

Virginia Soil and Water Conservation Board
Impounding Structure (Dam Safety) Regulations Regulatory Advisory Panel (RAP)
Tuesday, October 18, 2011, 10:00 a.m. – 3:00 p.m.
Association of Electric Cooperatives
Richmond, Virginia

Regulatory Advisory Panel's Charge

On May 24, 2011, the Virginia Soil and Water Conservation Board authorized the Department to initiate three fast-track regulatory actions to amend the Board's Impounding Structure Regulations and directed the Department to assemble a Regulatory Advisory Panel (RAP) to make recommendations to the Director and the Board on the contents of the draft final regulations.

The three regulatory actions that the RAP's deliberations will be focused on and limited to are outlined in the Board's motion. Each of these actions is being taken in response to specific legislative actions and the final regulations must be reflective of the Code authority and direction provided.

Board's motion

VIRGINIA SOIL AND WATER CONSERVATION BOARD

May 24, 2011 Meeting

In Senate Room A in the General Assembly Building
Richmond, Virginia

Motion to authorize and direct the development of three separate fast-track regulatory amendment actions to the Board's Virginia Impounding Structure Regulations (§ 4VAC50-20):

The Board authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to develop three separate draft final fast-track regulatory actions for the Board's consideration. As part of the regulation development process, the Board directs that a Regulatory Advisory Panel(s) be assembled to make recommendations to the Director and the Board on the contents of the draft final regulations.

The three fast-track actions are as follows:

- 1) Develop regulations that consider the impact of downstream limited-use or private roadways with low traffic volume and low public safety risk on the determination of the hazard potential classification of an impounding structure;
- 2) Develop regulations that provide a method to conduct a simplified dam break inundation zone analysis; and
- 3) Develop regulations that set out the necessary requirements to obtain a general permit for a low hazard impounding structure.

The Board recognizes that these actions are predicated on the following legislation and information and directs the Department to consider the following in the development of the regulations:

For Action 1:

- Chapter 270 of the 2010 Virginia Acts of Assembly (HB438 - Delegate David J. Toscano) amended § 10.1-605 C. of the Code of Virginia to direct that “[t]he Board shall consider the impact of limited-use or private roadways with low traffic volume and low public safety risk that are downstream from or across an impounding structure in the determination of the hazard potential classification of an impounding structure”.
- Chapter 41 of the 2010 Virginia Acts of Assembly (SB244 – Senator John C. Watkins) resulted in the Codification of § 10.1-605.2 of the Code of Virginia that stipulates “[t]hat the Virginia Soil and Water Conservation Board shall, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), adopt regulations that consider the impact of downstream limited-use or private roadways with low traffic volume and low public safety risk on the determination of the hazard potential classification of an impounding structure under the Dam Safety Act (§ 10.1-604 et seq.)”.
- During 2010, in partial response to these legislative directives, the Director of the Department approved on November 30, 2010 a “Guidance Document on Roadways On or Below Impounding Structures”. Such guidance shall be strongly considered in the construct of the regulations.

For Action 2:

- Chapter 637 of the 2011 Virginia Acts of Assembly (SB1060 – Senator Ryan T. McDougle) created a § 10.1-604.1 titled “Determination of hazard potential class” with a subsection C. that specifies that “[t]he Board may adopt regulations in accordance with § 10.1-605 to establish a simplified methodology for dam break inundation zone analysis”.

For Action 3:

- Chapter 637 of the 2011 Virginia Acts of Assembly (SB1060 – Senator Ryan T. McDougle) created a § 10.1-605.3 titled “General permit for certain impounding structures” with a subsection A that specifies that “[t]he Board shall develop a general permit for the regulation of low hazard potential impounding structures in accordance with § 10.1-605”.

The Department shall follow and conduct these actions in accordance with: the fast-track processes within the Administrative Process Act, the Virginia Register Act, the Board’s Regulatory Public Participation Procedures, the Governor’s Executive Order 14 (2010) on the “Development and Review of Regulations Proposed by State Agencies”, and other applicable technical rulemaking protocols.

Further the Board recognizes that following the completion of these actions, that the entire body of the Virginia Impounding Structure Regulations (§ 4VAC50-20) may benefit from a reorganization of sections in order to increase the readability of the document. The Board will entertain a future motion at the appropriate time to authorize this action.

The Board requests that the Director or the Regulatory Coordinator report to the Board on these actions at subsequent Board meetings and will consider the adoption of these regulations at a future meeting(s) following their development.

Fast-track Regulatory Process

- The Fast-track Process is **appropriate when an action is expected to be noncontroversial**. A rulemaking is deemed noncontroversial if no objections are received from (1) certain members of the General Assembly or (2) ten or more members of the public.
- After approval of the draft final language by the Board and subsequent review by the Administration (DPB, SNR, and Governor), a notice of a proposed fast-track rulemaking will be published in the *Virginia Register of Regulations* and will appear on the Virginia Regulatory Town Hall. This will be followed by a public comment period of at least 30 days.
- If, during the public comment period, an objection to the fast-track regulation is received from:
 - Any member of the applicable standing committee of Senate,
 - Any member of the applicable standing committee of the House of Delegates,
 - Any member of the Joint Commission on Administrative Rules (JCAR),
or
 - 10 or more members of the public,then publication of the fast-track regulation will serve as the Notice of Intended Regulatory Action (NOIRA) and standard rulemaking process is followed to promulgate the regulation.
- If there are no objections as described above, the regulation will become effective 15 days after the close of the public comment period, unless the regulation is withdrawn or a later effective date is specified by the Board.

1 **CHAPTER 270**

2 *An Act to amend and reenact §§ [10.1-605](#), [10.1-607.1](#), and [10.1-609](#) of the Code of Virginia,*
3 *relating to dam safety.*

4 [H 438]

5 Approved April 8, 2010

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7 Be it enacted by the General Assembly of Virginia:

8 1. That §§ [10.1-605](#), [10.1-607.1](#), and [10.1-609](#) of the Code of Virginia are amended and
9 reenacted as follows:

10 § [10.1-605](#). Promulgation of regulations by the Board; **guidance document**.

11 A. The Board shall ~~promulgate~~*adopt* regulations to ensure that impounding structures in the
12 Commonwealth are properly and safely constructed, maintained and operated. Dam safety
13 regulations promulgated by the State Water Control Board shall remain in full force until
14 amended in accordance with applicable procedures.

15 *B. The Board's regulations shall establish an incremental damage analysis procedure that*
16 *permits the spillway design flood requirement for an impounding structure to be reduced to the*
17 *level at which dam failure shall not significantly increase downstream hazard to life or property,*
18 *provided that the spillway design flood requirement shall not be reduced to below the 100-year*
19 *flood event for high or significant hazard impounding structures, or to below the 50-year flood*
20 *event for low hazard potential impounding structures.*

21 *C. The Board shall consider the impact of limited-use or private roadways with low traffic*
22 *volume and low public safety risk that are downstream from or across an impounding structure*
23 *in the determination of the hazard potential classification of an impounding structure.*

24 § [10.1-607.1](#). Criteria for designating a dam as unsafe.

25 A. Designation of a dam as unsafe shall be based on one or more of the following findings:

26 1. The dam has serious deficiencies in its design or construction or has a physical condition that
27 if left unaddressed could result in a failure that may result in loss of life or *significant* damage to
28 downstream property.

29 2. The design, construction, operation, or maintenance of the dam is such that its expected
30 performance during flooding conditions threatens the structural integrity of the dam.

31 B. After completion of the safety inspections pursuant to § [10.1-607](#), or as otherwise informed of
32 an unsafe condition, the Department shall take actions in accordance with § [10.1-608](#) or [10.1-609](#)
33 depending on the degree of hazard and imminence of failure caused by the unsafe condition.

34 § [10.1-609](#). Unsafe dams presenting nonimminent danger.

35 A. Within a reasonable time after completion of a safety inspection of an impounding structure
36 authorized by § [10.1-607](#), the Board shall issue a report to the owner of the impounding structure
37 containing its findings and recommendations for correction of any deficiencies which could
38 threaten life or property if not corrected. Owners who have been issued a report containing
39 recommendations for correction of deficiencies shall undertake to implement the
40 recommendations contained in the report according to the schedule of implementation contained
41 in the report. If an owner fails or refuses to commence or diligently implement the
42 recommendations for correction of deficiencies according to the schedule contained in an issued
43 report, the Director shall have the authority to issue an administrative order directing the owner
44 to commence implementation and completion of such recommendations according to the
45 schedule contained in the report with modifications as appropriate. Within thirty days after being
46 served by personal service or by mail with a copy of an order issued pursuant to this section, any
47 owner shall have the right to petition the Board for a hearing. *As part of his petition, a dam*
48 *owner may submit to the Board his own plan, consistent with regulations adopted pursuant to §*
49 *[10.1-605](#), to address the recommendations for correction of deficiencies and the schedule of*
50 *implementation contained in the report. The Board shall determine if the submitted plan and*
51 *schedule are sufficient to address deficiencies.* A timely filed petition shall stay the effect of the
52 administrative order.

53 The hearing shall be conducted before the Board or a designated member thereof pursuant to §
54 [2.2-4019](#). The Board shall have the authority to affirm, modify, amend or cancel the
55 administrative order. Any owner aggrieved by a decision of the Board after a hearing shall have
56 the right to judicial review of the final Board decision pursuant to the provisions of the
57 Administrative Process Act (§ [2.2-4000](#) et seq.).

58 B. The provisions of subsection A of this section notwithstanding, if the Director determines,
59 after the report is issued, that changed circumstances justify reclassifying the deficiencies of an
60 impounding structure as an imminent danger to life or property, the Director may proceed
61 directly under § [10.1-613](#) for enforcement of his order, and the owner shall have the opportunity
62 to contest the fact based upon which the administrative order was issued.

63 C. The Director, upon a determination that there is an unsafe condition at an impounding
64 structure, is authorized to cause the lowering or complete draining of such impoundment until
65 the unsafe condition has been corrected at the owner's expense and prior to any authorization to
66 refill.

67 An owner who fails to comply with the provisions contained in an administrative order of the
68 Department shall be subject to procedures set out in § [10.1-613](#) and the penalties authorized
69 under §§ [10.1-613.1](#) and [10.1-613.2](#).

70 D. No persons, other than those authorized to maintain an impounding structure, shall interfere
71 with the operation of an impounding structure.

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CHAPTER 41

An Act to require the Virginia Soil and Water Conservation Board to adopt regulations that consider the impact of roadways with low traffic volume on the determination of the hazard potential classification of an impounding structure.

[S 244]

Approved March 4, 2010

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Virginia Soil and Water Conservation Board shall, in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.), adopt regulations that consider the impact of downstream limited-use or private roadways with low traffic volume and low public safety risk on the determination of the hazard potential classification of an impounding structure under the Dam Safety Act (§ [10.1-604](#) et seq.).*

NOTE: Was actually Codified as § 10.1-605.2.

88 **CHAPTER 637**

89 *An Act to amend and reenact §§ [10.1-603.19](#) and [10.1-606.4](#) of the Code of Virginia and to*
90 *amend the Code of Virginia by adding sections numbered [10.1-604.1](#) and [10.1-605.3](#), relating to*
91 *impoundment structures.*

92 [S 1060]

93 Approved March 26, 2011

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95 Be it enacted by the General Assembly of Virginia:

96 1. That §§ [10.1-603.19](#) and [10.1-606.4](#) of the Code of Virginia are amended and reenacted and
97 that the Code of Virginia is amended by adding sections numbered [10.1-604.1](#) and [10.1-605.3](#) as
98 follows:

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Article 1.2.

100

Dam Safety, Flood Prevention, and Protection Assistance Fund.

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§ [10.1-603.19](#). Purposes for which Fund is to be used; Authority to set terms and conditions of
102 loans.

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A. ~~The Director is authorized to~~ *may* make grants or loans to any local government for the
104 purpose of assisting the local government in the development and implementation of flood
105 prevention or protection projects, or for flood prevention or protection studies.

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B. ~~The Director is authorized to~~ *may* expend from the Fund up to \$50,000 annually for cost share
107 with federal agencies in flood protection studies of statewide or regional significance.

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C. ~~The Director is also authorized~~ *may*, in order to protect public safety and welfare, ~~to make~~ (i)
109 grants or loans to local governments owning dams and ~~to make~~ loans to private entities for the
110 design, repair, and the safety modifications of dams identified in safety reports generated
111 pursuant to § [10.1-607](#) or [10.1-609](#); and ~~to make~~ (ii) grants to local governments and private
112 entities for *the determination of the hazard classification for impounding structures, dam break*
113 *analysis, the mapping and digitization of dam break inundation zones, and incremental damage*
114 *analysis, and other engineering requirements such as emergency action plan development.*

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D. *The Director may, in order to reduce dam owner expenses associated with hazard*
116 *classification, dam break analysis, the mapping and digitization of dam break inundation zones,*
117 *incremental damage analysis, and other engineering requirements such as emergency action*
118 *plan development, expend moneys from the Fund to employ staff or to directly contract for these*
119 *services. The Director may establish a fee to be paid by the dam owner to offset a portion of*
120 *these services. Such fee shall not exceed 50 percent of the cost incurred by the Department.*

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E. *The Director may, in order to protect people at risk from a dam failure and to assist dam*
122 *owners, localities, and emergency responders, expend moneys from the Fund to maintain a*

123 *statewide dam failure early warning system in cooperation with the Department of Emergency*
124 *Management and the U.S. National Weather Service.*

125 *F.* The total amount of expenditures for grants in any fiscal year shall not exceed 50 percent of
126 the total noninterest or income deposits made to the Fund during the previous fiscal year,
127 together with the total amount collected in interest or income from the investment of moneys in
128 the Fund from the previous fiscal year as determined at the beginning of the fiscal year.

129 ~~*F-G.*~~ Any grants made from the Fund shall require a 50 percent project match by the applicant.
130 Any loans made from the Fund shall require a minimum of a 10 percent project match by the
131 applicant.

132 ~~*F-H.*~~ Except as otherwise provided in this article, money in the Fund shall be used solely to make
133 loans or grants to local governments or private entities to finance or refinance the cost of a
134 project. The local government or private entity to which loans or grants are made, the purposes
135 of the loan or grant, the required match for the specific loan or grant, and the amount of each
136 loan or grant, shall be designated in writing by the Director to the Authority. No loan or grant
137 from the Fund shall exceed the total cost of the project to be financed or the outstanding
138 principal amount of the indebtedness to be refinanced plus reasonable financing expenses. Loans
139 may also be from the Fund, at the Director's discretion, to a local government that has developed
140 a low-interest loan program to provide loans or other incentives to facilitate the correction of
141 dam or impounding structure deficiencies, as required by the Department, provided that the
142 moneys are to be used only for the program and that the dams or impounding structures to be
143 repaired or upgraded are owned by private entities.

144 ~~*G-I.*~~ Except as otherwise provided in this article, the Authority shall determine the interest rate
145 and terms and conditions of any loan from the Fund, which may vary between different loans
146 and between local governments and private entities to finance or refinance the cost of a project.
147 Each loan shall be evidenced by appropriate bonds or notes of the local government or by the
148 appropriate debt instrument for private entities payable to the Fund. Private entities shall duly
149 authorize an appropriate debt instrument and execute same by their authorized legal
150 representatives. The bonds or notes shall have been duly authorized by the local government and
151 executed by its authorized legal representatives. The Authority may require in connection with
152 any loan from the Fund such documents, instruments, certificates, legal opinions, covenants,
153 conditions, and other information as it may deem necessary or convenient to further the purpose
154 of the loan. In addition to any other terms or conditions that the Authority may establish, the
155 Authority may require, as a condition to making any loan from the Fund, that the local
156 government or private entity receiving the loan covenant to perform any of the following:

157 1. Establish and collect rents, rates, fees, and charges to produce revenue sufficient to pay all or a
158 specified portion of (i) the costs of operation, maintenance, replacement, renewal, and repairs of
159 the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including
160 the principal of, premium, if any, and interest on the loan from the Fund; and (iii) any amounts
161 necessary to create and maintain any required reserve, including any rate stabilization fund
162 deemed necessary or appropriate by the Authority to offset the need, in whole or part, for future
163 increases in rents, rates, fees, or charges;

164 2. With respect to local governments, levy and collect ad valorem taxes on all property within the
165 jurisdiction of the local government subject to local taxation sufficient to pay the principal of and
166 premium, if any, and interest on the loan from the Fund to the local government;

167 3. Create and maintain a special fund or funds for the payment of the principal of, premium, if
168 any, and interest on the loan from the Fund and any other amounts becoming due under any
169 agreement entered into in connection with the loan, or for the operation, maintenance, repair, or
170 replacement of the project or any portions thereof or other property of the borrower, and deposit
171 into any fund or funds amounts sufficient to make any payments on the loan as they become due
172 and payable;

173 4. Create and maintain other special funds as required by the Authority;

174 5. Perform other acts otherwise permitted by applicable law to secure payment of the principal
175 of, premium, if any, and interest on the loan from the Fund and to provide for the remedies of the
176 Fund in the event of any default by the borrower in payment of the loan, including, without
177 limitation, any of the following:

178 a. The conveyance of, or the granting of liens on or security interests in, real and personal
179 property, together with all rights, title and interest therein;

180 b. The procurement of insurance, guarantees, letters of credit and other forms of collateral,
181 security, liquidity arrangements or credit supports for the loan from any source, public or private,
182 and the payment therefor of premiums, fees, or other charges;

183 c. The combination of one or more projects, or the combination of one or more projects with one
184 or more other undertakings, facilities, utilities, or systems, for the purpose of operations and
185 financing, and the pledging of the revenues from such combined projects, undertakings,
186 facilities, utilities and systems to secure the loan from the Fund borrower made in connection
187 with such combination or any part or parts thereof;

188 d. The maintenance, replacement, renewal, and repair of the project; and

189 e. The procurement of casualty and liability insurance;

190 6. Obtain a review of the accounting and internal controls from the Auditor of Public Accounts
191 or his legally authorized representatives, as applicable. The Authority may request additional
192 reviews at any time during the term of the loan. In addition, anyone receiving a report in
193 accordance with § [10.1-603.23](#) may request an additional review as set forth in this section; and

194 7. Directly offer, pledge, and consent to the Authority to take action pursuant to § [62.1-216.1](#) to
195 obtain payment of any amounts in default, as applicable.

196 All local governments or private entities borrowing money from the Fund are authorized to
197 perform any acts, take any action, adopt any proceedings, and make and carry out any contracts
198 that are contemplated by this article. Such contracts need not be identical among all local

199 governments or private entities, but may be structured as determined by the Authority according
200 to the needs of the contracting local governments or private entities and the Fund.

201 Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the
202 Authority may consent to and approve any modification in the terms of any loan to any local
203 government.

204 § [10.1-604.1](#). *Determination of hazard potential classification.*

205 *A. The hazard potential classification for an impounding structure shall be determined by one of*
206 *the following procedures:*

207 *1. The owner of an impounding structure that does not currently hold a regular or conditional*
208 *certificate from the Board, or the owner of an impounding structure that is already under*
209 *certificate but the owner believes that a condition has changed downstream of the impounding*
210 *structure that may reduce its hazard potential classification, may request that the Department*
211 *conduct a simplified dam break inundation zone analysis to determine whether the impounding*
212 *structure has a low hazard potential classification. The owner shall pay 50 percent of the cost of*
213 *the analysis. If the Department finds that the impounding structure has a low hazard potential*
214 *classification, the owner shall be eligible for general permit coverage in accordance with § [10.1-](#)*
215 *[605.3](#). If the Department finds that the impounding structure appears to be a high or significant*
216 *hazard potential structure, the owner's engineer shall provide further analysis in accordance*
217 *with § [10.1-606.2](#) and the criteria set out in the Impounding Structure Regulations (4 VAC [50-](#)*
218 *[20](#)). The owner may be eligible for grant assistance in accordance with § [10.1-603.19](#).*

219 *2. The owner may propose a hazard potential classification that shall be subject to approval by*
220 *the Board. To support the proposed hazard classification, an analysis shall be conducted by the*
221 *owner's engineer and shall comply with the criteria set out in the Impounding Structure*
222 *Regulations (4 VAC [50-20](#)). If the engineer finds that the impounding structure has a low hazard*
223 *potential classification, the owner shall be eligible for general permit coverage in accordance*
224 *with § [10.1-605.3](#).*

225 *An impounding structure's hazard potential classification's determination shall include an*
226 *analysis of those hazards created by flood and nonflood dam failures. In conducting the hazard*
227 *potential classification, the Department or the owner's engineer may utilize an incremental*
228 *damage analysis. When considering the failure of the impounding structure under a flood*
229 *condition, such engineers shall only consider those hazards that exceed those created by the*
230 *flood event.*

231 *B. Any owner aggrieved by a decision of the Department regarding his impounding structure*
232 *shall have the right to judicial review of the final decision pursuant to the provisions of the*
233 *Administrative Process Act (§ [2.2-4000](#) et seq.).*

234 *C. The Board may adopt regulations in accordance with § [10.1-605](#) to establish a simplified*
235 *methodology for dam break inundation zone analysis.*

236 § [10.1-605.3](#). *General permit for certain impounding structures.*

237 *A. The Board shall develop a general permit for the regulation of low hazard potential*
238 *impounding structures in accordance with § [10.1-605](#).*

239 *B. The regulations shall include the following:*

240 *1. A registration statement requiring:*

241 *a. The name and address of the owner;*

242 *b. The location of the impounding structure;*

243 *c. The height of the impounding structure;*

244 *d. The volume of water impounded; and*

245 *e. A certification from the owner that the impounding structure (i) is classified as low hazard*
246 *pursuant to a determination by the Department or the owner's professional engineer in*
247 *accordance with § [10.1-604.1](#); (ii) is, to the best of his knowledge, properly and safely*
248 *constructed and currently has no observable deficiencies; and (iii) shall be maintained and*
249 *operated in accordance with the provisions of the general permit.*

250 *2. A spillway design flood requirement of the 100-year flood. When appropriate, the spillway*
251 *design flood requirement may be reduced to the 50-year flood in accordance with an incremental*
252 *damage analysis.*

253 *3. A simplified emergency preparedness plan that provides:*

254 *a. Name and location information for the impounding structure;*

255 *b. Name of owner and operator and associated contact information;*

256 *c. Contact information for relevant emergency responders;*

257 *d. Procedures for notifying downstream property owners or occupants; and*

258 *e. Identification of any downstream roadways that would be impacted by a failure.*

259 *4. An annual inspection of the impounding structure by the owner. No inspection of the*
260 *impounding structure by a licensed professional engineer shall be required if the owner certifies*
261 *at the time of general permit coverage renewal that conditions at the impounding structure and*
262 *downstream are unchanged.*

263 *5. Procedures for seeking and issuing coverage under the general permit.*

264 6. A six-year term of coverage under the general permit after which time the owner shall reapply
265 for coverage by filing a new registration statement. The Board may, by regulation, establish a
266 fee for the processing of registration statements.

267 C. The owner shall notify the Department immediately of any change in circumstances that
268 would cause the impounding structure to no longer qualify for coverage under the general
269 permit. In the event of a failure or an imminent failure at the impounding structure, the owner
270 shall immediately notify the local emergency services coordinator, the Department of Emergency
271 Management, and the Department. The Department shall take actions in accordance with § [10.1-](#)
272 [608](#) or [10.1-609](#), depending on the degree of hazard and the imminence of failure caused by the
273 unsafe condition.

274 D. Failure to comply with the provisions of the general permit may result in penalties assessed in
275 accordance with §§ [10.1-613.1](#) and [10.1-613.2](#).

276 E. In order to qualify for the provisions of § [10.1-606.3](#), a dam owner eligible for a general
277 permit shall file a dam break inundation map with the Department and with the offices with plat
278 and plan approval authority or zoning responsibilities as designated by the locality for each
279 locality in which the dam break inundation zone resides in accordance with § [10.1-606.2](#).

280 F. If the failure of a low hazard potential impounding structure is not expected to cause loss of
281 human life or economic damage to any property except property owned by the owner, the owner
282 may follow the special criteria established for certain low hazard impounding structures in the
283 Impounding Structure Regulations (4 VAC [50-20](#)) in lieu of coverage under the general permit.

284 § [10.1-606.4](#). Notice to the public.

285 A. When applying to the Department for a permit under the Virginia Impounding Structure
286 Regulations (4VAC [50-20](#)) to construct a new *high or significant hazard potential* impounding
287 structure, the applicant shall provide localities that lie within the inundation zone with copies of
288 the construction permit request and the dam break inundation zone map.

289 B. When submitting the application to the Department, the permit applicant shall publish a notice
290 in a newspaper of general circulation in the affected localities summarizing the permit request
291 and providing the address of locations where copies of the construction permit request and the
292 dam break inundation zone map may be examined. The applicant shall provide copies of the
293 published notice to the Department and to the local government offices with plat and plan
294 approval authority or zoning responsibilities as designated by the locality.

295 C. The Department may hold, on behalf of the Virginia Soil and Water Conservation Board, a
296 public hearing on safety issues associated with the construction permit application for the
297 impounding structure.

298 D. The Department may require a permit applicant to provide other forms of reasonable notice,
299 such as the placement of a sign on the proposed site, to ensure that affected parties have been
300 informed.

301 E. The permit applicant shall send, by certified mail, to each property owner within the dam
302 break inundation zone, a summary of the permit request and the addresses of locations where the
303 map of the dam break inundation zone may be viewed. In the case of a condominium or
304 cooperative, such information shall be sent to each property owner or the owners' association.
305 The permit applicant may rely upon real estate assessment records to identify property owners. If
306 requested by the Department, the applicant shall provide a list of the persons to whom notice has
307 been sent.

308