



Dam Safety Fact Sheet

Responsibility of Owners

STATE OF WISCONSIN • DEPARTMENT OF NATURAL RESOURCES • BUREAU OF WATERSHED MANAGEMENT

OWNING A DAM IN WISCONSIN

- DAM OWNERS MAY BE RESPONSIBLE FOR INJURIES, DEATH OR DAMAGES CAUSED BY THEIR DAMS
- SAFE DAMS PROTECT DAM OWNERS AND REDUCE OWNER LIABILITY
- THE PUBLIC AND THE RESOURCES BENEFIT FROM SAFE DAMS

Dam ownership carries significant legal responsibility. The dam owner must be aware of that responsibility and how to conscientiously deal with it. This fact sheet addresses general legal matters to help you, as the owner of a dam in Wisconsin, minimize exposure to liability due to ownership and/or operation. This fact sheet is intended to provide general guidance and is not intended to answer specific legal questions, nor should it be considered legal advice or counsel. Dam owners and operators are encouraged to obtain competent legal counsel when dealing with specific issues. Further information is available on our web pages: <http://dnr.wi.gov/topic/dams>.

LIABILITY: A dam owner must first be familiar with the legal obligation to maintain a dam in a safe and reasonable condition. The general rule is that a dam owner is responsible for its safety, and liability can be imposed upon a dam owner for failure to maintain, repair or operate the dam in a safe and proper manner. State law requires that an owner have a permit to construct, repair and/or operate a dam. Additional state or federal regulations for operation may apply if the dam is located on a navigable stream.

Dams create risk. The great energy stored in the water behind a dam can cause injuries and damage in the event of a dam failure. In addition to failure, dams can be hazardous to unwary boaters or adventurous children, who may try to go on, over or through the dam. Owners of dams must be responsible for maintaining a dam in a safe condition to reduce the risk a dam creates.

INSPECTION: Inspection is an integral part of proper maintenance for a dam. An owner is required to regularly inspect all parts of a dam, from the spillway to the embankments, from upstream to downstream and side to side. An owner of a large dam is also required to hire an engineer registered in the State of Wisconsin to inspect the dam on a schedule established by the Department based on the hazard rating for the dam. A high hazard dam must be inspected every two years and a significant hazard dam must be inspected every 3-4 years. Low hazard dams must be inspected every 10 years. Our web pages have information about the inspection requirements and schedules, as well as how to hire an engineering consultant and what the inspections and reports should cover.

ALTERATIONS OR ADDITIONS: Modifications to a dam will require input from the DNR regional Water Management Engineer. Minor repairs that do not affect the structural integrity or hydraulic capacity of the dam are often approved with minimal paperwork, but most repairs, alterations and reconstructions require submittal of plans and specifications for review and formal approval prior to start of work. Alterations and additions include raising or enlarging the dam, creating or removing a spillway, or adding hydroelectric power generation facilities to an existing dam. Ch. 31.12, Wisconsin State Statutes, and Ch. NR 333, Wisconsin Administrative Code, provide standards for plans and specifications for construction of large dams. Please see our web pages for links to these and other pertinent documents.

BUYING OR SELLING PROPERTY WITH A DAM (DAM TRANSFER): Both the seller of property on which a dam is located, and the buyer of the property, must cooperate to complete a dam transfer application. An inspection is required prior to transferring the property and dam, as well as any repairs needed to bring the

dam into compliance with safety standards. The buyer must show financial capability to maintain the dam and a permit may be required. Realtors, attorneys, and lenders are required by law to advise clients of these requirements. If dam transfer requirements are not met, the real estate transaction may be nullified.

EMERGENCY ACTION PLAN/INSPECTION, OPERATION & MAINTENANCE PLAN: An Emergency Action Plan (EAP) is required for the area downstream of the dam. This plan identifies affected downstream properties and resources available for responding to an emergency situation. It is required so that during flooding or imminent failure of the dam, a series of well-planned steps can guide the owner, operator, and emergency workers through a process to minimize the potential for loss of life or property damage.

An Inspection, Operation and Maintenance Plan (IOM) is required for all large dams in the State of Wisconsin. This plan should include water level orders and specifications, an operation schedule, a maintenance schedule, and the current names and telephone numbers of the operators and key people in the county and local municipalities. Maintenance should include all areas identified on the "Dam Inspection Checklists" which are used to inspect the dam.

Examples and templates of both the EAP and the IOM are available on the dam safety web pages. We also have fact sheets available to provide more detail about EAPs and IOMs.

LEVELS AND FLOWS: As a dam owner, you are responsible for maintaining the pool elevation behind your dam within authorized levels. If no formal levels have been established, you must hold the pool at the historically maintained level. State law requires a minimum release of water through a dam, and in some cases a specific minimum flow rate has been established to protect fish and water quality. If a minimum flow has been established for your dam, you are responsible for meeting this requirement.

If water level complaints are received by the department, the DNR may hold a hearing to determine the appropriate minimum and maximum levels for the flowage.

DAM ABANDONMENT AND REMOVAL: A DNR permit is required before you abandon your dam. A dam abandonment permit will be issued with conditions that require dam removal, and in most cases allows the public to comment on the application and environmental impacts of the removal. This permit and public process works to preserve any rights which may have been acquired on the flowage by riparian owners or the public, and to ensure minimum removal standards.

Dam abandonment and removal is a viable option for owners faced with potential major repairs to their dams. Dam removal has been found to be much less expensive to an owner than repair or reconstruction of a dam, and many owners are choosing to restore the streams to their pre-dam condition by removing aged structures. We have much additional information about dam abandonment and removal on our web pages, including case histories of recent dam removals and links to resources for help with funding dam removals.

SUMMARY: The DNR seeks to promote safe dams and prevent dam failures through inspections, voluntary maintenance by dam owners, and repair orders when necessary. Owning, maintaining and operating a dam are complex processes and most owners need guidance and education to understand their responsibility to reduce risk.

For more information on dam safety either go to the [WDNR Dam Safety Program website](http://dnr.wi.gov/topic/dams/): <http://dnr.wi.gov/topic/dams/> or write to:

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