas Department of Health and Environment
Bureau of Water - Watershed Management Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367 or email: nps@kdhe.state.ks.us

Locations of **Outstanding National Resource Waters, Exceptional State and Special Aquatic Life Support Use Waters** can be found in the tables attached. The permittee should also be aware of the following Kansas water quality protection regulations associated with high value/critical resource waters:

K.A.R. 28-16-28c(a)B(2) “Wherever state surface waters constitute exceptional state waters, discharges shall be allowed only if existing uses and existing water quality are maintained and protected.”

K.A.R. 28-16-28c(a)B(3) “Wherever state surface waters constitute an outstanding national resource water existing uses and existing water quality shall be maintained and protected. New or expanded discharges shall not be allowed into outstanding national resource waters.”

K.A.R. 28-16-28c(a)B(4) “No degradation of surface water quality by artificial sources of pollution shall be allowed if the degradation will result in harmful effects on populations of any threatened or endangered species of aquatic or semiaquatic life or terrestrial wildlife or its critical habitat as determined by the secretary of wildlife and parks pursuant to K.S.A. 32-960, and amendments thereto, and K.A.R. 115-15-3 or in the federal endangered species act, 16 U.S.C. 1532 , as amended on October 7, 1988.”

6. **Solid Waste Disposal:** All solid waste materials produced during the execution of the project shall be disposed in accordance with the provisions of Kansas Solid Waste Management Statutes and regulations and applicable local regulations. Direct inquiries to:

KDHE, Bureau of Waste Management
1000 SW Jackson Street, Suite 320
Topeka, Kansas 66612-1366
Phone: 785/296-1600; FAX: 785/296-1592 www.kdheks.gov/waste/index.html

7. **Equipment Staging Areas and Project Closure:** Upon completion of the project, disturbed areas shall be expeditiously stabilized with temporary and permanent vegetation, bio-artificial ground cover or other appropriate non-polluting material. Fertilizer application to establish and maintain vegetation shall be done in a manner that will not contribute to the current nutrient load to any of the surface waters impacted by the project. The person responsible for the permitted activity shall monitor and maintain cover materials until such time as the site is stabilized. Project closure procedures shall be included in the PWQPP per condition No. IV. 4.
8. **Riparian Areas:** Minimize removal or disturbance of riparian areas (areas adjacent to water bodies). KDHE encourages the use of vegetation consistent with adjoining vegetation materials to minimize impacts from improper handling of fertilizers and pesticides.
9. **Discharge of Floatable Materials:** Pursuant to K.A.R. 28-16-28e(b)(1,3) the person responsible for executing the permitted activity shall assure good house-keeping is practiced at the site to minimize the discharge of floatable materials such as personal refuse including food containers, packing, and other materials. Appropriate measures shall be taken to capture and/or recover any floatable materials discharged to waters of the state originating with the permitted project.
10. **Fuel, Chemical and Materials Storage:** Fuel, chemical and other materials stored at the project site shall be stored in a manner that minimizes the discharge of product to waters of the state. Spill minimization and prevention measures and procedures shall be documented in the PWQPP.
11. **Spill Response, Cleanup and Reporting:** In the event a spill of fuel, chemical or other water quality degrading materials stored or transported on the site occurs, the permittee shall or with the assistance of professional response personnel, expeditiously control or contain the spill and initiate clean up procedures. The applicant shall immediately contact 911. The Kansas Department of Health and Environment shall then be notified immediately: (785) 291-3333 (24 hours a day.) These incidences should also be reported to the National Spill Response Center (1-800-424-8802. Spill response and cleanup actions shall be documented on the applicable Project Water Quality Protection Plan (WQPP). KDHE strongly encourages the permittee to establish and post a sign that includes phone contact numbers for the appropriate local emergency response unit, KDHE district office, and the project manager/owner

12. **Drinking Water Intakes:** The person responsible for the permitted activity shall avoid adverse impacts on public water supplies. Whenever permitted activities occur within one mile upstream of a public drinking water supply - surface water intake, the applicant shall contact the official in charge of the public drinking water supply to apprise the drinking water supply official of the permitted activity. The person responsible for the permitted activity shall consider the suggestions and recommendations of the public water supply official when preparing the PWQPP.

13. **Treated Wastewater Effluent Mixing Zones:** As a general guideline any Section 404 activity within one-half (1/2) mile upstream or one-half (1/2) mile downstream of a permitted wastewater effluent discharge may impact the effluent mixing zone. The person responsible for the permitted activity shall determine if the project will adversely impact the wastewater effluent mixing zones and take appropriate measures to avoid altering or changing the mixing zone. The permitted activities may include but are not limited to:
 - a. The construction or placement of a recreation oriented facility or structure (i.e. boat ramp, walkway) which may require modification of the beneficial use designation to accommodate contact or non-contact recreation, thereby increasing the effluent limitations for the permit.

 - b. Any activity which may alter or remove the stream channel geometry or natural oxygenation abilities of the stream such as bridge construction, channelization, stream channel substrate modification etc.

The person responsible for the permitted Section 404 activity shall advise and describe to the waste water discharge permittee and KDHE any potential mixing zone impacts and the measures the person responsible for the Section 404 activity will take to minimize adverse impacts on the mixing zone. Inquiries should be directed to:

Kansas Department of Health and Environment
Bureau of Water - Municipal Programs Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Phone: 785/296-5527 or FAX: 785/296-0086

14. **Total Maximum Daily Load:** The permittee should be aware of their activity occurring in a watershed with a Total Maximum Daily Load (TMDL) in implementing appropriate water quality practices. Visit http://www.kdheks.gov/tmdl/planning_mgmt.htm for TMDL watershed locations, maps and other information.

V. Special Conditions for Specific Nationwide Permits

1. **Nationwide Permit #7. Outfall Structures and Maintenance (construction):** Controls shall be in place to stabilize all areas of the bed and bank around the pipe or adjacent to the outfall structure and associated intake structures that may be affected by outfall or stream flows, respectively.
2. **Nationwide Permits #3-Maintenance; #12-Utility Line Activities; and #18-Minor Discharges (pipelines included):** Hydrostatic tests for pipeline activities shall be approved prior to discharge of water used for the test. Please contact the following for new and used pipeline:
 - a. New Pipe- Kansas Department of Health and Environment
Bureau of Water Technical Services Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Phone 785/296-2856 785-2962856 or FAX: 785/296-0086
 - b. Reused Pipe- Kansas Department of Health and Environment,
Bureau of Water, Industrial Program Section Phone: 785-296-5547
or FAX: 785/296-0086
3. **Nationwide Permit #16:** The permittee shall contact Kansas Department of Health and Environment, Bureau of Water, Industrial Program Section Phone: 785-296-5547 or FAX: 785-296-0086 to inquire as to a need for a permit to discharge.
4. **Nationwide Permit #20:** The permittee should coordinate with EPA Region VII SPCC Coordinator. Phone: 913-551-7003
5. **Nationwide Permits #27 (Aquatic Habitat, Restoration, Establishment and Enhancement Activities) #29 (Residential Developments), #30 (Moist Soil Management for Wildlife), #39 (Commercial and Institutional Developments), #42 (Recreational Facilities), #43 Stormwater Management Facilities). A (Wind Energy Generative Facilities, B Water Based Renewable Energy):** Measures shall be

implemented to assure impounded waters, created by activities within the framework of these permits, avoid becoming public health threats, nuisances, generate complaints, and potentially discharge degraded water. The applicant shall prepare and implement an Operations and Maintenance Plan for facilities and landscapes (O&M), which at the minimum incorporate the following:

- a. Identify individual and public property owners and their potential for being the source of nonpoint source pollution. This could include but is not limited to: commercial grounds, streets, right-of-ways, parking areas, conservation easement and **proposed** mitigation areas etc.
- b. For each property as described in item A. above, indicate the applicable water quality protection measures for each category of artificial sources of pollution. The identified water quality protection measure for each category of artificial source of pollution shall be designed to **reduce to the maximum extent practicable, the level of pollution resulting from identified pollutant sources**. Identified water quality protection quality protection measures shall be at least as effective as those set out by the Kansas Nonpoint Source Pollution Management Plan, 2010 Update, available at: <http://www.kdheks.gov/nps/>.
- c. Strategies to assure implementation of the water quality protection measures identified under item IV. 3-10 which may include but are not limited to prohibition or restriction of activities, utilization of alternative technologies or products, information and education, financial assistance, technical assistance, enforcement and penalties. Additionally, an in-house reporting form used by staff to document degraded property conditions potentially impacting the property and needs to address them should be developed, if applicable.
- d. Organizations and individuals responsible for assuring implementation of identified water quality protection measures.

6 Nationwide Permit #s 29, 39, and 42: The increase in impervious surface through construction of parking lots, roof tops etc., can increase velocity destabilizing the receiving unnamed tributary thus increasing sedimentation downstream. Projects should be designed to replicate pre-construction conditions so as to minimize or abate destabilization of the banks of receiving streams. In addition to stormwater detention basins, pervious pavement, pervious pavers, underground rain water catchments are strongly recommended. For more information said practices go to this

link:

http://kcmetro.apwa.net/content/chapters/kcmetro.apwa.net/file/Specifications/BMPManual_Oct2012.pdf

7. **Nationwide Permit #33:** Kansas Water Pollution Control General Permit for Stormwater Runoff from Construction Activities: This certification does not relieve the applicant of the responsibility to determine if the project is subject to the requirements of a **General NPDES Permit** and to secure such permit as necessary. Questions and inquiries may be directed to:

Kansas Department of Health and Environment
Bureau of Water – Industrial Program Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Phone 785/296-5549 or
FAX:785/296-0086
www.kdheks.gov/stormwater

8. **Nationwide Permit #38:** The permittee shall coordinate with the Kansas Department of Health and Environment – Bureau of Environmental Remediation by Phone: 785-296-1662 or Fax: 785-559-4259 or click on this link for staff emails. <http://www.kdheks.gov/ber/admin.html>.

Additionally, activities authorized by NWP #38 may also require land disturbance authorization from KDHE, Industrial Program Section:
Contact by Phone: 785-296-5549 or FAX: 785-296-0086.

VI. Enforcement and Penalties

This certification does not relieve the applicant of the responsibility for any discharge to waters of the state or allow for any inappropriate discharge to occur. As provided for by K.S.A. 65-171(f), failure to comply with the conditions of this certification may subject the responsible party to fines of \$10,000 per violation with each day the violation occurs constituting a separate violation.

VII. Variance

If the applicant believes the conditions of this certification will result in impairment of important widespread social and economic development, the applicant is advised of the variance provisions of KAR 28-16-28b(sss) and KAR 28-16-28f(d).

VIII. Additional Information

The KDHE website contains the following information to assist the applicant in preparing a Project Water Quality Protection Plan (PWQPP) for projects not requiring a construction stormwater permit and stormwater pollution prevention plan:

1. Construction practices: <http://www.dnr.mo.gov/env/wpp/wpcp-guide.htm>
(a cooperative work product between Missouri and Kansas)
2. PWQPP Form and Instructions:
<http://www.kdheks.gov/nps/resources/nwpwqppfrm.doc> or
<http://www.kdheks.gov/nps/resources/nwpwqppfrm.pdf>
3. Kansas Surface Water Register:
http://www.kdheks.gov/befs/download/Current_Kansas_Surface_Register.pdf
4. Kansas Surface Water Maps:
http://www.kdheks.gov/befs/download/Current_Surface_Water_Register_Maps.pdf
5. Surface Water Quality Standards- K.A.R. 28-16-28b through g:
http://www.kdheks.gov/tmdl/download/KDHE_SWQS_Reg_Unofficial_032315.pdf
http://www.kdheks.gov/tmdl/download/SWQS_Tables_2015.pdf
6. KDHE District Offices- http://www.kdheks.gov/befs/dist_office.html This information can also be obtained by written communication directed to:

Kansas Department of Health and Environment
Bureau of Water - Watershed Management Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367 or email: nps@kdheks.gov
FAX 785/296-5509

ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (ESW), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ONRW), provided by Kansas Department of Health and Environment. (5/2000)

(Revised: 3/2001, 2nd 4/2004, 3rd 2/21/07, 4th 5/10/07, 5th 8/8/07, 6th 3/14/2012, 7th 3/3/2017, 8th 4/5/17, 9th 4/10/17))

(The Kansas Surface Water Register supersedes this list if discrepancies occur- http://www.kdheks.gov/befs/download/Current_Kansas_Surface_Register.pdf)

COUNTY	*EXCEPTIONAL STATE WATERS	* SPECIAL AQUATIC LIFE USE WATERS
Allen		Onion Cr. Neosho R., Marmaton R. WETLANDS(7): within boundaries of a point from NE corner of S34 T24 R18E, West to NW corner S35 T24 R17E, South to SW corner of S35 T24 R17E, East to SE corner of S34 T25 R18E, back north to origin ; Other: (6) all oxbow lakes and WETLANDS within NE 1/4 of S32 T26S R18E, N 1/2 and SE 1/4 of S33 T26 R18E
Anderson		Pottawatomie Cr., South Fk., Pottawatomie Cr., Little Indian Cr., , WETLANDS(8): within boundaries of a point from the NE corner of S24 T21 R19E, West to the NW corner S22 T21 R18E, South to SW corner of S22 T25 R18E, back north to origin.
Atchison		Missouri R.; WETLANDS(9): All WETLANDS within S15 T6 R7E and S16 T6 R7E
Barber		Arkansas River, Salt Fork , Amber Cr., Bear Cr., Cottonwood Cr , Elm Cr., Inman Cr; Little Sandy Cr, South East Branch Elm Cr., North Branch Elm Cr., Medicine Lodge River, Mulberry Cr., Mule Cr., Sand Cr., Turkey Cr., Two unnamed tributaries to Medicine Lodge River, Unnamed tributary to Turkey Cr
Barton	Blood Cr., Little Cheyenne Cr.	Arkansas River, Blood Cr.; WETLANDS(5): Cheyenne Bottoms Preserve; Designation applies to all surface waters within the Nature Conservancy wildlife preserve in Sections 2, 11, 12, 16, 13, 22, 24, 25, 36 and parts of Sections 3, 10, 15, 14, 23,26, 34, and 35 in T18S R13W and from the NE corner of S07, west to NW 1/4 of S02 south to W 1/2 of S35 East to S31 of T18S R12W
Bourbon		Marmaton River, Mill Cr., Pawnee Cr.
Butler	Walnut River, Grouse Cr., Cottonwood River South Fork	Walnut River., Cottonwood River South Fork
Chase	Cottonwood River South Fork, Cedar Cr.	Bloody Cr., Cedar Cr., Collett Cr., Cottonwood River, Cottonwood River South Fork, Jacob Cr., Middle Cr., Shaw Cr.
Chautauqua	Caney River, Otter Cr.	Caney River
Cherokee	Neosho River, Shoal Cr., Spring R., Unnamed tributary to Shoal Cr.	Brush Cr., Cow Cr., Labette Cr., Neosho River, Shoal Cr. Spring R., Taylor Branch, Turkey Cr., Un. Trib. to Shoal Cr. WETLANDS(10a): 10a All cave waters & associated springs within that portion of Cherokee County encompassed by a line that extends from NE corner of Sec. 24, T34S, R25E, due W. to NW corner of Sec. 24, T34S, R24E, then due S. to KS/OK(Sec.13 T35S, R.24E), then due E. to KS/MO border (Sec.13, T35S, 25E), then N. to point of origin. And 10b: All wetlands within those portions of Cherokee & Labette counties encompassed by a line that extends from KS/MO border at NE corner of Sec. 24, T31S, R25E due W. to NW corner of Sec.20, T31S, R25E, then due S. to NW corner of Sec.17, T33S, R25E, then due W. to NW corner of Sec.14, T33S, R21E, then due S to KS/OK border(Sec.14,T35S, R21E), then due E. to KS/MO border(Sec.13, T35S, R25E), then due S. to point of origin.
Cheyenne		Republican River South Fork

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Clark	Cimarron River: (23) St. Jacob's Well: NW1/4 of SW1/4 of S19 T32S R24W	Big Sandy Cr., Bluff Cr., Cimarron River, Gyp Cr., Indian Cr., Kiowa Cr. West, Rattlesnake Cr.: (23) Clark County State Fishing Lake
Cloud	(25) All surface waters within Jamestown Waterfowl Management Area	
Coffey		Frog Cr., Little Indian Cr., Neosho River, Wolf Cr.
Comanche	Cimarron River	Bluff Cr., Calvary Cr., Cimarron Cr., Kiowa Cr., Kiowa Cr. Middle, Kiowa Cr. West, Mule Cr., Nescatunga Cr., Wiggins Cr.
Cowley	Beaver Cr., Grouse Cr., Otter Cr., Walnut River	Arkansas River, Spring Cr., Walnut River
Crawford		Brush Cr., Cow Cr., Cow Cr East, First Cow Cr., Taylor Branch.
Dickinson	Lyon Cr.	Carry Cr., Lime Cr., Lyon Cr., Lyon Cr West Branch, Unnamed tributary to Lyon Cr., unnamed tributary to West Branch Lyon Cr.; (19) Herington Reservoir
Doniphan		Missouri R., Rock Creek, Wolf River
Douglas		Appanoose Cr., Buck Cr., Kansas River, West Fork Tauy Cr.; (16) Clinton Reservoir,
Edwards		Rattlesnake Cr.
Elk	Caney River, Fall River, Grouse Cr.	Caney River, Fall River
Ellis	Saline River	
Ellsworth	Smoky Hill River	Smoky Hill River
Finney		Arkansas River
Ford		Bluff Cr., Kiowa Cr West, Rattlesnake Cr.
Franklin		Appanoose Cr., Hickory Cr., Marais Des Cygnes River, Ottawa Cr., Pottawatomie Cr., West Fork Tauy Cr; Wilson Cr.
Geary	Lyon Cr.	Carry Cr., Davis Cr., Dry Cr., Kansas River, Lyon Cr., Thomas Cr.; (14) Konza Prairie Natural Area: designation applies to all surface waters within natural area
Grant	Cimarron River	Cimarron River
Greeley		Ladder Cr.
Greenwood	Fall River, Fall River East Branch, Fall River West Branch	Fall R., Fall R. East Branch, Fall R. West Br, Otter Cr, Otter Cr. South Br, Verdigris River: (2) Flint Hills Tallgrass Prairie Preserve, all surface waters within the Nature Conservancy Reserve: Section 22 & 23 T23S R8E
Hamilton		Arkansas River
Harper	Chikaskia River	Bluff Cr., Chikaskia River, Little Sandy Cr., Sandy Cr.
Jefferson		Buck Cr., Kansas River: (18) Perry Reservoir

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Johnson		Kansas River,
Kearny		Arkansas River
Kingman	Chikaskia River	Allen Cr., Chikaskia River, Chikaskia River North Fork, Duck Cr., Nester Cr., Ninnescah River South Fork, Painter Cr., Pat Cr., Sand Cr., Silver Cr., Smoots Cr., Unnamed tributary to Smoots Cr., nine separate tributaries to South Ninnescah River
Kiowa	Thompson	Calvary Cr., Kiowa Cr., Kiowa Cr Middle, Kiowa Cr West, Medicine Lodge River, Mule Cr., Rattlesnake Cr., Soldier Cr., Thompson Cr., Wiggins Cr., Unnamed tributary to Thompson Cr.
Labette		Labette Cr., Neosho River
Leavenworth		Kansas River, Missouri River
Linn	Big Sugar Cr., Marais Des Cygnes River, Middle Cr., Muddy Cr., Sugar Cr North (12) all surface waters within Marais des Cygnes Waterfowl Area, all WETLANDS, oxbow lakes and classified streams within Linn County extending from the Kansas/Missouri border at NE corner of S26 T19S R25E west to NW corner of S26 T19S R23E, south to SW corner of S12 T22S R23E, east to Kansas/Missouri border at SE corner of S12 T22S R25E	Big Sugar Cr., Marais Des Cygnes River, Middle Cr., Muddy Cr., Sugar Cr. North (12) all surface waters within Marais des Cygnes Waterfowl Area, all WETLANDS, oxbow lakes and classified streams within Linn County extending from the Kansas/Missouri border at NE corner of S26 T19S R25E west to NW corner of S26 T19S R23E, south to SW corner of S12 T22S R23E, east to Kansas/Missouri border at SE corner of S12 T22S R25E
Logan		Ladder Cr., Smoky Hill River, Twin Butte Cr.
Lyon		Cottonwood River, Elm Cr., Jacob Cr., Neosho River
Marion	Lyon Cr.	Catlin Cr., Lyon Cr., Middle Cr., Mud Cr., Spring Cr.
Marshall		Black Vermillion R, Clear Fork
Mc Pherson		(15) McPherson Valley Wetlands: Classification applies to all surface waters within state owned portions of wetlands
Meade		Big Sandy Cr., Cimarron River, Crooked Cr., Gyp Cr (22) Lake Meade State Park
Miami	Marais Des Cygnes River, Middle Cr.	Hickory Cr., Marais Des Cygnes River, Middle Cr., Pottawatomie Cr., Unnamed tributary to North Wea Cr. (17) Hillsdale Reservoir
Montgomery		Onion Cr., Verdigris River
Morris	Mill Creek, West Br.	Davis Cr., Lime Cr., Middle Cr., Mill Cr. West Br. Neosho R., Six Mile Cr., Thomas Cr.
Morton	Cimarron River, (1 & 20) Mallard Lake, Lake Cimarron, Point of Rocks	Cimarron River, All surface waters within the Cimarron National Grasslands

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Nemaha		Big Nemaha River South Fork
Neosho		Flat Rock Cr., Neosho River; Neosho Wildlife Area Wetlands
Osage		Appanoose Cr., Frog Cr., Long Cr. Marais Des Cygnes R,
Phillips		(4) Kirwin Lake; Kirwin National Wildlife Refuge; designation applies to all surface waters within wildlife refuge.
Pottawatomie		Black Vermillion River Clear Fork, Kansas River,
Pratt	(26) All surface waters within Texas Lake Wildlife Area	Amber Cr., Chikaskia River and North Fork, Elm Cr North, Elm Cr South East Branch, Mulberry Cr., Natrona Cr., Ninnescah River South Fork, Ninnescah River West Branch of South Fork, Painter Cr., Rattlesnake Cr., Sand Cr., Silver Cr., Turkey Cr.
Reno		Arkansas River, Goose Cr. Ninnescah River North Fork, Peace Cr., Red Rock Cr., Silver Cr., Smoots Cr., Spring Cr., Unnamed Tributary to North Fork Ninnescah River, Unnamed Tributary to Silver Cr, Wolf Cr.; (3) Quivera Little Salt Marsh; All surface waters within Quivera National Wildlife Refuge
Republic	(25) All surface waters within Jamestown Waterfowl Management Area	
Rice		Arkansas River, Peace Cr., Rattlesnake Cr. (3) Quivera Big Salt Marsh and Quivera Little Salt Marsh
Riley		Deep., Honey., Little Ark, Moose, Seven mile, Spring, Swede Wildcat, and Wind Crks.. Kansas River; Konza Prairie (14)
Rush	Blood Cr.	Blood Cr.
Russell	Saline River, Smoky Hill River	Smoky Hill River
Scott		Ladder Cr.; (24) Lake Scott State Park, Scott Wildlife Area and feeder Springs
Sedgwick		Arkansas River, Sand Cr., Ninnescah River, Ninnescah River South Fork; Nester and Sand Cr. Unnamed Tribto North Fork Ninnescah River; Wichita Valley Center Flood Control (from confluence with Cowskin Creek to Arkansas River)
Seward		Cimarron River
Shawnee		Kansas River, Mission Cr.
Stafford		Ninnescah River NF, Peace Cr., Rattlesnake Cr.; (3) Quivera Big and Little Salt Marshes, All surface waters within Quivera National Wildlife Refuge
Stevens	Cimarron River	Cimarron River; All surface waters within the Cimarron National Grasslands
Sumner	Chikaskia River	Arkansas River, Bluff Cr., Chikaskia River, Ninnescah River, Spring Cr.
Wabaunsee	Deep Cr., Illinois Cr., Mill Cr., Mill Cr E and W Branches , Unnamed Tributary of Mill Cr. E Br	Deep., Dry, Elm, Hendricks, Illinois, Kuenzli, Locust, Loire, Mill, Mission, Mulberry, Nehring, Paw Paw, Pretty, Ross, Snokomo, & Spring Crks.; Mill Cr. E. and W. Branches, Mill Cr. South Branch, Unnamed Tributary of Mill Cr. East Branch; Kansas R.

ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (ESW), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ONRW), provided by Kansas Department of Health and Environment. (5/2000)

(Revised: 3/2001, 2nd 4/2004, 3rd 2/21/07, 4th 5/10/07, 5th 8/8/07, 6th 3/14/2012, 7th 3/3/2017, 8th 4/5/17, 9th 4/10/17))

(The Kansas Surface Water Register supersedes this list if discrepancies occur- http://www.kdheks.gov/befs/download/Current_Kansas_Surface_Register.pdf)

Wallace		Eagletail Cr., Rose Cr., Coon Cr., Pond Cr., Capper Draw, Smoky Hill R., Willow Cr., Twin Butte Cr.
Wichita		Ladder Cr.
Wilson	Fall River	Fall River, Verdigris River
Woodson		Neosho River, Owl Cr. South, Verdigris River: (21) Leonards Lake & Circle Lake (13) WETLANDS in Woodson County Sections 3 and 11, Township 26S, Range 14E
Wyandotte		Kansas River, Missouri River

Note: All surface waters within the Cimarron National Grasslands are Outstanding National Resource Waters. The Following counties currently do not contain waters recognized as ESW, SALU or ONRW: Brown, Clay, Decatur, Gove, Graham, Gray, Harvey, Haskell, Hodgeman, Jackson, Jewell, Lane, Lincoln, Mitchell, Ness, Norton, Osborne, Ottawa, Pawnee, Rawlins, Rooks, Saline, Sheridan, Sherman, Smith, Stanton, Thomas, Trego, Washington

***Kansas Regulations for “high value- waters”:**

Exceptional state waters, K.A.R. 28-16-28b(cc), “means any of the surface waters or surface water segments that are of remarkable quality or of significant recreational or ecological value, are listed in the surface water register and afforded the highest level of water quality protection under the anti-degradation provisions of K.A.R. 28-16-28c and the mixing zone provisions of K.A.R. 28-16-28c.”

Outstanding national resource water, K.A.R. 28-16-28b (vv) means any of the surface waters or surface water segments of extraordinary recreational or ecological significance identified in the surface water register, as defined this regulation, and afforded the highest level of water quality protection under the anti-degradation provisions and the mixing zone provisions of K.A.R. 28-16-28c.

Special Aquatic Life Use, K.A.R. 28-16-28d(b)(2)(A) and K.A.R. 28-16-28d(c), “means either classified surface waters other than classified stream segments that contain combinations of habitat types and indigenous biota not found commonly in the state or classified surface waters other than classified stream segments that contain representative populations of threatened or endangered species

K.A.R. 28-16-28c(a)B(2)- “Wherever state surface waters constitute exceptional state waters, discharges shall be allowed only if existing uses and existing water quality are maintained and protected.”

K.A.R. 28-16-28c(a)B(3) “Wherever state surface waters constitute an outstanding national resource water existing uses and existing water quality shall be maintained and protected. New or expanded discharges shall not be allowed into outstanding national resource waters.”

K.A.R. 28-16-28c(a)B(4) “No degradation of surface water quality by artificial sources of pollution shall be allowed if the degradation will result in harmful effects on populations of any threatened or endangered species of aquatic or semiaquatic life or terrestrial wildlife or its critical habitat as determined by the secretary of wildlife and parks pursuant to K.S.A. 32-960, and amendments thereto, and K.A.R. 115-15-3 or in the federal endangered species act, 16 U.S.C. 1532 , as amended on October 7, 1988.”

Finally, the Kansas Surface Water Standards K.A.R. 28-16-28 can be found at: http://www.kdheks.gov/tmdl/download/KDHE_SWQS_Reg_Unofficial_032315.pdf

ATTACHMENT 2. MAP OF EXCEPTIONAL STATE WATERS (ESW), SPECIAL AQUATIC LIFE USE WATERS (SALU) AND OUTSTANDING NATIONAL RESOURCE WATERS (ONRW) provided by Kansas Department of Health and Environment. (5/2000) (revised 3/2001, 2nd 4/2004, 3rd 2/21/07, 4th 5/10/07, 5th 8/8/07, 6th 2/2017) .

**OUTSTANDING NATIONAL RESOURCE WATERS,
EXCEPTIONAL STATE WATERS,
AND SPECIAL AQUATIC LIFE USE WATERS**

