

§ 143-215.25A. Exempt dams.

(a) Except as otherwise provided in this Part, this Part does not apply to any dam:

- (1) Constructed by the United States Army Corps of Engineers, the Tennessee Valley Authority, or another agency of the United States government, when the agency designed or approved plans for the dam and supervised its construction.
- (2) Constructed with financial assistance from the United States Natural Resources Conservation Service, when that agency designed or approved plans for the dam and supervised its construction.
- (3) Licensed by the Federal Energy Regulatory Commission, or for which a license application is pending with the Federal Energy Regulatory Commission.
- (4) For use in connection with electric generating facilities regulated by the Nuclear Regulatory Commission.
- (5) Under a single private ownership that provides protection only to land or other property under the same ownership and that does not pose a threat to human life or property below the dam.
- (6) **(See Editor's Note)** That is less than 25 feet in height or that has an impoundment capacity of less than 50 acre-feet, unless the Department determines that failure of the dam could result in loss of human life or significant damage to property below the dam.
- (7) **(See Editor's Note)** Constructed for and maintains the purpose of providing water for agricultural use, when a person who is licensed as a professional engineer or is employed by the Natural Resources Conservation Service, county, or local Soil and Water Conservation District, and has federal engineering job approval authority under Chapter 89C of the General Statutes designed or approved plans for the dam, supervised its construction, and registered the dam with the Division of Energy, Mineral, and Land Resources of the Department prior to construction of the dam. This exemption shall not apply to dams that are determined to be high-hazard by the Department.
- (8) That is less than 20 feet in height or that has an impoundment capacity of less than 15 acre-feet, when a qualified engineer who demonstrates to the satisfaction of the Department experience in dam design conducts dam failure analyses based on both storm-induced failure and normal weather geologic, structural, or seismic failure scenarios and determines that the dam is not a high hazard dam.

(b) The exemption from this Part for a dam described in subdivisions (1) and (2) of subsection (a) of this section does not apply after the supervising federal agency relinquishes authority for the operation and maintenance of the dam to a local entity. (1993, c. 394, s. 3; 2009-390, s. 3(a); 2011-394, s. 10(a); 2012-143, s. 1(f); 2013-265, s. 20; 2021-180, s. 12.21.)