

AN ACT

RELATING TO WATER; REQUIRING STATE ENGINEER REVIEW AND APPROVAL FOR THE CONSTRUCTION AND OPERATION OF DAMS; PROVIDING FOR EXCEPTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 72-5-32 NMSA 1978 (being Laws 1941, Chapter 126, Section 25, as amended) is amended to read:

"72-5-32. CONSTRUCTION AND OPERATION OF DAMS--STATE ENGINEER AUTHORITY.--

A. Except as provided in Subsection D of this section, any person, association or corporation, public or private, the state or the United States intending to construct a dam shall file applications for appropriations and use of water pursuant to Section 72-5-1, 72-5-22, 72-5-23 or 72-5-24 NMSA 1978.

B. Any person, association or corporation, public or private, the state or the United States intending to construct or operate a dam shall submit detailed plans to the state engineer for approval before construction or operation of the dam, except for a dam that:

(1) is less than twenty-five feet in height from the lowest natural ground surface elevation at the downstream toe of the dam to the crest of the dam and has a storage capacity of less than fifty acre-feet of water;

(2) is less than six feet in height from the lowest natural ground surface elevation at the downstream toe of the dam to the crest of the dam, regardless of storage capacity; or

(3) has a storage capacity of fifteen acre-feet or less of water, regardless of height.

C. If the state engineer finds that the dam design and operational plan are safe, the state engineer shall approve the plans.

D. Filing an application for the appropriation and use of water is not required for the construction or operation of a flood or erosion control dam; provided that a flood or erosion control dam shall not store water for more than ninety-six hours unless a longer duration time is authorized by the state engineer and water stored shall not be placed to any beneficial use unless specifically authorized by the state engineer.

E. The state engineer shall determine how the height, storage capacity and storage duration for all dams are calculated or measured and shall prescribe the form in which dam design plans and operational plans are submitted."