



New South Wales

# Dams Safety Amendment (Miscellaneous) Regulation 2022

under the

Dams Safety Act 2015

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Dams Safety Act 2015*.

KEVIN ANDERSON, MP  
Minister for Lands and Water

## Explanatory note

The objects of this Regulation are—

- (a) to require certain safety functions, in relation to extreme or high consequence dams, to be carried out by a competent person or a panel or team of at least 2 competent persons, and
- (b) to require a dam safety management system document for a dam to identify an individual who is responsible for ensuring compliance with the dam safety management system, and
- (c) to require a dam owner of a declared dam to ensure a contact person is nominated and the details of that contact person are given to Dams Safety NSW, and
- (d) to make other minor amendments.

This Regulation is made under the *Dams Safety Act 2015*, including sections 14(1) and 53, the general regulation-making power.

## **Dams Safety Amendment (Miscellaneous) Regulation 2022**

under the

Dams Safety Act 2015

### **1 Name of Regulation**

This Regulation is the *Dams Safety Amendment (Miscellaneous) Regulation 2022*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

## Schedule 1 Amendment of Dams Safety Regulation 2019

### [1] Clause 3 Definitions

Insert in alphabetical order in clause 3(1)—

*augmentation* in relation to a declared dam means a modification made to the dam to do either or both of the following, but does not include a modification that is made for the sole purpose of improving safety—

- (a) extend the dam,
- (b) create a significant new use for the dam.

*extreme or high consequence dam* means a declared dam classified as being in any of the following consequence categories—

- (a) extreme consequence,
- (b) high A consequence,
- (c) high B consequence,
- (d) high C consequence.

*high C consequence dam* means a declared dam classified as being in the category of high C consequence.

### [2] Clause 3(1), definition of “Consequence Category Methodology”

Omit “Gazette No 137 of 8 November 2019”.

Insert instead “Gazette No 113 of 18 March 2022”.

### [3] Clause 3A

Insert after clause 3—

#### 3A Panel or team of competent persons

A requirement in this regulation that something be done in relation to a dam by a panel or team of competent persons is a requirement that—

- (a) the thing be done by competent persons, and
- (b) the competent persons together have the training, qualification and experience in each relevant speciality that relates to the thing being done.

### [4] Clause 7 Assessment of consequence category

Omit clause 7(4). Insert instead—

- (4) If the assessment concludes that the dam is an extreme or high consequence dam, the assessment must be reviewed by a competent person who has not been involved in the assessment process.

### [5] Clause 10 Emergency plans

Omit “a dam categorised as extreme or high consequence” from clause 10(1)(c).

Insert instead “an extreme or high consequence dam”.

### [6] Clause 12 Must establish and implement dam safety management system

Omit “and property” from clause 12(2). Insert instead “, property and the environment”.

### [7] Clause 13 Content of dam safety management system document

Insert after clause 13(1)—

- (1A) The dam safety management system document for a dam must also set out the name and contact details of an individual who is responsible for ensuring compliance with the dam safety management system.
- (1B) The individual must be—
  - (a) an individual who is the owner of the dam, or
  - (b) an individual who—
    - (i) is involved in the business of the owner, and  
**Example—** as a director, manager or employee
    - (ii) is authorised by the owner of the dam to do all things necessary to ensure compliance with the dam safety management system.
- (1C) The individual may be responsible for ensuring compliance with the dam safety management system for more than 1 dam.
- (1D) The dam safety management system document for a dam must be updated within 14 days after a change in the name or contact details of the individual responsible for ensuring compliance with the dam safety management system.

**[8] Clause 15 Assessment of societal and individual risk rating**

Omit clause 15(3)(a). Insert instead—

- (a) the societal risk rating and the highest individual risk rating of the dam—
  - (i) calculated in accordance with the *Societal and Individual Risk Rating Methodology* published in Gazette No 113 of 18 March 2022, and
  - (ii) signed off by a competent person, and
  - (iii) for an extreme or high consequence dam, other than a high C consequence dam—reviewed by another competent person who is independent of the persons who carried out and signed off the calculation.

**[9] Clause 15(4)(b)**

Omit “change”. Insert instead “augmentation”.

**[10] Clause 20 Safety review**

Omit clause 20(1). Insert instead—

- (1) The owner of a declared dam must ensure that a safety review to assess the overall safety of the dam is undertaken by—
  - (a) for an extreme or high consequence dam, other than a high C consequence dam—a team of at least 2 competent persons, or
  - (b) otherwise—a competent person.

**[11] Clause 20(6)**

Omit clause 20(6). Insert instead—

- (6) A safety review for an extreme or high consequence dam, other than a high C consequence dam, must be reviewed by a panel of at least 2 independent competent persons.
- (6A) A safety review for a high C consequence dam must be reviewed by an independent competent person.
- (6B) In this clause—

***independent competent person*** for a review of a safety review means a person who—

has not been involved in the safety review, and  
is independent of each person who carried out the safety review.

**[12] Clause 22 Emergency exercises**

Omit clause 22(3). Insert instead—

- (3) The owner of an extreme or high consequence dam must also ensure that practical emergency exercises are undertaken at least once every 5 years.

**[13] Clauses 24 and 24A**

Omit clause 24. Insert instead—

**24 Independent competent persons must review work involving dam design**

- (1) The owner of an extreme or high consequence dam, other than a high C consequence dam, must ensure that relevant design work for the dam is reviewed by a panel of at least 2 independent competent persons.
- (2) The owner of a high C consequence dam must ensure that relevant design work for the dam is reviewed by an independent competent person.
- (3) In this clause—  
***independent competent person*** for a review of work means a person who—
  - (a) has not been involved in the work, and
  - (b) is independent of each person who has carried out the work.***relevant design work*** for a dam means—
  - (a) work involving designing the dam, or
  - (b) work involving designing a major modification to the dam.

**24A Contact person for dam**

- (1) The owner of a declared dam must ensure that there is a contact person for the dam.
- (2) A person may be a contact person for a dam only if the person is—
  - (a) nominated by the owner of the dam, and
  - (b) involved in the business of the owner, and  
**Example—** as a director, manager or employee
  - (c) reasonably available to be contacted by Dams Safety NSW for the purposes of Dams Safety NSW exercising its functions in relation to the dam.
- (3) The owner of a declared dam must give Dams Safety NSW the name and contact details of the contact person for the dam within 14 days after the person is nominated.
- (4) A person may be a contact person for more than 1 dam.