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Guidance Document

Re: Implementation of HB 2363

House Bill 2363 has been adopted by the Kansas Legislature, approved by the Governor, and will become effective on July 1, 2013. The bill includes several amendments to dam and stream obstruction permit requirements. DWR will draft revised rules and regulations later this year to reflect these changes. For the purpose of administering water structures program permits, the following statements are **effective immediately**:

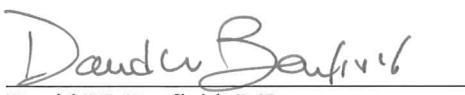
1. Revised definition – "Dam" means any artificial barrier including appurtenant works with the ability to impound water, waste water or other liquids that has a height of 25 feet or more; or has a height of six feet or greater and a storage volume at the crest of the auxiliary spillway elevation of 50 or more acre-feet.
2. New definition – "Designated stream" means a natural or man-made channel that conveys drainage or runoff from a watershed having an area of :
 - a) One or more square miles in zone one, which includes all geographic points located in or east of Washington, Clay, Dickinson, Marion, Harvey, Sedgwick or Sumner counties;
 - b) Two or more square miles in zone two, which includes all geographic points located west of zone one, and in or east of Smith, Osborne, Russell, Barton, Stafford, Pratt or Barber counties; or
 - c) Three or more square miles in zone three, which includes all geographic points located west of zone two.
3. K.S.A. 82a-301 permits required – permits are required prior to construction for these activities:
 - a) Construct, modify or repair a dam;
 - b) Construct, modify or repair a stream obstruction in a designated stream;
 - c) Change the course or cross section of a designated stream; or
 - d) Remove sand or gravel within the bed or banks of a designated stream.
4. A water appropriation permit may also be required for the activities listed in #3 above.
5. K.S.A. 24-126 permits required – permits are required prior to construction for these activities:
 - a) Construct, modify or repair a levee within the floodplain of a designated stream or within a floodplain identified on a federal flood insurance rate map; or
 - b) Place fill within the floodplain of a designated stream or within a floodplain identified on a federal flood insurance rate map.
6. New minor project exemption – The permits listed in #3 above will not be required if the project is limited to a land area measuring less than 25 feet along the stream length, the project obstructs less than five percent of the channel cross section, and floodplain fill outside the channel does not exceed one foot in depth. [82a-301(c)(1)(A)] Exempt project examples include buried pipeline crossings, low water crossings and outfall structures.

7. Revised rural stream obstruction exemption – The permit listed in #3 above will not be required for a stream obstruction that (a) is not a dam, (b) is located in an unincorporated area, (c) has a watershed area of five square miles or less and (d) every part of the obstruction, including any impounded water, is located at least 300 feet from any property boundary. [82a-301(c)(1)(B)] If the obstruction is located within a floodplain identified on a federal flood insurance rate map, a floodplain fill permit may be required depending on the size of the obstruction. A water appropriation permit may be required for the storage or diversion of water.
8. New low hazard dam exemption – The permit listed in #3 above will not be required for construction or modification of a Hazard Class A dam that has a height less than 30 feet and a storage volume at the crest of the auxiliary spillway elevation of less than 125 acre-feet. [82a-301(d)(1)] The location and size of each proposed dam must be reported to DWR to verify the exemption. A water appropriation permit may be required for the storage or diversion of water.
9. New feedlot structure exemption – A permit will not be required for construction or modification of a Hazard Class A dam that is a wastewater storage structure for a confined animal feeding operation that has been approved by KDHE. [82a-301(d)(2)] A water appropriation permit may be required for the storage or diversion of water.
10. Exempt dams in floodplains – If a dam is exempt from a permit as described in #7 or #8 above, but is located within a floodplain identified on a federal flood insurance rate map, a floodplain fill permit will be required.
11. Revised permit application fees – ‘After-the-fact’ permit fees have been eliminated for dams, stream obstructions, channel changes and aggregate removal projects. After-the-fact permit fees are still required for levee and floodplain fill projects started prior to approval of a permit.
12. The application fee for a permit to construct or modify a dam will be \$200.
13. The application fee for a permit to construct or modify a stream obstruction, channel change or aggregate removal operation will be based on watershed area:

Watershed Area	Permit Application Fees
Less than 5 square miles	\$100
5 to 50 square miles	\$200
More than 50 square miles	\$500

14. The application fee for a general permit will be \$100. General permit options are available for bridge replacement projects and small aggregate removal operations. Additional general permit options will be defined in regulations in the future.

This guidance document is effective from this 1st day of May, 2013.


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