IC 14-27-7.5

Chapter 7.5. Regulation of Dams

IC 14-27-7.5-1

Applicability

Sec. 1. This chapter does not apply to the following:

(1) A structure that meets the following conditions:

(A) Is built for the sole purpose of erosion control, watering livestock, recreation, or providing a haven or refuge for fish or wildlife.

(B) Has a drainage area above the dam of not more than one (1) square mile.

(C) Does not exceed twenty (20) feet in height.

(D) Does not impound a volume of more than one hundred (100) acre-feet of water.

(2) A structure that is regulated under the federal Mine Safety and Health Act of 1977, unless the structure is proposed to be retained as a permanent structure after bond release.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-2

"Hazard classification"

Sec. 2. As used in this chapter, "hazard classification" means a rating assigned to a structure by the department based on the potential consequences resulting from the uncontrolled release of its contents due to a failure or misoperation of the structure.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-3

"Height"

Sec. 3. As used in this chapter, "height" means the vertical dimension of a structure as measured from the lowest point in the natural streambed or watercourse under the centerline of the structure to the top of the structure.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-4

"Owner"

Sec. 4. As used in this chapter, "owner" means an individual, a firm, a partnership, a copartnership, a lessee, an association, a corporation, an executor, an administrator, a trustee, the state, an agency of the state, a municipal corporation, a political subdivision of the state, a legal entity, a drainage district, a levee district, a conservancy district, any other district established by law, or any other person who has a right, a title, or an interest in or to the property upon which the structure is located.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-5

"Structure"

Sec. 5. As used in this chapter, "structure" means a dam and its appurtenant works.
As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-6
"Volume"
Sec. 6. As used in this chapter, "volume" means the amount of water that is impounded by a structure:
(1) at or below the elevation of the top of the structure; or
(2) at or below the maximum design flood pool elevation;
whichever is lower.
As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-7
Maintenance, repair, and sale; duties of owner
Sec. 7. (a) The owner of a structure shall maintain and keep the structure in the state of repair and operating condition required by the following:
(1) The exercise of prudence.
(2) Due regard for life and property.
(3) The application of sound and accepted technical principles.
(b) The owner of a structure shall notify the department in writing of the sale or other transfer of ownership of the structure. The notice must include the name and address of the new owner of the structure.
As added by P.L.148-2002, SEC.15. Amended by P.L.71-2004, SEC.13.

IC 14-27-7.5-8
Powers and duties of department; hazard classifications
Sec. 8. (a) The department:
(1) has, on behalf of the state, jurisdiction and supervision over the maintenance and repair of structures in, on, or along the rivers, streams, and lakes of Indiana;
(2) shall exercise care to see that the structures are maintained in a good and sufficient state of repair and operating condition to fully perform the intended purpose;
(3) shall grant permits for the construction and operation of structures in, on, or along the rivers, streams, and lakes of Indiana;
(4) may adopt rules under IC 4-22-2 for permitting, maintenance, and operation that are necessary for the purposes of this chapter; and
(5) may vary the standards for permits, maintenance, and operation, giving due consideration to the following:
(A) The type and location of the structure.
(B) The hazards to which the structure is or may be exposed.
(C) The peril to life or property if the structure fails to perform the structure's function.
(b) The department shall establish by rule the criteria for assigning a hazard classification to a structure that is based on the

potential consequences resulting from the uncontrolled release of the structure's contents due to a failure of the structure. The hazard classification system must include the following classes of structures:

(1) High hazard: A structure the failure of which may cause the loss of life and serious damage to homes, industrial and commercial buildings, public utilities, major highways, or railroads.

(2) Significant hazard: A structure the failure of which may damage isolated homes and highways, or cause the temporary interruption of public utility services.

(3) Low hazard: A structure the failure of which may damage farm buildings, agricultural land, or local roads.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-9

High hazard structures; inspections; report; duty to make repairs or alterations; notice of violation

Sec. 9. (a) The owner of a high hazard structure shall:

(1) have a professional engineer licensed under IC 25-31 make an engineering inspection of the high hazard structure at least one (1) time every two (2) years;

(2) submit a report of the inspection in a form approved by the department to the department. The report must include at least the following information:

(A) An evaluation of the structure's condition, spillway capacity, operational adequacy, and structural integrity.

(B) A determination of whether deficiencies exist that could lead to the failure of the structure, and recommendations for maintenance, repairs, and alterations to the structure to eliminate deficiencies, including a recommended schedule for necessary upgrades to the structure.

(b) If after an inspection under subsection (a) the licensed professional engineer who conducted the inspection determines that maintenance, repairs, or alterations to a high hazard structure are necessary to remedy deficiencies in the structure, the owner shall perform the recommended maintenance, repairs, or alterations.

(c) The department shall issue a notice of violation under section 11 of this chapter to the owner of a high hazard structure who fails to:

(1) have the structure inspected under subsection (a);

(2) perform recommended maintenance, repairs, or alterations to the structure under subsection (b); or

(3) biennially submit the inspection report prepared under subsection (a).

(d) The department may make an engineering inspection of a high hazard structure to ensure compliance with this chapter.

As added by P.L.148-2002, SEC.15. Amended by P.L.1-2003, SEC.60; P.L.186-2003, SEC.72.

IC 14-27-7.5-10

Significant and low hazard structures; inspections; reports; fees

Sec. 10. (a) The department shall make an engineering inspection of:

(1) a significant hazard structure at least one (1) time every three (3) years; and

(2) a low hazard structure at least one (1) time every five (5) years;

or at more frequent intervals if the exigencies of the case require.

(b) The department shall place in the files of the department a report of each inspection conducted under subsection (a).

(c) The department shall charge the following for engineering inspections:

(1) For a significant hazard structure under subsection (a)(1), a fee of two hundred dollars ($200).

(2) For a low hazard structure under subsection (a)(2), a fee of one hundred dollars ($100).

As added by P.L.148-2002, SEC.15. Amended by P.L.186-2003, SEC.73.

IC 14-27-7.5-11

Notice of violation

Sec. 11. If the department finds that a structure is:

(1) not sufficiently strong;

(2) not maintained in a good and sufficient state of repair or operating condition;

(3) not designed to remain safe during infrequent loading events; or

(4) unsafe and dangerous to life and property;

the department may issue a notice of violation under IC 14-25.5-2.

As added by P.L.148-2002, SEC.15. Amended by P.L.71-2004, SEC.14.

IC 14-27-7.5-12

Emergency measures to protect life and property

Sec. 12. (a) If at any time the condition of a structure becomes so dangerous to the safety of life and property that, in the opinion of the department, there is not sufficient time for the issuance and enforcement of an order for the maintenance, alteration, repair, reconstruction, change in construction or location, or removal of the structure in the manner provided in this chapter, the department may immediately take the measures that are essential to provide emergency protection to life and property, including the lowering of the water level by releasing water or by a controlled breach of the structure.

(b) The department may recover the cost of the emergency measures from the owner by appropriate legal action.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-13

Violations

Sec. 13. An owner who knowingly fails to effect the maintenance, alteration, repair, reconstruction, change in construction or location, or removal within the time limit set forth in the notice of violation of the department under:

(1) section 11 of this chapter; or

(2) IC 13-2-20-4 (before its repeal);

commits a Class B infraction. Every day of failure constitutes a separate infraction.

As added by P.L.148-2002, SEC.15. Amended by P.L.71-2004, SEC.15.

IC 14-27-7.5-14

Right of entry upon premises

Sec. 14. The department and the department's agents, engineers, geologists, and other employees may, for purposes of determining the department's jurisdiction and performing the engineering inspections provided in sections 9 and 10 of this chapter, enter upon any land or water in Indiana without liability for trespass. The owner of a structure shall do the following:

(1) Cooperate with the department and the department's agents, engineers, geologists, and other employees in the conduct of the inspections.

(2) Facilitate access to the structure.

(3) Furnish upon request the plans, specifications, operating and maintenance data, or other information that is pertinent to the structure.

As added by P.L.148-2002, SEC.15. Amended by P.L.186-2003, SEC.74.

IC 14-27-7.5-15

Exemption of department from liability

Sec. 15. This chapter does not create a liability for damages against the department or the department's officers, agents, and employees caused by or arising out of any of the following:

(1) The construction, maintenance, operation, or failure of a structure.

(2) The issuance and enforcement of a notice of violation or a rule issued by the department to carry out the department's duties.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-16

Request to have structure declared high hazard; notice

Sec. 16. (a) A property owner, the owner's representative, or an individual who resides downstream from a structure:

(1) over which the department does not have jurisdiction under this chapter; and

(2) that the property owner, the owner's representative, or the individual believes would cause a loss of life or damage to the person's home, industrial or commercial building, public utility,

major highway, or railroad if the structure fails;

may request in writing that the department declare the structure a high hazard structure.

(b) If the department receives a request under subsection (a), the department shall:

(1) investigate the structure and the area downstream from the structure;

(2) notify the owner of the structure that the structure is being investigated;

(3) review written statements and technical documentation from any interested party; and

(4) after considering the available information, determine whether or not the structure is a high hazard structure.

(c) The department shall issue a written notice of the department's determination under subsection (b) to:

(1) the individual who requested the determination; and

(2) the owner of the structure that is the subject of the request.

(d) Either:

(1) the individual who requested a determination; or

(2) the owner of the structure that is the subject of the request;

may request an administrative review under IC 4-21.5-3-6 within thirty (30) days after receipt of the written determination.

(e) If the department determines that a structure is a high hazard structure under subsection (b), the provisions of this chapter concerning high hazard structures apply to the structure.

As added by P.L.71-2004, SEC.16.