



DAM SAFETY
POLICY MEMORANDUM #23

TO: Dam Owners, Operators, and Engineers

FROM: Stormwater, Dam Safety, and Flood Management Program
Water and Science Administration

DATE: January 29, 2025

SUBJECT: Small Ponds Not Requiring Small Pond Approval

Background

In accordance with the Annotated Code of Maryland, Environment Article, §5-503:

“A person shall obtain a permit from the Department to construct, reconstruct, or repair any reservoir, dam, or waterway obstruction, to make, construct, or permit to be made or constructed any change or addition to any reservoir, dam, or waterway obstruction, to make or permit to be made any change in, addition to, or repair of any existing waterway obstruction, or in any manner to change in whole or part the course, current, or cross section of any stream or body of water within the State, except tidal waters. The permit is obtained upon written application to the Department.

Policy Statement

Maryland State statute allows an exemption to the requirement to obtain a Dam Safety permit for certain small ponds, provided that minimum criteria found in Environment Article § 5-503(b) are satisfied and the work is reviewed and approved by the local Soil Conservation District (SCD) or the Department’s designee based on the design requirements found in USDA, Natural Resource Conservation Service, Maryland Conservation Practice, Standard Pond Code 378, January 2000 (MD378) and the Departments policies and procedures. In addition, there is a subset of small ponds that MD378 states are exempt from small pond approval. The criteria for the two categories of exemptions (i.e., exemption from a dam permit and exemption from small pond approval) are outlined herein. Neither of these exemptions relieves the small pond and/or dam owner from the requirement of obtaining any other necessary local, State, or federal permits/approvals

Dam Safety Permit Exemption

The criteria that must be met for a structure to be exempt from a Dam Safety permit and instead eligible for small pond approval by the local Soil Conservation District or Department designee follows:

1. Drainage area to the embankment is less than 640 acres;
2. Embankment height is not greater than 20 feet;
3. The embankment is classified as low hazard potential (i.e., a structure whose failure will not likely cause loss of life or property damage);
4. The impoundment has a maximum storage volume less than 50 acre-feet;
5. Must not be located in the Jones Falls, Gwynns Falls, or Herring Run watersheds; and
6. Must not be used as a wastewater stabilization pond.

Small Ponds Not Required to Obtain Small Pond Approval

MD378 states that certain small ponds are exempt from the requirement to obtain a small pond approval, however the criteria do not reflect current design practices driven by stormwater management regulations. Unless required by the local SCD, small ponds that meet the criteria listed below are not required to obtain small pond approval from the SCD, the Department, or the Departments designee. *The following criteria supersede the exemption requirements in MD378.*

Criterion 1: Embankment height less than or equal to four (4) feet.

Criterion 2: Embankment height less than or equal to six (6) feet, and maximum active storage volume less than or equal to 40,000 cubic feet. The active storage volume of water is measured from the lowest point of fill on the upstream face of the dam to the low point on dam crest (this includes the pore space of filter media, if present).

Criterion 3: Pond meets the criteria of an excavated pond in accordance with Dam Safety Policy Memorandum No. 13.

Criterion 4: Pond has a maximum active storage volume less than or equal to 8,000 cubic feet. The active storage volume of water is measured from the lowest point of fill on the upstream face of the dam to the low point on dam crest (this includes the pore space of filter media, if present).

In addition to the above criteria, the small pond must be classified as low hazard. The hazard classification must be assessed based on the Department's Dam Breach Analysis and Hazard Classification guidelines.

Note that the embankment heights referred to in this policy are defined in Dam Safety Policy Memorandum No. 22, and that the requirements of Dam Safety Policy Memorandum No. 3 must also be met where ponds are located adjacent to slopes.

Additional Information

Questions about this policy or other items relating to ponds and dams can be directed to the Chief of the Dam Safety Permits Division at 410-537-3552.