

NEBRASKA

Citation

Laws pertaining to dam safety are located under Chapter 46, Article 2: "Surface Water". Regulations are in Title 457: Rules for Surface Water - Department of Water Resources. Guidelines for dam operations can also be found in "A Guide for Preparing Emergency Preparedness Plans for Dams and Reservoirs".

Definitions/Dam Classification

The laws and rules do not explicitly define the term *dam*.

Dam height shall be measured from the natural bed of the stream or watercourse at the downstream toe of the dam to the top of the dam.

Dam hazard classification is determined according to the potential for loss of life and property damage that would occur should a dam fail. The following dam classes are defined accordingly.

A high hazard dam: A dam located where failure may cause loss of life, or serious damage to homes, normally occupied industrial and commercial buildings, important public utilities, main highways, or major railroads.

A significant hazard dam: A dam located in areas where failure may damage isolated homes, occasionally occupied buildings, main highways, minor railroads or interrupt public utility use or service.

A low hazard dam: A dam located in areas where failure may damage normally unoccupied buildings, undeveloped land, or township and county roads. Source: Rules - Chapter 19.

Jurisdiction/Powers of Department

As defined in the laws, section 46-209, the Department of Water Resources is given jurisdiction over all matters pertaining to water rights for irrigation, power, or other useful purposes except as such jurisdiction is specifically limited by statute.

The Department may adopt rules governing matters coming before it and seek judicial remedies to enforce these rules.

Section 46-277 of the laws empowers the Department to make inspections of dams with a storage capacity of fifty acre-feet or more below the top of the dam or a height of twenty-five feet or more.

Section 46-241 requires any person intending to construct and operate a storage reservoir to make an application to the Department upon a prescribed form. In addition, 46-241 states that the owner is responsible for the safety of the dam.

In the event of an emergency, the Department, along with other governmental agencies, assists in the implementation of the Emergency Preparedness Plan.

Section 46-277 gives the Department the right to call for remedial work, to enter a facility at any reasonable time, and to cite non-compliance with the laws and regulations.

Permit/Approval Process

Section 46-241 requires any person intending to construct and operate a storage reservoir for irrigation or any other beneficial purpose to make an application to the Department of Water Resources upon a form prescribed and furnished to the applicant without cost. Such application is filed and the proceedings that follow adhere to the same rules and regulations of other applications.

Section 46-257 of the law states that any person intending to construct any dam for any purpose, must submit plans, drawings, and specifications of the same to the Department for approval. Design plans must bear the stamp of a registered professional engineer (Rules Ch. 12.003.08).

Persons intending to construct a low-hazard dam less than twenty-five feet high with an impounding capacity of less than 15 ac-ft below the crest of the lowest open outlet or overflow and with a total storage capacity below the top of the dam of less than fifty acre-feet are exempt from this provision.

Spillway design specifications are found in the Guide for Preparing E.P.P. for Dams and Reservoirs Part II. The stated specifications are recommended by the Department; not required by law.

Remedial work is paid for by the owner, per 46-277. There is no reference in the laws or regulations pertaining to bonding requirements or filing fees.

Inspection Process

Section 46-277 requires the owner of any dam with an impounding capacity of fifty ac-ft or more or a height of twenty-five feet or more to keep the dam in a state of repair. Owner inspection recommendations can be found in the Guide (page 55). The Department may conduct inspections, when the Director determines it necessary, of dams with an impounding capacity of 15 ac-ft or more.

The laws do not require that the inspections be conducted by a licensed engineer. There is no reference to inspection frequency or inspection fees.

Violations/Penalties

Any owner or owners of a dam who neglect or refuse to repair the dam within three months after receiving written notice from the Director of Water Resources to do so, shall be guilty of a Class V misdemeanor, and every day that the owner or owners neglect or refuse to repair the dam, after the three months has expired, shall be considered a separate offense (46-278).

Emergencies

Emergency procedures are clearly stated in the Guide for Preparing Emergency Preparedness Plans for Dams and Reservoirs. Emergency Preparedness Plans are required for all high hazard dams and some significant hazard dams. EPPs are required per the Rules Chapter 12-005.

Liability

Section 46-241 (2) of the law states that the owner shall be liable for all damages arising from leakage or overflow of the water therefrom, or from the breaking of the embankment of such reservoir.

Oversight

The Department has authority to call for public hearings upon complaints, petitions, or applications in connection with any matters under its jurisdiction.

Miscellaneous

Persons desiring to construct dams who are unable to agree with the owner or claimant of any lands necessary to be taken for the site of any such works or any part thereof, touching the compensation and damages, shall be entitled to condemn the right-of-way over or through the lands of others, for any and all such purposes (46-246).