

This is an unoffical copy of the rules and regulations.
The official rules are contained in the Oklahoma Administrative Code, maintained by the:

Secretary of State Office of Administrative Rules
2401 North Lincoln Boulevard, Room 220, Will Rogers Building
P.O. Box 53390
Oklahoma City, OK, 73152-3390
(405) 521-4911

**TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 25. DAMS AND RESERVOIRS**

Introduction:

This document contains permanent amendments to Chapter 25 adopted by the Oklahoma Water Resources Board that are effective September 11, 2020. Also, this document was prepared by Oklahoma Water Resources Board staff as a convenience to the reader, and is not a copy of the official Title 785 of the Oklahoma Administrative Code. The rules in the official Oklahoma Administrative Code control if there are any discrepancies between the Code and this document.

SUBCHAPTERS

- Subchapter 1. General Provisions
- Subchapter 3. Responsibility, Classification and Design Standards
- Subchapter 5. Applications and Approval of Construction
- Subchapter 7. Post Approval Actions
- Subchapter 9. Actions After Construction
- Subchapter 11. Administrative Penalties and Procedures
- Appendix A. Jurisdiction of Board by Size and Hazard Classification

SUBCHAPTER 1. GENERAL PROVISIONS

SECTION

- 785:25-1-1. Purpose
- 785:25-1-2. Definitions
- 785:25-1-3. Violations and penalties
- 785:25-1-4. Variances and waivers

785:25-1-1. Purpose

The rules of this Chapter on reservoir requirements and safety of dams set forth minimum standards for construction and maintenance of dams based on size and hazard classification, application requirements for approval of plans and specifications, and inspection requirements. These rules are adopted pursuant to 82 O.S. 1981, §§105.27,110.1 et seq. (Oklahoma Dam Safety Act) and 1085.2(7), and Public Law 92-367, 92nd Congress, H.R. 15951, approved August 8, 1972 (33 U.S.C. 467 et seq.). Under no circumstances shall the rules in this Chapter be construed to deprive or limit the Oklahoma Water Resources Board of any exercise of powers, duties, and jurisdiction conferred by law nor to limit or restrict the amount or character of data or information which may be required from any owner of any dam for the proper administration of the law.

785:25-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Agriculture-exempt dam" means a low hazard potential dam which is less than 25 feet in height, has a normal storage capacity of less than 100 acre-feet of water that will be used primarily for agriculture purposes as defined in 785:20-1-2, and was or will be designed or

constructed with the assistance of a local conservation district or federal agriculture related agency [82:110.5].

"Alteration" means only such alteration as may affect the safety of a dam or reservoir.

"Application" means a formal request to the Board and the first step required by law to acquire the right to perform or engage in activities regulated by the Board.

"Board" means and refers to the Oklahoma Water Resources Board or any employee or agent or staff member thereof.

"Breach" means an unintentional opening through a dam that allows the uncontrolled draining of a lake or reservoir.

"Breach analysis" means an engineering analysis to determine the area that would be inundated by the failure of a dam.

"Controlled breach" means a constructed opening through a dam to drain or partially drain a lake or reservoir.

"Dam" means any artificial barrier, together with appurtenant works, which does or may impound or divert water.

"Decommission" means to render a dam incapable of impounding water by breaching the dam embankment in such a manner that water cannot be stored or impounded, to stabilize the sediment in the lake bed and remaining embankment with grass or other vegetation to prevent erosion and control sediment, and to restore the stream channel to natural conditions.

"Enlargement" means any change in or addition to an existing dam or reservoir which raises or may raise the water storage elevation of the water impounded by the dam or reservoir.

"Failure" with respect to a dam means any uncontrolled release of water.

"Gully plug" means any grade stabilization structure that has less than five acre-feet of water storage available below the principal spillway elevation and less than 50 acre-feet of storage volume below the emergency spillway elevation.

"Interested party" means party.

"Loss of human life" means the human fatalities that would result from a failure of the dam, excluding the occasional passer-by or recreationist and without considering evacuation or other emergency actions.

"Maximum storage" means the amount of water which may be stored behind a dam with the lake level at the top of the dam embankment.

"Notice by publication" means unless otherwise specifically provided, publication in a daily or weekly newspaper of general circulation once a week or two (2) consecutive weeks (minimum seven day interval).

"Owner" means any person who, jointly or severally, owns, controls, maintains, manages, or proposes to construct a dam or reservoir, and includes those shown by records of the county registrar of deeds to have some interest, fee, easement, or otherwise, in the land on which the dam and lake lie and may also include those persons who may derive a direct pecuniary benefit from the existence of the lake [82:110.3].

"Party" means a person or agency named and participating, or properly seeking and entitled by law to participate, in hearings other than hearings on Board rules, regulations and standards.

"Person" means any individual, firm, partnership, association, corporation, any trust formed for the benefit of an individual, business or any public entity, federal agency, state agency, the State or any political subdivision thereof, municipalities, and any other legal entity [82:110.3].

"Removal" means complete elimination of the dam embankment, spillways, and structures whereby the area is restored to the approximate topographic contours original to the area before the dam was constructed.

"Repairs" means only such repairs as may affect the safety of a dam or reservoir.

"Reservoir" means any surface depression which contains or will contain the water impounded by a dam.

"Statistical twenty-four (24) hour, fifty (50) year storm" means a storm of twenty-four (24) hour duration with a probable recurrence interval of once in fifty (50) years as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.

"Water storage elevation" means that elevation of water surface which may be obtained by the temporary or permanent storage of water. This elevation is normally the lowest point on the top of the dam.

785:25-1-3. Violations and penalties

(a) Under Section 105.20 of Title 82 of the Oklahoma Statutes, the continued use of works which are unsafe, after receiving notice to repair, and the refusal to change unsafe works when directed to do so, or the injury or obstruction of waterworks shall be a misdemeanor and each day such violation continues shall be a separate violation.

(b) Under the Oklahoma Dam Safety Act (82 O.S. Supp. 1992, §§110.1 et seq.), the Board is authorized to issue emergency orders without prior notice and hearing and orders after notice and hearing requiring an owner to take action as necessary to put a dam in safe condition. In addition, the Board may impose administrative penalties against owners of dams who fail, refuse or neglect to comply with the provisions of the Oklahoma Dam Safety Act. Procedures for imposition of such penalties are found in Subchapter 11 of this Chapter.

785:25-1-4. Variances and waivers

Applicants who request a variance or waiver to rules specified in this chapter must demonstrate, and shall bear the burden of demonstrating that operations under the variance will equal or exceed the protections accorded by the particular rule for which the variance is sought. The variance may also be granted if the Board finds that the cost of compliance with the rule without a variance would impose significant expense without providing for additional safety of the construction for which the variance or waiver is sought, and integrity of the dam will not be adversely affected. The Board may require that a registered professional engineer certify that the variance or waiver being requested will not adversely affect the integrity of the dam.

SUBCHAPTER 3. RESPONSIBILITY, CLASSIFICATION AND DESIGN STANDARDS

SECTION

- 785:25-3-1. Dams subject to Board's jurisdiction
- 785:25-3-2. Owner's responsibility
- 785:25-3-3. Classification of size and hazard potential
- 785:25-3-4. Dams considered unsafe and menace to life and property
- 785:25-3-5. Minimum design standards (other than spillway)
- 785:25-3-6. Minimum spillways performance standards

- 785:25-3-7. Minimum outlet conduit capacities
- 785:25-3-8. Measuring devices
- 785:25-3-9. Prohibited construction
- 785:25-3-10. Prohibited vegetation and erosion
- 785:25-3-11. Minimum safety factors

785:25-3-1. Dams subject to Board's jurisdiction

(a) *Dams, together with appurtenant works, which meet the following alternative criterion are subject to the provisions of [82:110.4] the Oklahoma Dam Safety Act and this Chapter of the Board's rules:*

- (1) *Dams which are or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier or from the lowest elevation of the outside limit of the barrier if it is not across a stream channel or watercourse, to the top of the dam [82:110.4]; or*
- (2) *Dams which have or will have an impounding capacity of fifty (50) acre-feet or more [82:110.4]; provided however, any barrier to the flow of water which does or may impound water and which is or will be not in excess of six (6) feet in height, regardless of storage capacity, or which has or will have a storage capacity not in excess of fifteen (15) acre-feet, regardless of height, shall not be subject to regulation... unless it is determined to have a high hazard potential classification under these rules [82:110.4] or except as hereinafter provided. The figure in Appendix A of this Chapter presents a graphic illustration of the height and storage criteria reviewed to determine the Board's authority relating to dams.*

(b) *No barrier to the flow of water determined by the Board to be designated primarily for road fill shall be subject to regulation under this [82:110.4] Chapter.*

(c) *Gully plugs are not subject to regulation under this [82:110.4] chapter of the Board's rules.*

(d) *Dams constructed by any agency of the United States Government shall not be subject to regulation under this Chapter during or after construction while such dams remain under the supervision of any officer or agency of the United States [82:110.4].*

785:25-3-2. Owner's responsibility

(a) **General.**

- (1) Owners of dams to which the provisions of this Chapter apply shall have the responsibility to provide for the safety of such works by making any necessary changes to put the works in a safe condition.
- (2) Such responsibility includes but is not necessarily limited to the following: the filing of an application to construct, enlarge, alter or repair the dam pursuant to Subchapter 5; the modification of the dam to meet applicable minimum requirements in this Subchapter; and the adequate maintenance, operation, and inspection of an existing dam.

(b) **Multiple owners.**

- (1) When there is more than one owner of a dam, the Board shall consider all such owners responsible for the safety of such dam unless evidence to the contrary shows otherwise.
- (2) The Board shall provide copies of inspection reports to at least one owner of record at the Board and shall provide notice of hearing on dam safety related matters to such owner with an instruction that the notice shall be delivered or mailed to all owners.

- (3) Unless otherwise agreed by all the owners and the Board, the Board may, after such notice and hearing, order all the owners to take whatever remedial action is necessary to put the dam in a safe condition.
 - (4) The Board will not attempt to delineate levels of responsibility or allocate particular items of action among the owners.
- (c) **Transfer of ownership.** Upon transfer of ownership of the works, the new owner shall notify the Board of such transfer.

785:25-3-3. Classification of size and hazard potential

- (a) All dams shall be classified as to size and for potential hazards as follows:
- (1) **Size Classification of Dams.** The size classification shall be based on the following:
 - (A) **Small.** Small size dams are those which have a maximum storage of less than 10,000 acre feet and have a maximum height of less than 50 feet.
 - (B) **Intermediate.** Intermediate size dams are those which have a maximum storage of between 10,000 and 50,000 acre feet and have a maximum height of between 50 and 100 feet.
 - (C) **Large.** Large size dams are those which have a maximum storage of over 50,000 acre feet and have a maximum height of over 100 feet.
 - (2) **Hazard-Potential Classification of Dams.** The hazard-potential classification of a dam is determined by the downstream risk in the event of a failure, without regard to the physical condition of the dam, as follows:
 - (A) **Low.** Dams assigned the low hazard-potential classification are those where failure would result in no probable loss of human life and low economic losses.
 - (B) **Significant.** Dams assigned the significant hazard-potential classification are those dams where failure would result in no probable loss of human life but can cause economic loss or disruption of lifeline facilities.
 - (C) **High.** Dams assigned the high hazard-potential classification are those where failure will probably cause loss of human life.
- (b) **Hazard-potential classification subject to regulation and change.**
- (1) For dams which were inventoried in the National Safety of Dams program authorized under 33 U.S.C. 467 et seq., and for which "Phase I" reports pursuant to said inventory were prepared, the hazard classifications set forth in such "Phase I" reports shall be presumed accurate. If the owner of the dam disagrees with the hazard classification, the owner shall have the burden to show that such hazard classification is inaccurate and should be changed.
 - (2) At the discretion of the Board, any proposed or existing dam considered to have classification of a high hazard-potential may be subject to regulation regardless of size or impounding capacity.
 - (3) The hazard-potential classification may change as the area downstream from a dam develops and the dam may be reclassified from time to time under the provisions of 785:25-9-10 and 785:25-9-11.

785:25-3-4. Dams considered unsafe and menace to life and property

- (a) In determining whether a dam is *unsafe and a menace to life and property* [82:105.27] under the provisions of Section 105.27 of Title 82 of the Oklahoma Statutes and the corrective

actions necessary to put a dam in a safe condition, the Board shall review the requirements set forth in rules of this Chapter, and recommendations on matters which directly affect the integrity of dams set forth in DESIGN OF SMALL DAMS (1977) and DESIGN OF GRAVITY DAMS (1976), published by the U.S. Department Interior Bureau of Reclamation (BOR), ENGINEERING AND DESIGN MANUALS, SERIES EM-1110, published by the U.S. Department of the Army, Corp of Engineers (COE), the ENGINEERING FIELD MANUAL and TECHNICAL RELEASE NO. 60, published by the U.S. Department of Agriculture, Natural Resources Conservation Service, or equivalent recommendations.

(b) Existing dams which are in imminent peril of failure shall be considered *unsafe and a menace to life and property* [82:105.27] under the provisions of Section 105.27 of Title 82 of the Oklahoma Statutes.

785:25-3-5. Minimum design standards (other than spillway)

(a) The construction of the downstream embankment slope shall not be steeper than 3 horizontal units to each 1 vertical unit (3:1) to provide adequate factors of safety against sliding, sloughing or rotation in the embankment and foundation, unless a stability analysis is performed which shows a steeper slope provides an adequate factor of safety.

(b) Except as otherwise provided in this Chapter, all dams must be designed by methods, procedures and criteria that meet or exceed acceptable dam safety engineering practices, including those found in the federal agency publications referenced in 785:25-3-4.

785:25-3-6. Minimum spillways performance standards

(a) General performance standards.

(1) Except as otherwise provided in this Chapter, all dams must meet or exceed the following performance standards as determined by analysis of plans and specifications for the dam and existing site conditions.

(2) Owners of existing dams which do not meet the following performance standards must make necessary changes in the dam to meet the applicable performance standards.

(3) The discharge capacity and/or storage capacity of the project shall be capable of passing the indicated spillway design flood without infringing on the minimum freeboard requirements, provided that a design which includes overtopping of the dam may be authorized if specifically approved by the Board.

(4) The minimum performance standards expressed as magnitude of spillway design flood and minimum freeboard will be assigned to the various size and hazard potential classification determined under 785:25-3-3 as shown in Appendix B.

(b) **Amending minimum freeboard.** The minimum freeboard requirement may be amended by the Board on a case-by-case basis for good cause shown by the owner.

(c) Probable maximum flood.

(1) PMF means and refers to the Probable Maximum Flood and is defined as the flood that may be expected from the most severe combination of critical meteorological conditions, defined as the Probable Maximum Precipitation (PMP), and critical hydrologic conditions that are reasonably possible in the region.

(2) Since design floods are usually determined by using mathematical computations through computer modeling and since several different acceptable models are available, flood design calculations must fall within plus/minus 5% PMF of the Board's current model results.

- (3) The PMF storm should be the most conservative PMP storm type and duration to adequately reflect the size and hydrologic characteristics of the watershed in which the dam is located.
- (4) *Regional Probable Maximum Precipitation Study for Oklahoma, Arkansas, Louisiana, and Mississippi* (Applied Weather Associates, 2019) shall be used in determining precipitation depth, area, and duration relationships for the PMP.
- (d) **PMF on dam designated for regulation.** Adam which the Board has determined is subject to regulation because of its high hazard potential, although otherwise considered too small, shall be required to safely pass 25% PMF with no minimum freeboard.
- (e) **Dams constructed prior to June 13, 1973.** Any dam constructed prior to June 13, 1973, classified as having high hazard-potential as described in 785:25-3-3 shall be required to pass a minimum design flood as follows:
 - (1) Small size - 25% PMF with one foot of freeboard.
 - (2) Intermediate size - 50% PMF with no minimum freeboard.
 - (3) Large size - 75% PMF with no minimum freeboard.
- (f) **Dams constructed after 1973 without Board approval.** An owner of a dam constructed after 1973 without prior approval by the Board shall remove the dam or may request a variance or waiver from the requirement for submittal of plans and specifications as provided for in 785:25-5-2 and 785:25-5-3, provided the owner of the dam shall submit an application containing the following:
 - (1) A topographic map of the dam site showing the location of spillway and outlet works.
 - (2) Drawings showing the length, width, and height of dam.
 - (3) Detailed plans of spillway structures, spillway profile, and procedures for operating of the spillway structure.
 - (4) Hydrologic and hydraulic analysis report as described in Hydrologic and Hydraulic Guidelines for Dams in Oklahoma, Oklahoma Water Resources Board, Dam Safety Program, August 2011.
 - (5) Complete a dam breach inundation analysis and map if Board staff determines the dam may be a significant or high hazard-potential structure.
 - (6) Inspection of the dam by a registered Professional Engineer and submit a written inspection report to the Board not later than 30 days after the inspection and shall contain information as set forth in a Board hazard inspection report.
 - (7) Pay minimum application fee as provided in 785:5-1-9(a).
 - (8) In addition the applicant may be required to submit a detailed geotechnical investigation and analysis of the dam and report on such investigation. The geotechnical investigation shall include a minimum boring layout as follows:
 - (A) One (1) crest boring extending through the embankment and foundation materials to bedrock.
 - (B) Two (2) crest borings extending through the embankment and foundation materials to bedrock, one near each abutment.
 - (C) One (1) boring extending through the embankment and foundation materials to bedrock near the mid-height on the downstream slope of the dam.
 - (D) One (1) boring extending through the embankment and foundation material to bedrock along the toe of the dam.

785:25-3-7. Minimum outlet conduit capacities**(a) Requirements for outlet conduit capacity shall be as follows:**

(1) All dams subject to the Board's jurisdiction shall have at least one outlet conduit of sufficient capacity to prevent interference with natural streamflow and injury of downstream appropriators and domestic users. Absent evidence to the contrary, the minimum size of the outlet conduits shall be as set forth in subsection (d) of this section.

(2) The height of the outlet conduit shall be no more than five feet (5') above the natural stream channel unless otherwise ordered by the Board. The capacity of the reservoir below the outlet conduit shall be designated as the inactive pool.

(b) Conduit operation. All conduits shall be gate- or valve-operated on the upstream side and shall be maintained in an operable condition at all times.

(c) Conduit design life. The design life expectancy of the conduit shall be equal to or greater than the design life of the dam.

(d) Minimum size outlet conduit requirements. The outlet conduit must be of sufficient size to draw down the entire reservoir to the inactive pool within twenty (20) days, provided that minimum size outlet requirements are as follows:

(1) For less than 100 acre-feet normal pool capacity (at principal spillway), the minimum size of conduit is 6-inch pipe.

(2) For 101 to 150 acre-feet normal pool capacity (at principal spillway), the minimum size of outlet conduit is 8-inch pipe.

(3) For 151 to 200 acre-feet normal pool capacity (at principal spillway), the minimum size of outlet conduit is 10-inch pipe.

(4) For 201-250 acre-feet normal pool capacity (at principal spillway), the minimum size of outlet conduit is 12-inch pipe.

(5) For 251-300 acre-feet normal pool capacity (at principal spillway), the minimum size of outlet conduit is 14-inch pipe.

(6) For 301-350 acre-feet normal pool capacity (at principal spillway), the minimum size of outlet conduit is 15-inch pipe.

(7) For 351-500 acre-feet normal pool capacity (at principal spillway), the minimum size of outlet conduit is 16-inch pipe.

(8) For more than 500 acre-feet normal pool capacity (at principal spillway), the minimum size of outlet conduit is 24-inch pipe.

(e) Amendments of minimum requirements for good cause. Minimum size requirements may be amended by the Board for good cause. However, conduit must be of sufficient size to draw down the entire reservoir to the inactive pool within a period of not more than twenty (20) days.

785:25-3-8. Measuring devices

When required by the Board, measuring devices capable of providing an accurate water measurement must be provided to measure the flow of the stream above and below the reservoir. Permanent staff gages may be required to be placed near the outlet of the reservoir and such other locations as specified by the Board and such gages shall be plainly marked in feet and tenths of feet.

785:25-3-9. Prohibited construction

No construction or excavation other than that necessary for the operation, maintenance, investigation and monitoring of the dam and reservoir, shall be allowed on a dam or spillway structure or within fifty (50) feet from the line where such dam or spillway structure meets the natural grade unless otherwise ordered by the Board after a showing by substantial, competent evidence that the proposed construction will not affect the integrity of the dam or spillway structure.

785:25-3-10. Prohibited vegetation and erosion

Trees and heavy vegetation shall be removed from the slopes and crest of earthen embankments and emergency spillway area. Trees and heavy vegetation shall also be removed from an area a minimum distance from the toe of the embankment of 30 feet. Dams shall be maintained such that internal or external erosion is prevented. If erosion is present it shall be repaired utilizing appropriate engineering practices.

785:25-3-11. Minimum safety factors

As a guide for use by the Board and by engineers designing new dams, assessing the condition of existing dams or proposing modifications to existing dams, the following safety factors shall be utilized for:

(1) Embankment dams:

LOADING CONDITION	MINIMUM FACTOR OF SAFETY*
Steady seepage at emergency spillway crest	1.5
Rapid drawdown from principal spillway	1.2
Earthquake - reservoir at emergency spillway crest for downstream slope; reservoir at principal spillway for upstream slope	1.0

*The minimum factor of safety is calculated by the ratio of available shear strength to shear stress required for stable equilibrium.

(2) Concrete dams or concrete portions thereof:

LOADING CONDITION	MINIMUM FACTOR OF SAFETY** (by hazard classification of dam)	
	High and Significant	Low
Principal spillway level	2.25	2.0
Inflow design flood at maximum pool level	1.75	1.25
Principal spillway level with earthquake	greater than 1.0	greater than 1.0

**These minimum factors of safety apply to the calculation of stress and the shear friction factor of safety within the structure of the rock/concrete interface and foundation.

SUBCHAPTER 5. APPLICATIONS AND APPROVAL OF CONSTRUCTION**SECTION**

- 785:25-5-1. Application and fee required
- 785:25-5-2. Plans to be prepared by registered professional engineer
- 785:25-5-3. Content of plans and specifications
- 785:25-5-4. Additional report information
- 785:25-5-5. Notice of application
- 785:25-5-6. Affidavit of notice publication and mailing
- 785:25-5-7. Public comment
- 785:25-5-8. Approval or denial of application

785:25-5-1. Application and fee required**(a) General.**

- (1) Any person who shall desire to construct, enlarge, alter, remove or repair any dam under the Board's jurisdiction shall submit an application upon printed forms which will be furnished by the Board upon request.
- (2) For the purposes of this subchapter, repair shall not be deemed to include routine normal maintenance.
- (3) The maps, plans, drawings, and specifications of the proposed work along with the required fee shall form a part of the application.
- (4) The application and attachments shall be filed in duplicate.
- (5) Notwithstanding the provisions of paragraph (1) of this subsection, *an owner who proposes to construct a new dam that will be considered an agriculture-exempt dam shall be required only to notify the Board of such construction and file a notice of completion in accordance with 785:25-7-6 [82:110.5].*

(b) Signature Of applicant. The application shall be signed as follows:

- (1) If the applicant is an individual, the application shall be signed by the applicant or his duly appointed agent, who shall present satisfactory evidence of his authority to represent the applicant.
- (2) A joint application shall be signed by each applicant or his duly authorized agent, provided that a joint application by husband and wife may be signed by either party (joint applicants are required to select one among them to act for and represent the others in dealing with the Board).
- (3) If the application is by a partnership, the applicant shall be designated by the firm name followed by the words "A Partnership" and the application shall be signed by each of the general partners or, if signed by one partner or other agent, a written statement of the agent's authorization to make the application, signed by the other parties of interest, shall be attached to the application.
- (4) In the case of an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate, and a certified copy of the letter issued by the court shall be attached to the application.
- (5) In the case of a water district, county, municipality, etc., the application shall be signed by a duly authorized official, and a certified copy of the resolution or other authorization to make the application shall be attached.

- (6) In the case of a private corporation, the application shall be signed by a duly authorized person and, if not attested by the secretary or assistant secretary, a copy of the authorization shall be attached to the application.
- (c) **Notary public required.** All applicants shall subscribe and swear to the application before a Notary Public, who shall also sign his name and affix his seal to the application.
- (d) **Water rights.** Water rights requested or required in connection with a planned dam or reservoir may be approved based on preliminary information; however, no construction, enlargement, alteration or repair shall proceed until the application required by this Section has been submitted and approved in accordance with the rules of this subchapter and until the water rights required are approved.

785:25-5-2. Plans to be prepared by registered professional engineer

Plans and specifications shall be prepared by a Registered Professional Engineer (59 O.S. 1981, §§475.1 and 475.15) who shall have training and/or experience concerning the analysis, design, and/or construction of dams and reservoirs, or by an engineer of any United States governmental agency acting in his official capacity (82 O.S. 1981, §105.27). However, if it is found that a project does not concern or involve the public welfare or the safeguarding of life, health or property, this requirement may be waived by the Board.

785:25-5-3. Content of plans and specifications

- (a) The plans and specifications shall, as a minimum, include the following:
- (1) A topographic map of the dam site showing the location of spillway and outlet works. The map shall also show all contiguous property and the owners thereof. The topographic maps for low hazard dams are not required to show test borings, test pits and borrow pits.
 - (2) A profile along the dam axis showing the location, elevation, depth of borings or test pits including logs or bore holes and/or test pits, provided that plans and specifications for low hazard dams are not required to contain such a profile.
 - (3) A maximum cross-section of the dam showing elevation and width of crest, slopes of upstream and downstream faces, thickness of riprap, zoning of earth embankment, location of cutoff and bonding trenches, elevations, size and type of outlet conduit, valves and operating mechanism.
 - (4) Area and capacity curves of the proposed reservoir.
 - (5) Detailed drawings showing plans, cross and longitudinal sections of the outlet conduits, valves and controls for operating the same, and trash racks.
 - (6) The discharge capacity in cubic feet per second of the spillway for each foot in water depth above the spillway crest up to the maximum high water level and the formula used in making such determinations.
 - (7) Detailed plans of spillway structures, cross-section of the channel leading to and from the spillway, spillway profile, and procedures for operation of the spillway structure.
 - (8) Hydrologic and hydraulic analysis report as described in the publication Hydrologic and Hydraulic Guidelines for Dams in Oklahoma, Oklahoma Water Resources Board, Dam Safety Program, August 2011.
 - (9) A requirement, during the period of construction, for supervision by an engineer as required in 785:25-7-2.

- (10) A provision that the plans and specifications may not be substantially changed or changed in any material respect without prior written consent of the Board.
- (11) A provision stating in detail all matters necessary to ensure that construction is accomplished in a responsible manner and that needed control is exercised by an engineer as required in 785:25-7-2 to ensure construction of a safe structure.
- (b) The size of all plans and maps filed shall not be more than 11" x 17" and shall be drawn with an adequate number of views, in proper dimensions, and to a sufficiently large scale so that the plans and maps may be readily interpreted and studied. In addition to the plans and maps required to be filed, if plans and maps larger than 11" x 17" are submitted for review purposes, the larger plans and maps will not be retained by the Board.

785:25-5-4. Additional report information

An engineer's report giving details necessary for analysis of the structure and appurtenances shall be submitted with the plans and specifications. Included as a part of the report shall be the following:

- (1) Formula and assumptions used in design;
- (2) Hydrologic data used in determining runoff from the drainage areas including copies of any records that the applicant has of flood flows and precipitation for the region;
- (3) Foundation and materials investigations; and
- (4) All other information which would aid in evaluating the design.

785:25-5-5. Notice of application

(a) Notice preparation.

(1) After an application has been duly filed and accepted, the Board may require that applicants for permits involving significant and high hazard-potential dams publish notice as it instructs. If such notice is required, a notice will be prepared by the Board and include information describing the application, the name and address of the applicant and opportunities for public comment.

(2) The notice will be mailed to the applicant with a letter of instructions as to the publication. Prior to publication, the applicant shall check the notice for any errors.

(b) **Publication in newspaper.**

- (1) The notice of application, if required, shall be published once a week for two (2) consecutive weeks on the dates designated by the Board in a newspaper having general circulation in the county where the dam is located.
- (2) The last notice shall be published at least ten (10) days prior to the hearing date.
- (3) The applicant shall bear the cost of publication and shall see that the notice is reproduced accurately in the newspaper.
- (4) If the Board instructs the applicant to mail notice, such mailing shall be by certified mail, return receipt requested.

785:25-5-6. Affidavit of notice publication and mailing

(a) Affidavit of publication required. If the Board has required publication of notice, then the applicant shall file the sworn statement of the publisher with the Board before the application is considered by the Board. The affidavit shall state the dates on which the notice was published in the newspaper.

(b) Failure to furnish affidavit. Failure to furnish evidence of publication or of mailing of the notice in the manner required on or before the date the Board considers the application or may be deemed evidence of abandonment of the application.

785:25-5-7. Public comment

- (a) Any interested person may submit written comments on any application.
- (b) If the Board determines there is significant public interest in an application, it may schedule a public meeting to receive oral comments. Any interested person may appear and present comments.
- (c) The Board shall consider the public comments when evaluating the application, and shall respond or prepare and publish a response to those comments, and may direct the applicant to respond.

785:25-5-8. Approval or denial of application

- (a) After evaluating the application, if it is determined that the proposed construction, enlargement, alteration, or repair of any dam is safe and not a menace to life and property and is in conformity with all statutory requirements and the rules in this Chapter, said application shall be approved by the Board upon such conditions as the Board may prescribe.
- (b) If it is determined that the proposed construction, enlargement, alteration, or repair of any dam is *unsafe and a menace to life and property*, [82:105.2] said application shall be denied by the Board.
- (c) The applicant shall be notified in writing of the Board's decision.
- (d) If the application is approved, no impoundment of water by the dam may be made until all additional requirements of these rules and regulations are met unless the approved construction is for an existing dam and the construction may be carried out without emptying the water in the reservoir.
- (e) The applicant shall commence construction within two (2) years after the date of approval of the plans and specifications or the approval will be deemed to have lapsed and shall thereafter be null and void, provided that the applicant may request an extension of time to commence such construction and if the extension is granted, the approval will not be deemed to lapse during the time extended.

SUBCHAPTER 7. POST APPROVAL ACTIONS

SECTION

- 785:25-7-1. Inspection during construction
- 785:25-7-2. Inspection fee
- 785:25-7-3. Deficiencies during and after construction
- 785:25-7-4. Supervision of construction by owner
- 785:25-7-5. Changes to plans and specifications after approval
- 785:25-7-6. Notice of completion and filing of supplementary drawings or descriptive matter
- 785:25-7-7. Emergency action plans
- 785:25-7-8. Certificate of completion

785:25-7-1. Inspection during construction

During the construction, enlargement, repair, alteration, or removal of any dam or reservoir, periodic inspections may be made by the Board and the owner shall be required to perform at his expense such works or tests as necessary to disclose information sufficient to enable the Board to determine that substantial conformity with approved plans and specifications is being secured, which shall include adequate inspection, at owner's expense, to satisfy the Board of substantial compliance to approved plans, drawings, and specifications.

785:25-7-2. Inspection fee

- (a) Fees for any such inspection must be paid by the owner upon submission of an itemized statement by the Board.
- (b) Fees for inspections not paid by the owner within thirty (30) days after notice by the Board, *shall be a lien against any property of such owner, to be recovered by suit instituted by the District Attorney of the county at the request of the Board. Such liens shall be superior in right to all mortgages or other encumbrances, except ad valorem tax liens, placed upon the land and the water appurtenant thereto or used in connection therewith.* [82:105.27]

785:25-7-3. Deficiencies during and after construction

- (a) If, after any inspections, investigations, or examinations, or at any time after completion, it is found that amendments, modifications, or changes to the work performed pursuant to the approved plans and specifications are necessary to protect life and insure safety of the dam or to meet acceptable dam safety engineering practices, including those found in references set forth in 785:25-3-4, the owner shall be required to submit a revised application.
- (b) If conditions are revealed which will not permit the construction of a safe dam or reservoir, the prior approval may be revoked or modified by the Board after notice and hearing.
- (c) After the inspection, investigation, or examination, the Board shall, in a report to the owner, specify the deficiencies and allow a reasonable time for correcting the deficiencies.

785:25-7-4. Supervision of construction by owner

After receiving approval of plans and specification, supervision of construction by the owner shall be as follows:

- (1) The work of construction, enlargement, repair, alteration or removal of dam or reservoir, for which approved application, plans, drawings, and specifications are required, shall be under the responsible charge of an engineer as defined in 785:25-5-2 who shall certify, upon completion and prior to impoundment of any waters, that such construction, enlargement, repair, alteration, or removal was done in accordance with approved plans, drawings, and specifications.
- (2) Final approval in writing by a United States governmental agency shall be required for those structures designed by and/or constructed under the supervision of personnel of that agency.

785:25-7-5. Changes to plans and specifications after approval

- (a) If during construction, enlargement, repair, alteration, or removal of any dam or reservoir, it is found that amendments, modifications, or changes that increase the normal or maximum water elevations, increase spillway releases or discharges, or that increase potential damages downstream will need to be made to the plans and specifications as previously approved by the

Board, an amended application including hydrologic and hydraulic analysis, maps, plans, drawings, and specifications shall be submitted to the Board for approval.

(b) The owner may be required to publish notice of the date, place and time when the Board will consider the matter as was done for the original application.

(c) Other amendments, modifications or changes shown in as-built plans and specifications may be accepted by Board staff.

785:25-7-6. Notice of completion and filing of supplementary drawings or descriptive matter

Immediately upon completion of a new dam or reservoir or enlargement or repair of a dam or reservoir, the owner shall give notice of completion and as soon thereafter as possible shall file supplementary drawings or descriptive matter showing or describing the dam or reservoir as actually constructed, including the following:

- (1) A record of all grout holes and grouting;
- (2) A record of permanent location points and bench marks;
- (3) A record of tests of concrete soils, or other materials used in the construction of the dam or reservoir;
- (4) Any other items which may be of permanent value and have a bearing on the safety and performance of the dam or reservoir; and
- (5) For dams classified as high hazard-potential, a breach analysis report and map showing the breach inundation area utilizing the publication Hydrologic and Hydraulic Guidelines for Dams in Oklahoma, Oklahoma Water Resources Board, Dam Safety Program, August 2011.

785:25-7-7. Emergency action plans

(a) Owners of existing or proposed dams classified as high hazard-potential, regardless of the size of such dams, and any other dam as determined by the Board, shall create and maintain an EAP that utilizes the recommendations, as determined by the Board, of the "Federal Guidelines for Dam Safety, Emergency Action Planning for Dams," published July 2013 by the Federal Emergency Management Agency. The owner shall submit a copy of the EAP to the Board.

(b) Owners shall annually review their EAPs to assure they are still accurate and applicable, and submit any updates to the EAPs to the Board.

785:25-7-8. Certificate of completion

(a) **Issuance; revocation; amendments.** Certificates of completion shall be issued and may be revoked or amended as follows:

- (1) Upon filing of notice of completion of works by the applicant, the Board shall, within sixty (60) days, inspect or cause the dam to be inspected. The Executive Director shall approve the issuance of a certificate of completion if, based on the certification from the engineer in the Notice of Completion, the dam or reservoir is safe to impound water within the limitations prescribed in the certificate. However, no certificate of completion shall be issued until receipt of fee for certificate and all invoiced filing and inspection fees.
- (2) Every certificate of completion issued shall contain *the date of approval of plans and specifications for the dam, date construction was completed on said dam, and* [82:110.8] any such terms and conditions as the Board may prescribe. The Board may

revoke any such certificate whenever it is determined that the dam constitutes a danger to life and property. Whenever such action is necessary to safeguard life and property, the terms and conditions of any such certificate may be amended and a new certificate issued containing the revised terms and conditions.

(3) *Certificates of completion of works from the . . . Board shall be required before any water may be impounded by a new dam or before water may be impounded at an elevation higher than that previously authorized by the Board at an existing dam which has been modified* [82:110.8]

(b) **Notice and action.** After the issuance of the certificate of completion, the Board shall provide notice to the owner, allowing opportunity for a hearing, prior to the issuance of any order revoking or modifying the previous Board certificate.

SUBCHAPTER 9. ACTIONS AFTER CONSTRUCTION

SECTION

- 785:25-9-1. Inspections of dams
- 785:25-9-2. Records and reports of owner
- 785:25-9-3. Correction of deficiencies (not creating imminent peril)
- 785:25-9-4. Notice and action [Revoked]
- 785:25-9-5. Correction of deficiencies creating imminent peril
- 785:25-9-6. Request for inspection of dams by other parties
- 785:25-9-7. Recovery of costs and expenses
- 785:25-9-8. Emergency repairs
- 785:25-9-9. Breach analysis for existing dams
- 785:25-9-10. Reclassification of the hazard-potential class of a dam
- 785:25-9-11. Upgrading dams due to downstream development

785:25-9-1. Inspections of dams

(a) **Oversight vested in Board.** Oversight of the maintenance and operation of constructed dams and reservoirs insofar as necessary to safeguard life and property from injury by reason of the failure thereof is vested in the Board.

(b) **Periodic inspections.** Except for low hazard potential dams, owners are required to have their dams inspected by qualified persons periodically according to a schedule prepared by the Board to meet the requirements of paragraphs (1) and (2) of this subsection. Periodic inspections of dams shall be according to hazard potential classifications as follows:

- (1) High hazard. High hazard potential dams shall be inspected at least once annually.
- (2) Significant hazard. Significant hazard shall be inspected at least once every three years.
- (3) Low hazard. Low hazard potential dams shall be inspected at least once every five years, which inspection shall be conducted by the owner and shall consist of a review of the hazard classification on forms provided by the Board.
- (4) Significant or high hazard dams in an unsatisfactory or poor condition, described in Section 6 of the National Dam Safety Review Board's Guidelines for Updating the 2008 National Inventory of Dams (NID), April 2008, as determined by the Board shall be

inspected by a register Professional Engineer at the expense of the owner at least every six months until such time as the deficiencies have been corrected.

(5) Periodic inspections shall be conducted by the end of the calendar year indicated by the schedule above.

(c) **Expense of periodic inspections.** Periodic inspections shall be at the owner's expense (except for low hazard potential periodic inspections) and shall be conducted by a Registered Professional Engineer hired by the owner who is licensed in the state of Oklahoma, and shall have training and/or experience concerning the analysis, design, and/or construction of dams and reservoirs, or by an engineer of any United States governmental agency acting in his official capacity. Provided that inspections of low hazard classification dams may be conducted by persons who are not Registered Professional Engineers but who are trained in inspecting dams.

(d) **Unscheduled inspections.** Unscheduled (non-periodic) inspections such, as those conducted in response to complaints, after major heavy precipitation events, after earthquakes within 50 miles of a high or significant hazard potential dam that measure 5.0 or greater on the Richter magnitude scale, or in emergency situations, may be conducted by Board staff, or the Board may require the owner to conduct an unscheduled inspection at the owner's expense. No fee for such inspection shall be due, provided that a request for inspection by other parties shall be governed by 785:25-9-6.

(e) **United States dams not subject to inspection.** Any dam *constructed by the United States or its duly authorized agencies shall not be subject to inspection while under the supervision of officers or the United States.* [82:105.27]

(f) **Board to notify when inspection due; violation.** The Board shall notify persons shown by its records to own the dam of the date the periodic inspection of the dam is due. Failure to have the inspection completed shall constitute a violation of Board rules.

(g) **Minimum standards.** Except for low hazard potential dams, qualified persons shall submit a written report describing any dam safety deficiencies observed and outline remedial actions to be taken to address those deficiencies as follows:

(1) Engineering inspection reports shall be prepared for each inspection completed.

The inspecting engineer shall record their findings of the inspection and submit a written inspection report to the Board not later than 30 days after the inspection.

(2) All inspections shall also include documentary digital photographs of the dam, auxiliary spillway, principal spillway inlet structure, principal spillway outlet, and potential safety concerns. When explanation is needed to identify or describe the safety concern, notes shall be included in the written report to provide this explanation. Photographs shall be attached to the completed inspection report.

(3) Inspection reports shall include a schedule of corrective actions to be taken to address dam safety deficiencies.

(4) Periodic inspection reports shall also include review of the Emergency Action Plan and of the operation and maintenance manual to assure they are still accurate and applicable, as well as any changes in downstream development or other conditions if applicable.

785:25-9-2. Records and reports of owner

(a) The owner of a dam or reservoir or his agent shall fully and promptly advise the Board by telephone of any sudden or unprecedented flood or unusual or alarming circumstances or occurrence affecting the safety of the dam or reservoir. Within ten (10) days after such shall

flood event or circumstance, the owner or owner's agent shall provide a written report of any damages to the dam and of the need to make any repairs.

(b) The Board may require owners to keep records of and to report on maintenance, and staffing of any dam or reservoir if, in the opinion of the Board, such records and reports are necessary to safeguard life and property.

785:25-9-3. Correction of deficiencies (not creating imminent peril)

(a) *When an owner fails, neglects or refuses to comply with the Oklahoma Dam Safety Act, rules of this chapter, or orders of the ... Board, and there is no imminent peril to the public health or welfare shown the Board may, after notice and opportunity for hearing; issue an order requiring such owner to take whatever action the Board deems necessary to place the dam in a safe condition, meet the requirements of the Oklahoma Dam Safety Act, rules of the Board, or the previous orders of the Board [82:110.10].*

(b) *Actions which can be ordered may include but are not limited to lowering the level of or removing all water in the reservoir, providing an adequate warning to the public downstream, repair or modification of the existing dam after having the appropriate application for approval of plans and specifications granted, cease all construction work on a dam, and implementation of an appropriate operation and maintenance plan [82:110.10].*

(c) *If after such hearing it shall be determined to order such amendments, modifications or changes, the owner shall submit, if necessary under 785:25-5-1, plans and specifications for Board approval. Upon approval of the plans and specifications, the Board shall direct the time within which such modification, alteration, or construction shall be completed.*

(d) *In determining whether amendments, modifications or changes are necessary to protect life and insure safety of the dam, the Board shall take into consideration the possibility that the dam and reservoir might be endangered by overtopping, seepage, settlement, erosion, cracking, earth movement, or other conditions which exist in any area in the vicinity of the dam or reservoir.*

(e) *Amendments, modifications or changes may include routine maintenance items that do not require plans and specifications, such as removal of trees on an earthen embankment, establishing vegetation cover to prevent erosion, or updating a warning and evacuation plan, etc. Amendments, modifications or changes may also include alterations or repairs which require submittal and approval of plans and specifications, including but not limited to changing the spillway design capacity, rebuilding embankments, etc.*

785:25-9-4. Notice and action [REVOKED]

785:25-9-5. Correction of deficiencies creating imminent peril

(a) *When an owner fails, neglects or refuses to comply with the Oklahoma Dam Safety Act, rules of this chapter, or orders of the Board, and there is an imminent peril to the public health or welfare shown, the Executive Director of the Board, or Assistant Director in the absence of the Executive Director, may, without notice or opportunity for hearing, issue an emergency order requiring such owner to take actions the Board deems necessary to place the dam in a safe condition. Such emergency order shall indicate the finding of imminent peril and shall specify the actions that are to be taken immediately. The order shall also specify a time and place for hearing to be held after such actions are taken [82:110.10]. In determining whether an imminent peril to the public health or welfare exists, the Board may consider the following:*

- (1) The condition of any dam or reservoir is so dangerous to the safety of life or property as not to permit time for the issuance and enforcement of an order after notice and hearing relative to maintenance or operation; or
 - (2) Passing imminent floods threaten the safety of any dam or reservoir.
- (b) The Board may, if the owner cannot be served or is otherwise unable to act, immediately employ remedial measures. The remedial measures the Board may take in such an emergency include but are not limited to any of the following:
- (1) Lower the water level by releasing water from the reservoir;
 - (2) Completely empty the reservoir; or
 - (3) Take such other steps as may be essential to safeguard life and property.
- (c) The cost and expenses of the remedial measures taken by the Board, including cost of any work done to render a dam or reservoir or its appurtenances safe, shall be recoverable by the State from the owner by action brought by the Board in the district court of the district wherein the dam or reservoir or any part thereof is situated.

785:25-9-6. Request for inspection of dams by other parties

Upon the request of any party, accompanied by the estimated cost of inspection, the Board shall cause any alleged unsafe works to be inspected. If the works are found to be unsafe the money deposited by such party shall be refunded and the fee for inspection shall be paid by the owner of such works. [82:105.27]

785:25-9-7. Recovery of costs and expenses

The costs and expenses incurred by the Board for inspection of any dam found to be unsafe shall be paid by the owner of such works and if not paid by the owner of the dam within thirty (30) days after the decision of the Board shall be a lien against any property of such owner and be recoverable by the State from the owner by suit instituted by the District Attorney of the county at the request of the Board. Such liens shall be superior in right to all mortgages or encumbrances, except ad valorem tax liens, placed upon the land and the water appurtenant thereto or used in connection therewith. [82:105.27]

785:25-9-8. Emergency repairs

- (a) If conditions exist which may cause loss of life if repairs are not made immediately, emergency repairs may be made by the owner without prior submittal of the plans and specifications required under 785:25-5-1.
- (b) The Board shall be notified of the emergency and the repairs to be made within 48 hours and plans and specifications shall be furnished to the Board for review as required in 785:25-5-1 as soon as possible.

785:25-9-9. Breach analysis for existing dams

If an existing dam does not have a breach analysis, and a failure might put lives at risk downstream, then after the next regularly scheduled inspection the Board's Engineer may direct the owner to provide a breach analysis and breach inundation map, utilizing modeling and analysis guidelines provided by the Board, and according to a reasonable schedule of compliance.

785:25-9-10. Reclassification of the hazard-potential class of a dam

- (a) The Board may reclassify the hazard-potential classification of a dam at any time based on an inspection and downstream hazard evaluation.
- (b) If the Board determines that the hazard-potential class of a dam should be increased to a greater hazard-potential classification, then the Board shall notify the owner of that finding and of the upgrade options that are available, and set a reasonable deadline, based on the circumstances, for the owner to:
- (1) file an application to upgrade the dam to meet the requirements for a greater hazard-potential classification; or
 - (2) seek an individual proceeding to contest the finding; or
 - (3) perform a breach analysis and inundation mapping or, for existing dams that lack a breach analysis, through the use of acceptable mathematical computations applied to the downstream area from the dam to a point where the necessary design flood and breach is contained within the main stream channel, utilize modeling and analysis guidelines provided by the Board to show the dam should not be reclassified to the greater hazard-potential classification.

785:25-9-11. Upgrading dams due to downstream development

- (a) **Alternatives.** Instead of upgrading the dam using structural methods, an owner may seek to implement alternative methods. Such alternative methods shall include but is not limited to the following:
- (1) a current breach analysis and hydrologic study that demonstrates a lesser hazard-potential classification is correct; or
 - (2) a current breach analysis and design flood analyses that demonstrate existing downstream developments would not be adversely affected by more than one foot difference between breach and non-breach simulations in the affected area, or records showing the downstream development has been dedicated to non-residential and non-commercial use; or
 - (3) a plan to permanently remove the dam.
- (b) **Schedule of Compliance.** An owner may seek a compliance schedule with the Board that sets the timeframes for various stages of work to be performed. In considering such applications to upgrade on a compliance schedule the Board shall evaluate whether the current dam will not significantly affect the public safety during the compliance period.

SUBCHAPTER 11. ADMINISTRATIVE PENALTIES AND PROCEDURES**SECTION**

- 785:25-11-1. Applicability and authority
- 785:25-11-2. Notice of violation and proposed assessment
- 785:25-11-3. Determining amount of penalty
- 785:25-11-4. Procedures for penalty assessment

785:25-11-1. Applicability and authority

- (a) *The Board may impose administrative penalties against owners of dams who fail, refuse or neglect to comply with the provisions of the Oklahoma Dam Safety Act, rules of the Board promulgated pursuant to the Oklahoma Dam Safety Act, and orders of the Board. Such*

administrative penalties shall be imposed only after notice and opportunity for hearing on the proposed imposition of such penalties [82:110.10].

(b) *The notice and opportunity for hearing required by this Section maybe combined with the notice and hearing required in [82:110.10] 785:25-9-3.*

(c) *The penalties shall not exceed Five Hundred Dollars (\$500.00) per day for each violation [82:110.10].*

(d) *Each day a violation continues shall constitute a separate violation [82:110.10].*

785:25-11-2. Notice of violation and proposed assessment

The notice of proposed assessment of administrative penalties shall inform the respondent of the provisions of the Oklahoma Dam Safety Act or of the rule or order of the Board at issue and the proposed amount of the penalty. A letter, petition, notice of violation, consent order or final order may constitute a notice of proposed assessment for purposes of initiating administrative penalty proceedings if it meets the requirements of this section.

785:25-11-3. Determining amount of penalty

In setting the administrative penalty amount, the Board may consider the following:

- (1) The nature, duration and number of previous instances of failure by respondent to comply with requirements of law relating to dam safety and requirements of Board rules and orders;
- (2) The efforts of the owner to correct deficiencies or other instances of failure to comply with the requirements of law relating to dam safety and requirements of Board rules and orders subject of the proposed penalty;
- (3) The cost of carrying out actions required to meet the requirements of law and Board rules and orders;
- (4) The size and hazard classification of the dam;
- (5) Other factors deemed appropriate by the Board.

785:25-11-4. Procedures for penalty assessment

(a) The notice of proposed assessment of administrative penalties shall specify a time, date and place for a hearing.

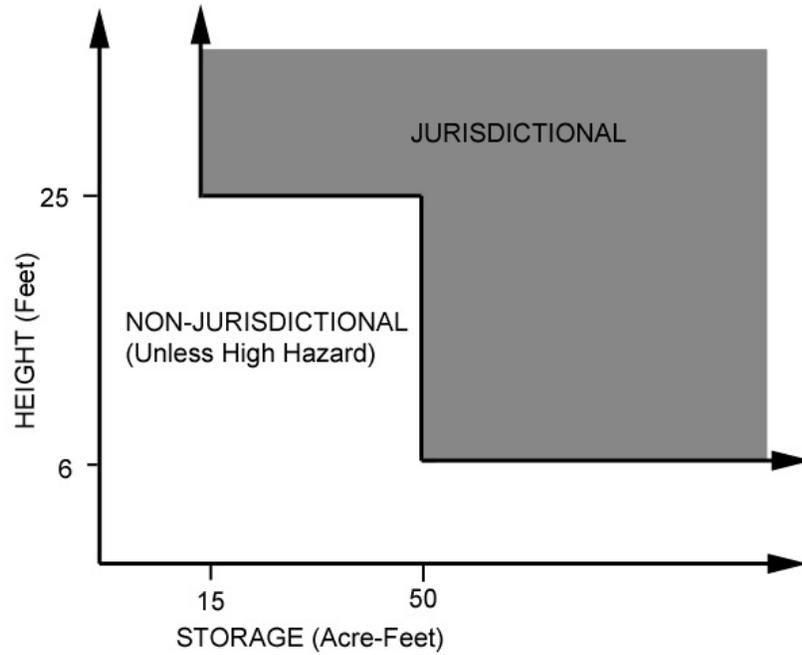
(b) Failure of respondent to appear at the hearing shall be deemed to constitute an agreement with the imposition of the penalty in the amount proposed as set forth in the notice, and proposed findings, conclusions and order shall not be prepared in that instance. The Board and respondent may also agree to an informal disposition of the matter. In either situation, the matter shall be presented to the Board for consideration of entering a final order assessing the administrative penalty.

(c) The administrative penalty is due and payable immediately upon issuance of the final order, unless otherwise provided therein.

(d) If the Board believes that violations are continuing after issuance of the administrative penalty order, it may seek the issuance of additional orders to assess penalties occurring in the period after issuance of the previous assessment orders.

**APPENDIX A.
JURISDICTION OF BOARD BY SIZE AND HAZARD CLASSIFICATION**

JURISDICTION OF BOARD BY SIZE AND HAZARD CLASSIFICATION



**APPENDIX B.
MINIMUM SPILLWAY PERFORMANCE STANDARDS**

SIZE	HAZARD	MINIMUM SPILLWAY DESIGN FLOOD	MINIMUM FREEBOARD
Small	Low	25% PMF	0 Feet
Small	Significant	40% PMF	0 Feet
Small	High	50% PMF	1 Foot
Intermediate	Low	25% PMF	1 Foot
Intermediate	Significant	50% PMF	1 Foot
Intermediate	High	75% PMF	3 Feet
Large	Low	50% PMF	1 Foot
Large	Significant	75% PMF	1 Foot
Large	High	100% PMF	3 Feet