



## **STATE DCR CHANGES TO EXISTING REGULATIONS**

### **THE DEFINITION OF “IMPOUNDING STRUCTURE”**

On March 13, Governor Gilmore signed into law SB1166 which changes the definition of “impounding structure” to include those dams the Department of Conservation and Recreation (DCR) feels present a risk to the public that did not meet the previous definition – generally speaking, small dams that have large volumes and large dams that may not have huge volumes, but store enough water to present a risk.

### **Changes from the Previous Definition**

Those of you familiar with the previous definition of an “impounding structure” know that a structure could be **excluded** from the requirements of the Dam Safety Act if it met one of the following requirements:

- A height of 25 ft or less (measured from the downstream invert to the top of the dam)
- A capacity less than 50 ac-ft (measured from the top of the dam)
- Is used primarily for agricultural purposes and has a capacity less than 100 ac-ft
- Is owned or licensed by the Federal Government; or
- Is operated for mining purposes under 45.1-222 of the *Code of Virginia*

The new definition has been changed to be more inclusive; as a result, the following will be considered impounding structures (**effective July 1, 2002**) and therefore will be subject to the Dam Safety Act regulations:

- (i) ***All dams that are twenty-five feet or greater in height and that create an impoundment capacity of fifteen acre-feet or greater, and***
- (ii) ***All dams that are six feet or greater in height and that create an impoundment capacity of fifty acre-feet or greater.***

The other exclusions appear to be essentially the same, with the exception of the addition of language associated with mining activities. The bottom line is that the old exclusions for dams less than 25 ft in height, regardless of volume, or with volumes less than 50 ac-ft, regardless of height, have been eliminated.

## **What is required of Owners of Regulated Structures?**

Basically, the owner of a regulated structure is required to have an Operation and Maintenance Certificate that includes an assessment by a professional engineer, an Operation and Maintenance Plan, and an Emergency Action Plan. The certificates are good for a period of six years, but require periodic inspections by a professional engineer - review the DCR website for more information at [www.dcr.state.va.us](http://www.dcr.state.va.us) and click on "Dam Safety Programs". Keep in mind, however, that the definition of which dams are subject to the law (listed under "*Which dams are subject to the law?*" on page one) will change **effective July 1, 2002** to include the new definition discussed above. Also keep in mind that the new requirements will apply to all dams, both new and existing structures.

## **E&S CERTIFICATION REQUIRED FOR PLAN APPROVAL**

Effective July 1<sup>st</sup> of this year, an individual holding a "certificate of competence" for erosion and sediment control from DCR, "who will be in charge of and responsible for carrying out the land-disturbing activity", will have to be named in the plan prior to its approval. DCR staff are currently trying to figure out how to implement this requirement, given no additional funding or staff, and will be notifying the various plan-approving authorities (counties, cities, and towns) on the process when they have it ironed out. They also plan to create a web page to help get the word out. We will keep you informed of the specifics as they become available.

## **FOR FURTHER INFORMATION**

The dam inspector for DCR that is responsible for the northern Virginia area is Dianna Sheesley. She can be reached at (540) 351-1587.

You can also e-mail or call Wetland Studies and Solutions, Inc.:

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