



**Rules of
Department of Natural Resources
Division 22—Dam and Reservoir Safety Council
Chapter 1—Organization, Definitions
and Immunity**

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Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 22—Dam and Reservoir Safety Council

Chapter 1—Organization, Definitions and Immunity

10 CSR 22-1.010 General Organization

PURPOSE: This rule complies with section 536.023, RSMo which requires each agency to adopt as a rule a description of its operation and the methods where the public may obtain information or make submissions or requests.

(1) Section 236.410, RSMo established a Dam and Reservoir Safety Council of Missouri. The council consists of seven (7) members appointed by the governor with the advice and consent of the senate. The council holds a minimum of four (4) regular meetings each year and special meetings and hearings as the council chairman may deem necessary.

(2) The Missouri dam and reservoir safety law, rules, regulations, guidelines and standards provide for the construction management and operation of dams and reservoirs in a manner which will provide adequate protection of public safety, life or property. To achieve this purpose the council has statutory powers as listed in sections 236.405 and 236.415, RSMo for policy making, adopting rules, standards and guidelines and issuing of permits.

(3) The Department of Natural Resources is authorized under section 236.405, RSMo to administer and enforce all rules, standards and guidelines adopted by the council and to assist the council in achieving its statutory duties. The department has designated the dam and reservoir safety program as the agency within the department responsible for administering the dam and reservoir safety law. The director of the Department of Natural Resources appoints a chief engineer who is the dam and reservoir safety program director and a staff, as provided in section 236.405, RSMo. The chief engineer and staff provide day-to-day operation of the dam and reservoir safety program.

(4) The dam and reservoir safety program performs administrative and technical functions including: review permit applications and recommend approval or denial of applications; inspect dams and reservoirs; enforce the law and all rules, standards and guidelines adopted pursuant to Chapter 236, RSMo; employ necessary staff; develop facts as may be required by the council; recommend rules, standards and guidelines required by Chapter 236, RSMo; mitigate or eliminate unsafe dam

or reservoir conditions; and other functions as described in sections 236.420 to 236.500, RSMo.

(5) Requests for permit applications, requirements or other permit information, copies of these rules and the dam and reservoir safety law, dam inspections and technical information and assistance, requests for public hearings and any other submissions are to be made to the Department of Natural Resources, Dam and Reservoir Safety Program, P.O. Box 250, Rolla, MO 65401.

Auth: Chapter 236, RSMo (1986). Original rule filed April 14, 1981, effective Aug. 13, 1981.

Original authority: 236.405, RSMo (1979) and 236.415, RSMo (1979).

10 CSR 22-1.020 Definitions

PURPOSE: The following terms when used in rules, standards and guidelines adopted by the Dam and Reservoir Safety Council pursuant to the dam safety law shall have the meaning respectively ascribed to them by this section.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Agency engineer means an experienced engineer, not necessarily registered as a professional engineer in Missouri, who works for an engineering division of a state or federal agency regularly engaged in dam and reservoir design and construction for soil and water conservation or irrigation or relating to wildlife conservation.

(2) Agricultural dam means any dam, the primary use of which is to impound water for use in irrigation, livestock watering or commercial fish rearing and sale.

(3) Alterations, repairs, or either means alterations or repairs as affect the safety of a dam or reservoir, or public safety, life or property.

(4) Appurtenant works means the structures or materials incident to or annexed to dams which are built or maintained in connection with dams and which are used primarily in

connection with their proper operation, maintenance or functioning. This includes, without limitation, structures as spillways, either in the dam or separate therefrom; the reservoir rim; low level outlet works; and water conduits such as tunnels, pipelines or penstocks, either through a dam or its abutments.

(5) Area capacity curves means graphic curves which show the relationship between reservoir surface area and the storage capacity of the reservoir at given elevations.

(6) Chief engineer means the head of the dam and reservoir safety program of the Department of Natural Resources or his/her representative.

(7) Commercial fish rearing reservoir means a reservoir which was designed specifically for fish rearing purposes and the primary use is to provide water for commercial fish rearing and sale to other parties in a for profit venture. This does not include activities such as sport fishing.

(8) Construction permit means a written authorization issued by the council giving the owner the right to construct, alter, enlarge, reduce, repair or remove a dam or reservoir or appurtenances thereto, with conditions that are necessary to adequately protect the public safety, life, property, the dam or reservoir.

(9) Conventional dam means any dam other than an industrial water retention dam.

(10) Council delegate or authorized representative means an individual, usually the chief engineer, authorized by the council to act in its behalf.

(11) Crest or dam crest means the top surface of the dam.

(12) Crest elevation or dam crest elevation means the lowest elevation of the crest exclusive of the spillway(s).

(13) Dam means any artificial or man-made barrier which does or may impound water and which impoundment has or may have a surface area of fifteen (15) or more acres of water at the water storage elevation or which is thirty-five feet (35') or more in height from the natural bed of the stream or watercourse or lowest point on the toe of the dam (whichever is lower) up to the crest elevation, together with appurtenant works. Sections 236.400 to 236.500 shall not apply to any dam which is not or will not be in excess of thirty-five feet (35') in height or to any dam or reservoir licensed and operated under the Federal Power Act.



- (14) Dam and Reservoir Safety Council referred to as the council means seven (7) members appointed by the governor for purposes of implementing the dam safety law.
- (15) Dangerous dam or reservoir is a dam or reservoir which is in an advanced state of deterioration so that if deterioration continues, the threat of dam failure and flooding would be substantial.
- (16) Department means the Department of Natural Resources.
- (17) Downstream environment zone means the area downstream from a dam that would be affected by inundation in the event the dam failed when filled to the emergency spillway crest elevation or to the dam crest elevation, in the absence of an emergency spillway.
- (18) Earthquake intensity means Modified Mercalli intensity which is used to describe the degree of shaking a dam will experience.
- (19) Enforcement order means a written directive issued by the council or the chief engineer to the owner of a dam for correction of defects in the dam or reservoir which have been determined to make the structure a threat to public safety, life or property. The order will contain specific actions with which the owner must comply to remove the threat the dam or reservoir poses to public safety, life or property.
- (20) Enlargement means any change in or addition to an existing dam or reservoir, which raises the height of the dam, increases the watershed for the reservoir or raises the water storage elevation of the water impounded by the dam or reservoir.
- (21) Environmental class means a classification of the downstream environment zone based on the contents of that zone (see 10 CSR 22-2.040(1)). Class I represents the most severe threat to public safety, life or property and Class III represents the least threat.
- (22) Factor of safety means the resultant of the summation of the forces resisting failure divided by the summation of the driving forces tending to cause failure.
- (23) Freeboard means the difference in elevation between the dam crest elevation and the water storage elevation in the reservoir.
- (24) Height or height of dam means the difference in the elevation of either the natural bed of the stream or watercourse or the lowest point on the toe of the dam (whichever is lower) and the dam crest elevation.
- (25) Industrial building means a permanent, enclosed structure used by groups of workers usually involved in some type of manufacturing, processing or industrial related process.
- (26) Industrial water retention dam means a dam used to retain the solids transported as water-borne industrial byproducts and the associated water. This includes, but is not limited to, tailings dams, slime impoundments and settling ponds.
- (27) Inundation means water, two feet (2') or more deep, over the general level of the submerged ground affected outside the stream channel.
- (28) Inspection means scheduled and unscheduled examinations of a dam and reservoir with the primary objective of making safety observations and recording them in a written description.
- (29) Irrigation reservoir means a reservoir whose primary use is to provide water for the irrigation of agricultural lands for the production of grains, hay, pasture, fruits, vegetables and animal feeds which are for sale or to be used by the owner.
- (30) Law means the dam and reservoir safety law, as contained in Chapter 236, RSMo and all rules, standards and guidelines adopted thereto.
- (31) Liquefaction is a condition where a soil will undergo continued deformation at a constant low residual stress or with low residual resistance, due to the build-up and maintenance of high pore water pressures, which reduce the effective confining pressure to a very low value.
- (32) Livestock watering reservoir means a reservoir whose primary use is to provide water for livestock which are raised for breeding or marketing purposes.
- (33) Maintenance means the proper keeping of all aspects of a dam or reservoir and appurtenances thereto, that pertain to safety, in a state of repair and working order as necessary to comply with the law and any permit issued thereunder and to protect public safety, life or property.
- (34) Modification(s) means changes or revisions to the design, construction, maintenance, operation or repair or the alteration, enlargement, reduction, removal or natural physical changes that may occur to a dam or reservoir that were not included in the approved plans for the construction permit, or changes or revisions to a dam or reservoir where a registration or safety permit is in effect or required hereunder, if the changes or revisions would endanger public safety, life or property as a result of creating a potential failure in the dam or reservoir; except that modification(s) do not mean or include approved anticipated enlargements, outlined by design plans and specifications submitted and approved with the original application for a construction, safety or registration permit for industrial water retention dams and reservoirs.
- (35) Observable defects are those defects which would be detectable by an experienced professional engineer making an on-site visual inspection of the dam in accordance with current engineering, geologic and construction practices.
- (36) Owner or dam owner means a person who owns, controls, operates, maintains, manages or proposes to construct a dam or reservoir including: the state and its departments, institutions, agencies and political subdivisions, but not the United States government; a municipal or quasi-municipal corporation; a district; a public utility; a natural person, firm, partnership, association, corporation, political subdivision or legal entity; the duly authorized agents or leasees, or trustees of any of the foregoing; or receivers or trustees appointed by any court for any of the foregoing.
- (37) Permanent dwelling means a dwelling occupied at least ninety (90) days a year.
- (38) Permit means construction, safety or registration permit.
- (39) Permit applicant or applicant means an owner who applies for a construction, safety or registration permit.
- (40) Probable maximum acceleration means the horizontal acceleration developed at a dam as a result of an earthquake with a probability of occurrence similar to the probable maximum precipitation. The probable maximum acceleration is readily available from a Corps of Engineers Report entitled *Earthquake Potential of the St. Louis District—Ground Motion Supplement* which is on file with the chief engineer of the Dam and Reservoir Safety Program.
- (41) Probable maximum precipitation or PMP means the precipitation that may be expected from the most severe combination of critical meteorologic conditions that are reasonably possible in an area. The PMP is readily available from the National Weather Service in Hydrometeorological Report 51, *Probable*

Maximum Precipitation Estimates, United States East of the 105th Meridian.

(42) Public building means a permanent, enclosed structure used by groups of the general public but not necessarily owned by the public.

(43) Registration permit means a permit issued for a period not to exceed five (5) years by the council to the owner of a dam or reservoir in existence or in the progress of construction on August 13, 1981 or which becomes subject to the law for the dams and reservoirs by a change in factors or circumstances subsequent to that date. Permits shall only be issued for dams which are in a properly maintained condition or which have made and complied with recommendation for corrections of observed defects of the dam or reservoir and have been examined and approved in accordance with the law.

(44) Reservoir means any basin, including the water, which contains or will contain the maximum amount of water impounded by a dam.

(45) Safety permit means a permit issued to the owner of a dam for a period of five (5) years, or less if safety considerations so require, by the council indicating that the dam meets the requirements of the law, and containing conditions as to operations, maintenance and repair as are necessary to adequately protect public safety, life and the dam or reservoir.

(46) Seepage means the migration of water through a dam or foundation.

(47) Significant modification means changes, alteration or modifications to an existing dam or changes to the construction documents for a new dam. Those include, but are not limited to: changes in the location of the dam or reservoir, changes in the storage capacity or drainage area, changes in the capacity of the spillway system, modification of the embankment slopes, changes in the height of the dam or structure, or the use of different construction methods or procedures than those submitted with the permit application.

(48) Spillway means any passageway, channel or structure, open or closed or both, designated expressly or primarily to discharge excess water from a reservoir after the water storage elevation has been reached.

(49) Spillway design flood or SDF means the specified flood discharge that may be expected from the most severe combination of critical meteorologic and hydrologic conditions that are reasonably possible in an area and for

which the dam and reservoir are designed. The SDF is derived from the rainfall values given in Table 5.

(Editor's Note: For Table 5 see 10 CSR 22-3.020)

(50) Stability means the properties of a dam or reservoir that cause it when disturbed from a condition of equilibrium to develop forces or moments that restore the original condition.

(51) Starter dam means a pervious or impervious dam constructed as the first phase in the building of an industrial water retention dam and reservoir.

(52) Storage means the volumetric capacity of the reservoir below the water storage elevation or other selected reference on the dam.

(53) Stream means any river, creek or channel, having well-defined banks, in which water flows for substantial periods of the year to drain a given area.

(54) Tailings means the material generated by a mining/milling operation which is deposited in slurry form in an impoundment for storage, disposal, or both.

(55) Tailings dam means an existing dam or reservoir used for the impoundment or retention of tailings or a proposed, existing or newly constructed dam and reservoir for which the anticipated or contemplated use is the impoundment or retention of tailings.

(56) Toe or toe of slope means the line of the fill (dam embankment) slope where it intersects the natural ground.

(57) Water means water, other liquids or tailings.

(58) Watercourse means a valley, swale, depression or other low place in the topography occupied by flowing water during conditions of runoff.

(59) Water storage elevation means that elevation of water surface at the principal spillway which could be obtained by the dam or reservoir were there no outflow and were the reservoir full of water.

(60) Watershed means the area that contributes or may contribute surface water to a reservoir.

*Auth: sections 236.405, RSMo (Cum. Supp. 1993) and 236.415, RSMo (1986).**
Original rule filed April 14, 1981, effective Aug. 13, 1981. Amended: Filed June 14, 1984, effective Jan. 1, 1985. Amended: Filed Sept. 1, 1993, effective May 9, 1994.

**Original authority: 236.405, RSMo (1979), amended 1933 and 236.415, RSMo (1979).*

10 CSR 22-1.030 Immunity of Officers

PURPOSE: The purpose of this rule is to restate the immunity from damages provided in section 236.475, RSMo (1986).

(1) In the absence of willful and wanton misconduct, no action shall be brought against the council, the chief engineer or his/her agents, department employees or private individuals employed as consultants by the department for the recovery of damages caused by the partial or total failure of any dam or reservoir or through the use or operation of any dam or reservoir upon the ground that the person is liable by virtue of any of the following: the approval of a dam or reservoir or permits therefore; the issuance or enforcement of orders relating to maintenance, operation or repair of a dam or reservoir; control or regulation of a dam or reservoir; measures taken to protect against failure during an emergency; or denial of a permit.

*Auth: section 236.475, RSMo (1986).**
Original rule filed April 14, 1981, effective Aug. 13, 1981.

**Original authority 1979.*