

Note: Section 3, chapter 723, Oregon Laws 2017, provides:

Sec. 3. (1) As used in this section, “emergency action plan” and “high hazard rating” have the meanings given those terms in section 2 of this 2017 Act [540.353].

(2) A dam constructed prior to the effective date of this 2017 Act [January 1, 2018] that has a high hazard rating shall have an emergency action plan filed as required in section 2 of this 2017 Act no later than one year after the effective date of this 2017 Act. [2017 c.723 §3]

540.355 Inspection, evaluation and assessment of levees. (1) In lieu of the authority granted to the Water Resources Commission under ORS 540.350 (5), the Water Resources Department may inspect, evaluate and assess the condition of a levee with the permission of the owner of the levee.

(2) In performing the actions under subsection (1) of this section, the department may:

(a) Provide recommendations and technical assistance;

(b) Advise on necessary maintenance and repairs;

(c) Require or assist with the development of emergency action plans to ensure the safety of life and property;

(d) Undertake activities necessary to identify the owner of a levee;

(e) Assist with mapping the locations of levees;

(f) Enter into contracts and intergovernmental agreements;

(g) Accept and receive moneys;

(h) Accept and receive payment for services performed; and

(i) Exchange information and perform other actions as necessary to cooperate with private, local, state and federal entities.

(3) The department’s actions under this section shall not relieve the owners of levees of their legal liabilities and responsibilities. [2015 c.667 §5]

Note: 540.355 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.

540.360 Order to modify. After the hearing the Water Resources Commission may issue a written order to the owners to make such modifications as the commission considers necessary to insure the safety of the works with reference to possible damage to life or property and shall fix the time within which work shall begin in good faith and the time for completion. The owners, upon receipt of the order, shall make the modifications ordered within the time limit prescribed or shall initiate an appeal as above provided. [Amended by 1975 c.581 §26a; 1981 c.210 §2; 1985 c.673 §89]

540.370 Enforcing compliance with order or decree. (1) If the owners fail to make the modifications within the time limits set by the Water Resources Commission, or to institute their appeal or to comply with the decree of the appellate court in case an appeal is taken, the commission shall issue an order in writing to the owners directing that the gates be kept open, or an opening made in the dam if necessary, or that the structure shall not be used for the storage, restraint or conveyance of water until the modifications have been made.

(2) No owner shall refuse to comply with the orders of the commission or the decree of an appellate court.

(3) In case of noncompliance, the commission shall direct the watermaster or other authorized assistant to carry out the orders, or the commission may file a copy of the commission’s order with the Attorney General or with the district attorney of the county within which the works are located. The Attorney General or district attorney shall bring proceedings in the name of the state, in the circuit court of the county within which the works or any part thereof are situated, to abate the offending works. The court, after a full hearing on the matter, may declare the works a nuisance and order their removal, or order any repairs or alterations, and may enforce its orders in the manner provided by law. [Amended by 1985 c.673 §90]

540.380 Reports of consultants; payment. The Water Resources Commission may accept the reports of consulting engineers, geologists or other specialists whom the owners of the works in question may have employed. But if, for any reason, the commission considers the reports insufficient, the commission may employ consulting engineers, geologists or other specialists outside the Water Resources Department to make special examinations and inspections and to prepare reports for the commission’s guidance. The cost of such special examinations, inspections and reports shall be paid by the commission from any funds at the commission’s disposal, or it may be divided by mutual agreement between the state and the owners. [Amended by 1985 c.673 §91]

540.390 Inspection of dam, dike or hydraulic structure; expenses; deposit by applicant; payment by owner of works; lien. Should any person residing on or owning land in the neighborhood of any dam, dike or other hydraulic structure after completion, or in course of construction, apply to the Water Resources Commission in writing desiring an inspection of the works, the commission may order an inspection, or the commission may make such order on the