

**Significant Changes to Chapter 105, Dam Safety and Waterway Management Regulations  
Dam Safety Only**

§ 105.19. Complete applications moved to new § 105.13a and made minor revisions.

§ 105.20. Proof of financial responsibility moved to new §105.13b and made following changes:

Require proof of financial responsibility for all existing hazard potential category 1 and category 2 dams.

The Department may, upon review, request an increase in the amount of the bond or other legal device noted in subsection 105.13b(a)(3) as necessary to ensure that sufficient funds are available for continued operation and maintenance during the lifetime of the facility. The Department may not increase this amount more than once every ten years unless the facility is being modified by permit.

§ 105.41. Notices and reports.

For dams, require a pre-construction meeting between the permittee, the Department, the contractor and the engineer responsible for construction supervision, at least 15 days but not more than 30 days prior to the commencement of construction unless a different time is established by the Department.

§ 105.42(a). Terms and conditions of Department permits and approvals

Eliminate the requirement for the permittee to sign the permit, certifying acceptance of the terms and conditions of the permit, and returning a signed copy of the permit to the Department. The permittee is still required to sign an acknowledgement form, provided by the Department, acknowledging the terms, conditions, restrictions and covenants in the permit. This eliminates a duplication of the permittee signing both the permit and acknowledgement form and streamlines the permit issuance process. The permit will now be effective upon the Department signing the permit and sending it to the permittee.

§ 105.43. Time limits.

For dams, the dam permit or other Department approval for construction or modification will not have a completion date. However, if the work authorized has not commenced on or before December 31 of the 5<sup>th</sup> year following permit issuance or other Department approval, the Department must be notified six months prior to the anticipated commencement of work so that the project design can be reassessed and reauthorized. During the design reassessment the Department may require revisions to the design due to changes in site conditions, dam classification, new technology or revisions to this Chapter. If, at any time, the permittee or owner decides not to perform the work, the Department must be notified in writing and the dam permit or Department approval will become void.

§ 105.81. Permit applications for construction and modification of dams and reservoirs

§ 105.82. Permit applications for operation and maintenance of existing dams and reservoirs.

These two sections were rewritten to more clearly outline the information that needs to be submitted with the application.

§ 105.88. Dam Permit Issuance.

This new section explains the issuance of a dam permit. The Department will now issue a permit for construction upon approval of application for a new dam or modification of an existing dam. Upon satisfactory completion of work the Department will issue an operation and maintenance permit for the dam.

§ 105.89. Letters of Amendment and Letters of Authorization for modification of dams and reservoirs.

This new section explains the use of a Letter of Amendment and Letter of Authorization for authorizing the modification of a dam or reservoir where a permit is not required. Also, it outlines the information required to be submitted for review and approval of the authorization.

§ 105.91. Classification of dams and reservoirs.

This section was revised to add a fourth Hazard Category to eliminate confusion of existing regulations Category 2 High and Category 2 Non-High and to bring the hazard potential category designation in line with the revision that is expected in the National Dam Safety Program. The revision is as follows:

<i>Category</i>	<i>Loss of Life</i>	<i>Economic Loss</i>
1	Substantial (Numerous homes or small businesses or a large business or school.)	Excessive such as extensive residential, commercial, or agricultural damage, or substantial public inconvenience.
2	Few (A small number of homes or small businesses.)	Appreciable such as limited residential, commercial, or agricultural damage, or moderate public inconvenience.
3	None expected (No permanent structures for human habitation or employment.)	Significant damage to private or public property and short duration public inconvenience such as damage to storage facilities or loss of critical stream crossings.
4	None expected (No permanent structures for human habitation or employment.)	Minimal damage to private or public property and no significant public inconvenience.

§ 105.97. Stability of structures.

This was expanded to explain the conditions under which the dam must be demonstrated to be stable.

§ 105.98. Design flood criteria.

This section was revised to more clearly explain how design flood is determined.

§ 105.107. Final Inspection

This section was added to require a final inspection with the permittee or owner, the permittee or owner's supervising engineer, and the Department's field representative at the completion of work to construct a new dam or the modification of an existing dam.

§ 105.108. Completion Certification and Project Costs

§ 105.109. As-built Plans

These two sections, which were combined in old § 105.107, were added and rewritten to better explain the requirements and the information that needs to be submitted.

§ 105.111. Commencement of storage of water, fluid or semifluid.

This section was expanded to better explain the requirements which must be met prior to the commencement of storage of water, fluid or semifluid behind a newly constructed or modified dam.

§ 105.134. Emergency action plan.

This section was rewritten to more accurately explain the requirements and steps in developing an emergency action plan needed in protecting the public in the event of a dam emergency. Some of the changes are:

- Prior to submitting the emergency action plan for review or approval, the permittee or owner shall schedule a meeting with the county emergency management coordinators for those counties affected by the dam's failure.
- Each submission of the emergency action plan shall be signed by the dam owners, the dam operators, and the county emergency management coordinators for those counties affected by the dam's failure signifying concurrence with the emergency action plan.
- The emergency action plan shall be prepared in accordance with the most recent emergency action plan guidelines developed by the Department and PEMA.
- Upon approval of the emergency action plan, the permittee or owner shall provide a copy of the signed approved emergency action plan to the municipal emergency management agencies and the emergency response agencies listed in the emergency action plan.
- Within 60 days of the date of the Department's approval letter, the permittee or owner shall provide the Department a written statement certifying that a signed approved copy of the emergency action plan has been provided to each municipal emergency management agency and to each emergency response agency listed in the emergency action plan.
- Within 60 days of the date of the Department's approval letter, the permittee or owner shall provide the Department a written statement certifying that the Notices have been posted in the locations listed in the emergency action plan. The permittee

or owner shall certify in each subsequent annual inspection report that the notices remain posted or were reposted in the locations listed in the emergency action plan.

- The emergency action plan shall be reviewed and updated every 5 years or the frequency interval indicated in the most recent EAP guidelines developed by the Department and PEMA.
- The Department may require the emergency action plan be updated, as necessary, if there is a new owner or operator, if changes occur in the downstream inundation area or in the hazard potential category.