**Section 3702.30 Applicability**

a) Classification

1) Dams will be categorized in one of three classes, according to the degree of threat to life and property in the event of a dam failure. The three classes of dams are:

A) Class I − Dams located where failure has a high probability for causing loss of life or substantial economic loss in excess of that which would naturally occur downstream of the dam if the dam had not failed. A dam has a high probability for causing loss of life or substantial economic loss if it is located where its failure may cause additional damage to such structures as a home, a hospital, a nursing home, a highly traveled roadway, a shopping center, or similar type facilities where people are normally present downstream of the dam. This is similar to U.S. Army Corps of Engineers HIGH HAZARD POTENTIAL category as defined in the Corps Guidelines, and the U.S. Soil Conservation Service Class (c) dams as defined in Soil Conservation Service Technical Release No. 60.

B) Class II – Dams located where failure has a moderate probability for causing loss of life or may cause substantial economic loss in excess of that which would naturally occur downstream of the dam if the dam had not failed. A dam has a moderate probability for causing loss of life or substantial economic loss if it is located where its failure may cause additional damage to such structures as a water treatment facility, a sewage treatment facility, a power substation, a city park, a U.S. Route or Illinois Route highway, a railroad or similar type facilities where people are downstream of the dam for only a portion of the day or on a more sporadic basis. This is similar to U.S. Army Corps of Engineers SIGNIFICANT HAZARD POTENTIAL category and the U.S. Soil Conservation Service Class (b) dams.

C) Class III – Dams located where failure has low probability for causing loss of life, where there are no permanent structures for human habitation, or minimal economic loss in excess of that which would naturally occur downstream of the dam if the dam had not failed. A dam has a low probability for causing loss of life or minimal economic loss if it is located where its failure may cause additional damage to agricultural fields, timber areas, township roads or similar type areas where people seldom are present and where there are few structures. This corresponds to U.S. Army Corps of Engineers LOW HAZARD POTENTIAL category and U.S. Soil Conservation Service Class (a) dams.

2) Dams will be categorized in one of three size classifications. The size classifications shall be based on dam height and impounding capacity. If either the height or impounding capacity meets the minimum requirement for the larger size, the dam will be classified in the larger size category.

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| CLASSIFICATION |  | IMPOUNDING CAPACITY ACRE-FEET |  | DAM HEIGHT FEET |
| Small |  | < 1,000 |  | < 40 |
| Intermediate |  | > 1,000 to < 50,000 |  | > 40 to < 100 |
| Large |  | > 50,000 |  | > 100 |

b) New Dams

1) Class I and II Dams

The owner of a proposed Class I or II dam shall obtain an OWR permit prior to the start of construction. The owner must do all construction and maintenance of the dam in accordance with this Part, as it applies to Class I or II dams.

2) Class III Dams

A) The owner of a proposed Class III dam shall obtain an OWR permit prior to the start of construction if the dam meets any of the following criteria:

i) the drainage area of the proposed dam is 6400 acres or more in a rural area or 640 acres or more in an urban area; or

ii) the dam is 25 feet or more in height, provided that the impounding capacity is greater than 15 acre-feet; or

iii) the dam has an impounding capacity of 50 acre-feet or more, provided that the dam height is greater than 6 feet.

B) If a permit is required for the Class III dam under any of these criteria, then the owner must do all construction and maintenance of the dam in accordance with this Part, as it applies to Class III dams.

c) Existing Dams

The owner of a dam that was permitted and built in compliance with an OWR permit before September 2, 1980 and that is currently in good repair shall not be required, except in compliance with Section 3702.150 or 3702.190, to make changes in the design, structure or construction of the dam. The owner of a dam that was permitted and built before September 2, 1980, but is not in accordance with the OWR permit or is not in good repair, shall be required to meet all current standards for existing dams. The owner of a dam built after September 2, 1980 shall be required to meet all standards for proposed dams existing at the time of its construction. Operation, maintenance, inspection and financial responsibility standards must be complied with at all dams.

1) Class I and II Dams

A) OWR has developed an inventory of dams in Illinois. OWR and federal agencies have conducted and are conducting inspections of existing dams having a potential for loss of life or property damage in case of a dam failure. As inspection reports are completed, OWR will furnish in writing to the owner of the dam a detailed and specific list of defects discovered in the course of the inspection of the dam, including the specific nature of any inadequacies of the capacity of the spillway system and any indications of seepage, erosion or other evidence of structural deficiency in the dam or spillway, together with a statement of the applicable standards of this Part that, if complied with by the owner of the dam, will put the dam into compliance with this Part.

B) If an inspection by OWR, or in which OWR concurs, finds that a dam is in an unsafe condition, OWR will notify the appropriate officials of the affected city or county, the State's Attorney of the county in which the dam is located, and the Illinois Emergency Management Agency (IEMA), and will assist IEMA in any emergency actions deemed necessary by IEMA.

C) OWR will notify the owner of an inspected dam if the owner must obtain a permit or amendment to an existing permit for the dam. Separate permit applications are required for each dam.

D) If an existing Class I or II dam has been inspected and found to have serious deficiencies requiring major modifications, within 90 days after receipt of notice from OWR that a permit or amendment to an existing permit is required under this Part, the owner of the dam must provide written assurance to OWR of the following: the owner's intention to rectify the deficiencies noted, the date the owner will submit a completed permit application, the time frame for initiating and completing the appropriate remedial measures, and the methods and designs to be used for the remedial measures.

E) If an existing Class I or II dam has been inspected and found to have no serious deficiencies requiring major modifications, OWR will notify the owner of the dam that it must submit, within 90 days, a permit application including the following, if the following has not been previously provided to OWR:

i) an Operating Plan (Section 3702.40(b)(4));

ii) a Maintenance Plan (Section 3702.40(b)(5));

iii) a Financial Responsibility Statement (Section 3702.40(b)(6)); and

iv) a Right of Access Statement (Section 3702.40(b)(7)(A)).

F) An owner initiating major modifications to an existing Class I or Class II dam must obtain a new permit or amendment to an existing permit prior to the initiation of the modifications.

2) Class III Dams

A) Using the inventory of dams or other similar information, OWR, over a period of time, upon receipt of a complaint or upon its own investigation, may contact owners of those existing Class III dams that:

i) have a drainage area of 6400 acres or more in a rural area or 640 acres or more in an urban area; or

ii) are 25 feet or more in height, provided that the impounding capacity is greater than 15 acre-feet; or

iii) have an impounding capacity of 50 acre-feet or more, provided that the dam height is greater than 6 feet.

B) OWR will inform the owners of the dams that they must submit to OWR a maintenance program and a statement indicating actions to be taken to remedy the noted deficiencies.

C) If an inspection by OWR, or in which OWR concurs, finds that a dam is in an unsafe condition, OWR will notify the appropriate officials of the affected city or county, the State's Attorney of the county in which the dam is located, and IEMA.

D) Owners of existing Class III dams in locations where there is potential for downstream urban development, which could cause a change in dam classification in the foreseeable future, when so notified by OWR, shall be required to report annually the existing land uses downstream of the dam. Extent of downstream land use to be reported is dependent upon factors such as slope and width of flood plain and density and intensity of downstream development. Extent downstream will not exceed 2 miles unless otherwise indicated by OWR. The owner may provide information indicating that an extent downstream shorter than 2 miles is appropriate. The width of flood plain shall be the width of the area inundated by the 100-year flood.

E) Owners of Class III dams desiring to make major modifications to their dams shall obtain an OWR permit or an amendment to an existing OWR permit for the work prior to the initiation of the modifications.

d) Designation by OWR of Dam Classification

Before assigning or changing the dam classification for a new or existing dam, OWR shall give notice and opportunity for hearing pursuant to Section 3702.170 to the applicant or existing dam owner and other interested persons of that action.

1) Initial Assignment of Dam Classification

A) New Dams

The classification of new dams will be based upon information available to OWR. This information includes, but is not limited to, USGS quadrangle maps of the downstream area, the preliminary report and support data from the owner's engineer, known elevations of structures downstream of the proposed dam, information from the public, and previous study data. This information is available from OWR data and data supplied by the owner's engineer, the public and federal or State agencies. The owner of the proposed dam shall submit information to establish the degree of threat to life and property damage in the event of a dam failure.

B) Existing Dams

i) The classification of existing dams that have been inspected by the U.S. Army Corps of Engineers, other federal agencies, or OWR will be based upon that agency's inspection report.

ii) The classification of existing dams that have not been inspected by a federal agency or OWR but that have had major modifications proposed by the dam owner will be processed as new dams in accordance with subsection (d)(1)(A).

2) Change in Dam Classification

Upon receipt and verification of information indicating that significant change in the degree of threat to life or property from a dam failure has occurred since the dam's original classification, the classification of that dam shall be changed to reflect the new hazard potential. Upon reclassification, the dam owner shall be subject to the applicable dam safety requirements for the current classification (subsection (c)).

e) Removal of Dams

The owner of a Class I, II or III dam who wishes to remove a dam shall obtain, prior to the initiation of the dam removal, an OWR permit to remove the dam in accordance with Section 3702.50 governing the removal of dams.

(Source: Amended at 38 Ill. Reg. 949, effective December 27, 2013)