

dike, or other hydraulic structure or works, the failure of which the Water Resources Commission finds would result in damage to life or property, unless the commission has made an examination of the site and of the plans and specifications and other features involved in the construction of such works, and has approved them in writing.

(2) When a person, firm or private or municipal corporation seeks the written approval of the Water Resources Commission, of the site, plans, specifications and features for a dam more than 25 feet high at a site where there is an average annual flow exceeding two cubic feet a second, that party must demonstrate that the dam includes measures that make it readily adaptable to power generation in a manner meeting statutory requirements for the safe passage of fish. These measures shall include the installation of a pressure conduit, penstock, drain or similar water diversion system at the time the dam is built.

(3) A person, firm or private or municipal corporation seeking approval for a dam described in subsection (2) of this section need not make the showing required by that subsection if that party demonstrates to the commission's satisfaction that:

(a) It is not likely the installation of hydroelectric generating facilities at the proposed site would be feasible anytime during the life of the proposed dam; or

(b) It would be more feasible to install hydroelectric facilities after construction of the proposed dam.

(4) The commission's approval of the site, plans and specifications, or other features involved in the construction, maintenance and operation of any hydraulic works whatsoever shall not relieve the owners of their legal responsibilities.

(5) The commission may make inspections of any hydraulic structure, the site thereof, and of the plans and specifications, and any other features involved in the construction, maintenance and operation of the works. If, as a result of the inspections, the commission considers any modifications necessary to insure the safety of the works with reference to possible damage to life or property, the commission shall notify the legal owners by registered mail or by certified mail with return receipt, stating why the works are unsafe. The notice shall set forth the modifications necessary to insure the safety of the works in so far as it affects possible damage to life or property. The notice also shall set a hearing at a time and place as will give the owners a reasonable time to prepare for the hearing. [Amended by 1981 c.210 §1; 1985 c.673 §88; 1991 c.249 §51]

540.353 Emergency action plans for dams with high hazard ratings; inspections. (1) As used in this section:

(a) "Emergency action plan" means a plan that assists a dam owner or operator and the local emergency manager to perform actions to ensure human safety in the event of a potential or actual failure of a dam or a sudden release of water.

(b) "High hazard rating" means that the Water Resources Department expects loss of human life to occur if a dam fails.

(2) Except as provided in subsection (6) of this section, the department shall require the owner or operator of a dam with a high hazard rating to develop an emergency action plan for the dam. The emergency action plan must include, but need not be limited to:

(a) Means for emergency condition detection;

(b) Means for emergency level determination;

(c) Identification of, and information necessary for, the notifications and communications to be made at each level of emergency condition;

(d) A description of actions expected to be undertaken to prevent dam failure or reduce the effects of dam failure;

(e) A map of the dam failure inundation zones for varying conditions, including but not limited to dry weather conditions and high flood conditions; and

(f) Procedures to be followed at termination of an emergency.

(3) An owner or operator of a dam with a high hazard rating shall file copies of the emergency action plan for the dam with the department, the Office of Emergency Management and the local emergency services agency for the county where the dam is located. The department, in consultation with the office and local emergency services agency, shall periodically review and require updates to the emergency action plan.

(4) The department, in consultation with the office and local emergency services agency, shall determine the frequency for the conducting of emergency response exercises at a dam with a high hazard rating.

(5) The department shall inspect a dam with a high hazard rating annually, unless the department determines that a different inspection schedule is appropriate.

(6) This section does not apply to a dam that is regulated under the dam safety program of a federal agency. [2017 c.723 §2]

Note: 540.353 was added to and made a part of ORS chapter 540 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.