

401 KAR 4:040. Nonhazardous sediment structures exempted.

RELATES TO: KRS 151.250

STATUTORY AUTHORITY: KRS 151.125, 224.01-110(6)(b), 224.10-100(17)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessary to exempt certain dams, embankments, levees, dikes, bridges, fills, and other stream obstructions proposed in conjunction with surface and deep mining from the provisions of KRS Chapter 151 to avoid duplication of effort within the Environmental and Public Protection Cabinet.

Section 1. As a part of the routine processing of applications for permits for surface mining and the surface effects of deep mining, the engineering staff of the Division of Reclamation reviews all designs for dams, embankments, levees, dikes, bridges, fills, and other stream obstructions proposed in conjunction with surface or deep mining and, whereas a substantial number of such dams, embankments, levees, dikes, bridges, fills, and other stream obstructions are of such a size, type, and location as to present no potential hazard to life and/or property; this administrative regulation exempts from the provisions of KRS 151.250 all such dams, etc., as described above, except those dams which come within the hazard classification contained in Division of Water Engineering Memorandum No. 5 (2-1-75), and those obstructions as described, which, in the professional judgment of the Division of Reclamation engineering staff, present a potential hazard to life and/or property. Copies of Engineering Memorandum No. 5 (2-1-75) are available upon request from the Division of Water.

Section 2. Certified, "as-built" engineering plans for all dams which impound or divert water and/or other material and which (i) are twenty-five (25) feet or more in height or (ii) have an impounding capacity of fifty (50) acre-feet or more at the lowest point in the top of the dam must be forwarded by the Division of Reclamation to the Division of Water for inclusion in the Dam Safety Program required by KRS 151.295(c). Height is measured from the natural bed of the stream or watercourse at the downstream toe of the barrier to the low point in the top of the dam.

(401 KAR 004:040. DOW-Rg-3; 1 Ky.R. 759; eff. 6-11-1975; Crt eff. 8-9-2018; Crt eff. 7-22-2025.)