

Some Interesting Dam Safety Regulations and Applicability to Dam Removals

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(Sandra J. Milburn/The Hutchinson News) Jerry and Georgia McGonigle didn't know responsible for anywhere from \$900,000 to more than \$1 million in dam rehabilitation, lake's edge.

Hutchinson homeowners surprised with \$900,000 bill for dam

Mountain Lake Dam, Chicopee, MA











Whittenton Pond Dam, Taunton, MA





Massachusetts Town Center Evacuated Over Dam Break Fears

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Officials still fear dam collapse

Break in Massachusetts could leave town under 8 feet of water

TAUNTON, Massachusetts (CNN) -- Water pouring through a 173-year-old wooden dam protecting Taunton has placed increasing strain on the structure, and officials said Tuesday they fear it could collapse.

"If the dam were to break ... we will see rising floodwaters in downtown Taunton," Mayor Robert Nunes told reporters. "We are monitoring the situation minute-by-minute."



NY Dam Ownership Transfer

New York Dam Safety Regulations Part 673

673.11 Notices of Property Transfer

(for dams > 15 feet high or > 3 million gallon impoundment):

- (1) Prior to the signing of a contract of sale ... the dam owner shall **provide the prospective buyer** or transferee **a materially complete narrative description of the dam** and its appurtenant works, and the specific location (latitude and longitude) thereof.
- (2) Notice of Turnover of Records by Seller or Transferor. No later than the date of transfer of the property or rights therein, the dam owner shall **provide the buyer** or transferee with **copies of all records** that are and were subject to the recordkeeping requirements of this Part. The records shall be accompanied by a certification, signed in accordance with section 673.8(d) of this Part, that all available records required by this Part to be maintained for said dam have been turned over.
- (3) Notice by Buyer or Transferee. No later than the date of transfer of the property or rights therein, the dam owner who is the buyer or transferee shall **send written notification of the property transfer** to both (i) the department's Dam Safety Section, and (ii) the municipality or municipalities in which the dam is located. The notification shall: describe the dam and its appurtenant works; provide the location (latitude and longitude) of the dam; and include a certification, signed in accordance with section 673.8(d) of this Part, as to the name(s), mailing address(es), and a telephone number capable of contacting the dam owner(s) who is the buyer or transferee.

WI Dam Ownership Transfer

Wisconsin Statutes Chapter 31: Regulation of Dams and Bridges Affecting Navigable Waters

31.14 (3) (b) the applicant...will not convey the dam to another without first obtaining department approval.

MA Privatizing Dam Safety

MA CMR 302 10.07: Dam Inspections

- (2) The owner shall periodically inspect all dams in accordance with the following schedule...(every two years for high hazard, every 5 years for significant hazard, and every ten years for low hazard). High and Significant Hazard potential dams whose condition are determined to be poor and/or emergency by formal inspection must be inspected and reported on at least every six months by a registered professional engineer employed by the owner until the dam safety repairs are completed and the dam is found to be in satisfactory condition. Any dam determined to be in an unsafe condition must be monitored at frequencies assuring the safety of the public. Updates on the condition of the dam shall be provided by a registered professional engineer to the Office of Dam Safety and local emergency management officials until the dam is made safe.
- (6) The owner shall employ the services of a registered professional engineer experienced in the design, construction and inspection of dams, to inspect the owner's dam according to the inspection schedules...
- (7) The owner shall furnish a copy of each completed inspection report in a format determined by the Commissioner within 30 days of the inspection to the Commissioner.
- (9) The owner must submit a statement of his or her intent to implement such recommendations of the registered professional engineer, if required.

NH registration costs help fund the dam safety office

New Hampshire Law Chapter 482

Section 482:8(a): Annual Registration Fee.

Annual registration fees for dams shall be payable to the department on January 1 of each calendar year. Yearly dam registration fees shall be based on classification as follows: Low hazard potential = \$400; Significant hazard potential = \$750; High hazard potential = \$1,500.

(d) Notices sent pursuant to (b) and (c), above, shall include whatever information the department has relative to the tax map and lot number of the dam and the volume and page number of the deed to the dam and to the property on which the dam is located, if different. At the time of paying the annual registration fee, **the owner shall confirm or, if necessary, provide or correct the information.**

WI: Others can purchase dam proposed for removal

Wisconsin Statutes Chapter 31: Regulation of Dams and Bridges Affecting Navigable Waters

31.185 Dam abandonment and 31.253 Dam removal

Owners cannot abandon, remove, alter or transfer ownership of a dam without a permit. If there is an objection to the application for a permit the department will wait 120 days and then grant or deny the permit unless a municipality or person agrees to buy the dam and provides proof of ability to maintain the dam according to 31.14 (2) or (3).

WI Proof of Ability to Maintain Dam

Wisconsin Statutes Chapter 31:

31.14 Proof of ability to maintain dams required.

(2) Except as provided in sub. (3), a permit shall not be granted under s. 31.06, 31.08 or 31.13: (a) Unless the applicant furnishes to the department proof of ability to operate and maintain the dam in good condition, either by the creation of a special assessment district under ss. 31.38 and 66.0703, or by any other means which in the department's judgment will give reasonable assurance that the dam will be maintained for a reasonable period of time not less than 10 years...

WI: Financial assurance for removal at construction/reconstruction

Wisconsin Regulations NR 333

333.09 Financial assurance.

(1)(a) Except as provided in par. (b), the owner of a dam shall file a bond, escrow account, lien or other financial assurance satisfactory to the department prior to the commencement of construction or reconstruction of the dam. The amount of such financial assurance **shall equal the estimated cost of removing the dam and restoring the stream channel** to its natural condition or the cost of constructing or reconstructing the dam, whichever is less, based on the cost estimate submitted by the owner under s. NR 333.05 (3).

(b) Where the owner is a state or interstate agency or a city, county, village, special purpose district or other unit of government, financial assurance is not required if the owner demonstrates to the department's satisfaction that it has made or will make sufficient funds available to construct or reconstruct the dam or to remove the dam and restore the stream channel to its natural condition, whichever is less expensive.

MA can fine violations every day

MA 302 CMR Dam Safety 10.15 Schedule of Fees and Fines

(4) Fines for Non-compliance with the Following Requirements (but not necessarily limited to):

- (a) Failure to register a dam with the Office of Dam Safety and the Registry of Deeds will result in fines up to \$500.00.
- (b) Failure to notify the Office of Dam Safety of the transfer of a dam from one owner to another will result in fines up to \$500.00.
- (c) Failure of the owners of "HIGH HAZARD POTENTIAL" dams and newly constructed "SIGNIFICANT HAZARD POTENTIAL" dams to provide up to date EMERGENCY ACTION PLANS to the Office of Dam Safety and the Massachusetts Emergency Management Agency will result in fines up to \$500.00.
- (d) Failure of the owners to comply with the conditions of a Chapter 253 Dam Safety Permit will result in fines up to \$500.00.
- (e) Failure of the owners to provide the Office of Dam Safety with an Inspection Report that is in compliance as to content and frequency of inspection as provided for in 302 CMR 10.00 will result in fines up to \$500.00.
- (f) Failure of an owner to obtain a Chapter 253 Dam Safety Permit prior to performing any dam work such as alteration, breach, removal or substantial repairs will result in fines up to \$500.00.

Each violation shall be a separate and distinct offense and, in case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense.

WI: Existing dams must meet hydraulic capacity requirements

Wisconsin Regulations NR 333

333.04 Compliance schedules.

- (2)(a) *New dams.* The design and construction of all new dams shall be in compliance with the requirements of this chapter.
- (b) *Existing dams.* The owners of all existing dams shall bring their dams into compliance with the requirements of this chapter within 10 years after being notified of the dam's hazard rating pursuant to sub. (1), unless ordered to do so earlier under s. 31.19 (5), Stats.

333.07

- (2) all proposed and existing dams shall have the minimum hydraulic capacity shown:

Hazard Rating	Minimum Principal Spillway Capacity	Minimum Total Spillway Capacity
Low	Q10	Q100
Significant	Q50	Q500
High	Q100	Q1000