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**ENVIRONMENTAL PROTECTION  
DAM SAFETY**

**Dam Safety Standards**

**Adopted Amendments: N.J.A.C. 7:20-1.7 and 1.9**

**Adopted New Rules: N.J.A.C. 7:20-1.12, 1.13, 1.14 and 1.15**

Proposed: November 19, 2007 at 39 N.J.R. 4893

Adopted: by Lisa P. Jackson,  
Commissioner, Department of Environmental  
Protection

Filed: , 2008 as R **without change**

Authority: N.J.S.A. 58:4-1 et seq. and  
N.J.S.A. 13:1 D-1 et seq.

DEP Docket Number: 22-07-10/564

Effective Date:

Expiration Date:

The New Jersey Department of Environmental Protection (Department) is adopting new rules and amendments to the Dam Safety Standards at N.J.A.C. 7:20. The Dam Safety Standards implement the Safe Dam Act, N.J.S.A. 58:4-1 et seq. and govern the design, construction, inspection, operation, maintenance, modifications and repair of dams in New Jersey which raise the water height of a stream by more than five feet.

In 2005, legislative amendments to the Safe Dam Act authorized the Department to assess penalties (up to \$25,000 per day) for violations of the Act and to charge owners

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for repairs to dams. To implement this legislation, the Department is adopting amendments to the Dam Safety Standards to establish enforcement provisions and civil administrative penalties.

The Department has identified eight categories of violations. The penalty range assigned to each violation is based on the nature of the violation and the hazard classification of the dam.

As provided by the legislation, the rules also establish procedures whereby, if a dam owner does not take corrective action within 60 days after receipt of notice to repair a dam that has been determined to be in imminent danger of failure, the Department may remove the dam. The costs for removal will constitute a debt to the state, and a lien will be placed on property of the dam owner.

The Department is also adopting several non-enforcement related amendments, including a change regarding seepage control along conduits to reflect current dam safety technology and modifications to the submittal requirements for dam removal projects.

**Summary of Public Comment and Agency Response:**

William G. Dressel, Jr., Executive Director, New Jersey State League of Municipalities, submitted the following comment:

COMMENT: When a municipality is the owner of a dam, the Department should work cooperatively with the municipality to solve the technical and financial problems involved in making the dam safe rather than imposing penalties against the municipality.

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RESPONSE: If a municipality is in violation of any of the dam safety requirements, the municipality may be subject to enforcement action under the Act and these rules. However, the Department's overriding interest is in ensuring compliance with dam safety requirements. The Department will continue to work diligently and cooperatively with public and private entities that own and control dams to achieve compliance. Dam safety is a matter of public safety and environmental protection which does not recognize a distinction between public versus private ownership. Public and private entities have a duty to be aware of and to comply with laws and regulations.

#### **Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65), require State agencies which adopt, readopt or amend State regulations that exceed any Federal standards or requirements include in the rulemaking document a Federal Standards Analysis. N.J.A.C. 7:20 is not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under State statute that incorporates or refers to Federal law, Federal standards or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal standards analysis.

**Full text** of the adoption follows:

(No change from proposal.)

Based on consultation with staff, I hereby certify that the above statements, including the Comparison with Federal Law statement addressing the requirements of Executive Order 27 (1994), permit the public to understand accurately and plainly the purposes and expected consequences of these adopted amendments. I hereby authorize this adoption.

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Date

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Lisa P. Jackson, Commissioner  
Department of Environmental Protection