



COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

203 Governor Street, Suite 302
Richmond, Virginia 23219-2010
(804) 786-6124 Fax: (804) 786-6141

TO: Parties Expressing Interest in the Virginia Soil and Water Board's Impounding Structure (Dam Safety) Regulations

FROM: David C. Dowling, Regulatory Coordinator

DATE: January 23, 2008

SUBJECT: Comments received on the Virginia Soil and Water Board's Proposed Impounding Structure (Dam Safety) Regulations and the Recommended Final Regulations that will be considered by the Board on February 1, 2008

The attached document summarizes the comments received on the Virginia Soil and Water Conservation Board's Impounding Structure (Dam Safety) Regulations during the public comment period held from August 20, 2007 until October 19, 2007. The Agency's response to these comments is also included.

Additionally, a copy of the recommended final regulations that will be brought before the Board at their February 1st meeting is also included. The meeting is to be held beginning at 9:30 a.m. at the Association of Electric Cooperatives located at Dominion Boulevard in Glen Allen. A public comment period will be held prior to any action by the Board on the regulations.

Based on a thorough consideration of the comments received, while preserving the public safety function of the regulations, we have made several significant and beneficial changes to the regulations. [Items highlighted and in brackets represent recommended changes to the regulations from the proposed version.] Key changes to the regulations include the following:

- 1) New Definitions were added for clarity including:
 - "Probable loss of life", "May cause loss of life", and "No expected loss of life"
 - "Major roadways" and "secondary roadways"
 - "Planned land use"
 - "Normal or typical water surface elevation"
- 2) Revisions were made to Table 1.
 - Within the Significant and Low hazard potential classes, the size categories were removed and a single spillway design flood standard established for each class. A single minimum threshold was also set for the incremental damage analysis. It

was recognized that hazard classification should not be based on the size of the dam but should focus solely on the risk to loss of life and property upon failure.

- Within the Significant hazard class, the SDF was set at .5 PMF and the incremental threshold at 100-year. Of the 167 dams in this classification, approximately 50 dams requiring a potential upgrade under the proposed regulations will not now require an upgrade, thus resulting in a reduction in the fiscal impact of about \$116 million.
- 3) Within the Low hazard category, certain dams that are determined that upon a failure would cause no expected loss of human life and no economic damage to any property except property owned by the impounding structure owner will have reduced requirements per a new Section 51. This change will result in a reduction in the fiscal impact of about \$25 million.

[NOTE: The preliminary fiscal affects of the changes in items 2 and 3 above result in a 57% reduction in estimated costs associated with these regulations.]

- 4) Regarding the incremental damage assessment, the prerequisites of the old subsection B of section 130 for determining who was eligible for conducting the engineering assessment were removed. This truly makes the incremental damage assessment available to every dam owner to determine if the SDF requirement for their dam may be modified below the stated spillway design flood standard.
- 5) The Emergency Action Plan tabletop exercise requirement was modified from once every 3 years to once every 6 years. Additionally, it was clarified that drills and table-top exercises for multiple impounding structures may be performed in combination if the involved parties are the same.
- 6) A number of the commenters noted that the fees were excessive; therefore, the fee structure was streamlined and reduced in a number of cases. This resulted in an overall reduction in fees of approximately 60%.

We greatly appreciate your interest in these regulations and your participation in this regulatory process.