§ 1724.55 Dam safety.

(a) The provisions of this section apply only to RUS financed electric system facilities.

(1)(i) Any borrower that owns or operates a RUS financed dam must utilize the "Federal Guidelines for Dam Safety," (Guidelines), as applicable. A dam, as more fully defined in the Guidelines, is generally any artificial barrier which either:

(A) Is 25 feet (8 m) or more in height; or

(B) Has an impounding capacity at maximum water storage elevation of 55 acre-feet (68,000 m³) or more.

(ii) The "Federal Guidelines for Dam Safety," FEMA 93, June, 1979, published by the Federal Emergency Management Agency (FEMA), is hereby incorporated by reference. This incorporation by reference is approved by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the "Federal Guidelines for Dam Safety" may be obtained from the Federal Emergency Management Agency, Mitigation Directorate, PO Box 2012, Jessup, MD 20794. It is also available for inspection during normal business hours at RUS, Electric Staff Division, 1400 Independence Avenue, SW., Washington, DC, Room 1246–S, and at the National Archives and Records Administration (NARA). For information on the availability of this material at

(2) The borrower shall obtain RUS approval, prior to issuing invitations to bid, of the terms and conditions for communications and control facilities contracts which will cost $500,000 or more. Unless RUS approval is required by paragraph (a) of this section, plans and specifications for communications and control facilities do not require RUS approval.

(h) Terms and conditions include the RUS standard form of contract, general and special conditions, and any other non-technical provisions of the contract. Terms and conditions which have received RUS approval in connection with a previous contract for a particular borrower are considered approved by RUS for that borrower.

(2) The borrower shall evaluate the hazard potential of its dams in accordance with Appendix E of the U.S. Army Corps of Engineers Engineering and Design Dam Safety Assurance Program, ER 1110–2–1155, July 31, 1995. A summary of the hazard potential criteria is included for information as Appendix A to this subpart. The U.S. Army Corps of Engineers Engineering and Design Dam Safety Assurance Program, ER 1110–2–1155, July 31, 1995, published by the United States Army Corps of Engineers, is hereby incorporated by reference. This incorporation by reference is approved by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the U. S. Army Corps of Engineers Engineering and Design Dam Safety Assurance Program may be obtained from the U. S. Army Corps of Engineers, Publications Depot, 2803 52nd Ave., Hyattsville, MD 20781. It is also available for inspection during normal business hours at RUS, Electric Staff Division, 1400 Independence Avenue, SW., Washington, DC, Room 1246–S, and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(3) For high hazard potential dams, the borrower must obtain an independent review of the design and critical features of construction. The reviewer must have demonstrated experience in the design and construction of dams of a similar size and nature. The reviewer must be a qualified engineer not involved in the original design of the dam or a Federal or State agency responsible for dam safety. The reviewer must be approved by RUS.

(4) The independent review of design must include, but not necessarily be limited to, plans, specifications, design calculations, subsurface investigation reports, hydrology reports, and redesigns which result from encountering unanticipated or unusual conditions during construction.

(5) The independent review of construction shall include:

(i) Foundation preparation and treatment. When the foundation has been excavated and exposed, and before critical structures such as earth embankments or concrete structures are placed thereon, the borrower shall require the reviewer to conduct an independent examination of the foundation to ensure that suitable foundation material has been reached and that the measures proposed for treatment of the foundation are adequate. This examination must extend to the preparation and treatment of the foundation for the abutments.

(ii) Fill placement. During initial placement of compacted fill materials, the borrower shall require the reviewer to conduct an independent examination to ensure that the materials being used in the various zones are suitable and that the placement and compaction procedures being used by the contractor will result in a properly constructed embankment.

(6) If the reviewer disagrees with any aspect of the design or construction which could affect the safety of the dam, then the borrower must meet with the design engineer and the reviewer to resolve the disagreements.

(7) Emergency action plan. For high hazard potential dams, the borrower must develop an emergency action plan incorporating preplanned emergency measures to be taken prior to and following a potential dam failure. The plan should be coordinated with local government and other authorities involved with the public safety and be approved by the borrower’s board of directors.

(b)(1) For more information and guidance, the following publications regarding dam safety are available from FEMA:


§§ 1724.56–1724.69


(2) These publications may be obtained from the Federal Emergency Management Agency, Mitigation Directorate, PO Box 2012, Jessup, MD 20794.

[63 FR 35314, June 29, 1998, as amended at 69 FR 18803, Apr. 9, 2004]

§§ 1724.56–1724.69 [Reserved]

APPENDIX A TO SUBPART E OF PART 1724—HAZARD POTENTIAL CLASSIFICATION FOR CIVIL WORKS PROJECTS

The source for this appendix is U.S. Army Corps of Engineers Engineering and Design Dam Safety Assurance Program, ER 1110–2–1155, Appendix E. Appendix E is available from the address listed in §1724.55(a)(2).

<table>
<thead>
<tr>
<th>Category</th>
<th>Low</th>
<th>Significant</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Loss of Life</td>
<td>None expected (due to rural location with no permanent structures for human habitation).</td>
<td>Uncertain (rural location with few residences and only transient or industrial development).</td>
<td>Certain (one or more extensive residential, commercial or industrial development).</td>
</tr>
<tr>
<td>Lifeline Losses</td>
<td>No disruption of services—repairs are cosmetic or rapidly repairable damage.</td>
<td>Disruption of essential facilities and access.</td>
<td>Disruption of critical facilities and access.</td>
</tr>
<tr>
<td>Property Losses</td>
<td>Private agricultural lands, equipment and isolated buildings.</td>
<td>Major public and private facilities.</td>
<td>Extensive public and private facilities.</td>
</tr>
<tr>
<td>Environmental Losses</td>
<td>Minimal incremental damage.</td>
<td>Major mitigation required</td>
<td>Extensive mitigation cost or impossible to mitigate.</td>
</tr>
</tbody>
</table>

NOTES:
1 Categories are based upon project performance and do not apply to individual structures within a project.
2 Loss of life potential based upon inundation mapping of area downstream of the project. Analysis of loss of life potential should take into account the extent of development and associated population at risk, time of flood wave travel and warning time.
3 Indirect threats to life caused by the interruption of lifeline services due to project failure, or operation, i.e., direct loss of (or access to) critical medical facilities or loss of water or power supply, communications, power supply, etc.
4 Direct economic impact of value of property damages to project facilities and downstream property and indirect economic impact due to loss of project services, i.e., impact on navigation industry of the loss of a dam and navigation pool, or impact upon a community of the loss of water or power supply.
5 Environmental impact downstream caused by the incremental flood wave produced by the project failure, beyond which would normally be expected for the magnitude flood event under a without project conditions.

Subpart F—RUS Contract Forms

§ 1724.70 Standard forms of contracts for borrowers.

(a) General. The standard loan agreement between RUS and its borrowers provides that, in accordance with applicable RUS regulations in this chapter, the borrower shall use standard forms of contract promulgated by RUS for construction, procurement, engineering services, and architectural services financed by a loan made or guaranteed by RUS. (See section 5.16 of appendix A to subpart C of part 1718 of this chapter.) This subpart prescribes RUS procedures in promulgating electric program standard contract forms and identifies those forms that borrowers are required to use.

(b) Contract forms. RUS promulgates standard contract forms, identified in the List of Required Contract Forms, §1724.74(c), that borrowers are required to use in accordance with the provisions of this part. In addition, RUS promulgates standard contract forms identified in the List of Guidance Contract Forms contained in §1724.74(c) that the borrowers may but are not required to use in the planning, design, and construction of their electric systems. Borrowers are not required to use these guidance contract forms in the absence of an agreement to do so.

[63 FR 58284, Oct. 30, 1998]

§ 1724.71 Borrower contractual obligations.

(a) Loan agreement. As a condition of a loan or loan guarantee under the RE Act, borrowers are normally required to enter into RUS loan agreements pursuant to which the borrower agrees