

MONTANA'S DAM SAFETY LAW

In 1985, Montana became one of the 43 states that have adopted regulations for construction, operation, and maintenance of high-hazard dams. If you plan to build a new dam or alter an existing dam, either of which impounds 50 acre-feet or more, you must apply for a hazard classification. Exempt from the Dam Safety Act are dams that are owned by the federal government, on federal property, inspected by the Federal Energy Regulatory Commission, included in the mine operating permit issued by the Montana Department of Environmental Quality, or associated with facilities certified under the Major Facility Siting Act.

HAZARD CLASSIFICATION

The owner of a dam first needs to make an estimate of the impoundment capacity at the maximum normal operating pool, which is usually to the crest of the principal or emergency spillway. If the impoundment capacity is 50 acre-feet or more, the owner must apply to the Department of Natural Resources and Conservation for hazard classification.

The determination of hazard involves an evaluation of the area downstream from the dam that would be flooded if the dam fails. If the flood would be likely to cause a loss of life, the dam or reservoir is classified as a high-hazard structure. The hazard classification is based on the potential loss of life downstream and **is not an assessment of the safety of the structure.**

To apply for a dam hazard classification, the owner should write or call any DNRC office and request an application form. A hazard classification will be made within 60 days after a complete application is received by the department.

If it is determined that the dam is a high-hazard dam, a construction permit is necessary before construction. You will also need a dam safety operation permit before storing water. It's a benefit to you to have the dam permitted. According to Montana's Dam Safety Law, once a high-hazard dam is permitted, the dam owner is not--in the absence of negligence--liable for damages resulting from flows of water from the dam or reservoir that exceed the 100-year floodplain. This provision reduces the risk of liability of the owner of a high-hazard dam.

CONSTRUCTION PERMIT

"Construction" includes construction of a new high-hazard dam or a major repair or alteration, enlargement, or removal of an existing high-hazard dam.

An application for a construction permit includes an application form, construction plans and specifications, and an engineering design report. The plans and specifications must be prepared by an engineer experienced in dam design and construction. Within 60 days of receiving a completed application, the department will issue or deny a construction permit.

A construction permit is not required for performing minor and routine repairs or maintenance or emergency repairs on a high-hazard dam or reservoir.

OPERATION PERMIT

An application for an operation permit for a high-hazard dam should include an operation plan and a licensed professional engineer's inspection report of the high-hazard dam. The operation plan should include reservoir operation procedures, maintenance procedures for the dam and appurtenant works, and an emergency procedures and warning plan. Preparation of and adherence to the plan will aid in the safe operation and maintenance of the high-hazard dam. A more detailed description of an operation plan can be found in the administrative rules for dam safety. The inspection, which is the responsibility of the dam owner, must be conducted by a licensed professional engineer. The minimum frequency for inspection is set in your operation permit and is not less than once in five years.

If your existing high-hazard dam is found safe and can be operated and maintained safely as well, an operation permit is issued by the department. Renewal of the operation permit is granted by the department upon completion of satisfactory periodic inspections.

EMERGENCY

During a life-threatening emergency caused by the condition of a dam or a reservoir, or by present or imminent floods that threaten the structural integrity of any dam or reservoir, the owner may proceed with the necessary repairs or breaching **without** the previously described construction permit. The department must be notified immediately of any proposed emergency repairs or breaching to be instituted by the owner. If the owner fails to act, the department may take any action necessary to safeguard life and property. Costs incurred by department action during an emergency must be paid by the owner of the dam or reservoir.

If failure of the dam cannot be averted, call your local sheriff to start evacuation of downstream residents.

CIVIL PENALTY

Failure to comply with a dam safety law, rule, or order is subject to a civil penalty of up to \$1,000 per day.

LAWS, RULES AND FORMS

For a copy of the Montana Dam Safety Act, the administrative rules, or the required forms, contact DNRC, Dam Safety Program, 1424 9th Avenue, PO Box 201601, Helena, MT 59620-1601, phone 406-444-6613.

You may also visit www.dnrc.mt.gov/wrd.