

Emergency Watershed Protection (EWP)

Division of Water – Floodplain Compliance Guidance

November 2013

Construction in or along a stream in the Commonwealth requires a permit from the Kentucky Division of Water (DOW). Construction in a floodplain without such a permit is a violation of KRS 151.250 and thereby becomes the responsibility of the Dam Safety and Floodplain Compliance Section. Please note, it is the sponsor's responsibility to obtain all local, state and federal permits for any EWP activity.

The Floodplain permit and the Water Quality Certification (WQC) have a dual application. If a WQC application is submitted, it automatically goes through the Floodplain section.

First Check:

Is the drainage area to the EWP site less than 1 square mile (640 acres)?

- ❖ If yes, the project can be exempt (watersheds less than one square mile are exempt from KRS 151.250) if the project is not a dam or other water impounding structure, and if the project does not pose a threat to life or residential or commercial property.
- ❖ If no, the project is subject to Floodplain Compliance regulations (KRS 151.250).

Note: There is a "Watershed Size" entry on the permit form.

Second Check:

Is the EWP project designated "exigent"?

- ❖ If yes, the project may fall under Division of Water Policy Memorandum 84-001 (*a copy of 84-001 is found at the end of this document*)
 - On the floodplain permit form, under Section 18 – Remarks, have the EWP sponsor state "work was completed as an Emergency Watershed Protection exigent project and falls under DOW Memo 84-001, section B.2."
 - Section B.2 of 84-001 states, in part: "*In case of an emergency, a roadway drainage structure for which a stream construction permit was obtained may be repaired or reconstructed to a configuration other than that provided on the approved permit provided the altered configurations cause less obstruction to flood flows than did the originally permitted structure*".
 - DOW can then determine if the project does comply with Memo 84-001
 - **Note: The sponsor must submit the permit (or provide notification) to DOW Floodplain compliance section within 30 calendar days of project completion!**
- ❖ If no and the project is emergency measure, the permit application must be completed and reviewed by DOW prior to construction.