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**HOUSE BILL NO. 216**

Offered January 10, 2024

Prefiled January 4, 2024

*A BILL to amend and reenact § 10.1-605.3 of the Code of Virginia, relating to Department of Conservation and Recreation; variances to general permit requirements for certain impounding structures; hazard potential classifications study; report.*

Patron—Orrock

Referred to Committee on Agriculture, Chesapeake and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

**1. That § 10.1-605.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 10.1-605.3. General permit for certain impounding structures.**

A. The Board shall develop a general permit for the regulation of low hazard potential impounding structures in accordance with § 10.1-605.

B. The regulations shall include the following:

1. A registration statement requiring:

a. The name and address of the owner;

b. The location of the impounding structure;

c. The height of the impounding structure;

d. The volume of water impounded; and

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

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

3. A simplified emergency preparedness plan that provides:

a. Name and location information for the impounding structure;

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

c. Contact information for relevant emergency responders;

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

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

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

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

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

*7. A process by which an owner may submit a request only to the Department for a temporary or permanent variance to the general permit requirements for its review and consideration.*

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

D. Failure to comply with the provisions of the general permit may result in penalties assessed in accordance with §§ 10.1-613.1 and 10.1-613.2.

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

F. If the failure of a low hazard potential impounding structure is not expected to cause loss of

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59 human life or economic damage to any property except property owned by the owner, the owner may  
60 follow the special criteria established for certain low hazard impounding structures in the Impounding  
61 Structure Regulations (4VAC50-20) in lieu of coverage under the general permit.

62 **2. That the Department of Conservation and Recreation (the Department) is directed to study**  
63 **issues relating to hazard potential classifications for impounding structures in the Commonwealth,**  
64 **including comparing and contrasting the Commonwealth's classification methods with other states'**  
65 **classification methods, and provide a risk and cost analysis of implementing solutions to any**  
66 **identified issue. The Department shall report its findings to the Chairmen of the House Committee**  
67 **on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture,**  
68 **Conservation and Natural Resources by December 1, 2024.**

69 **3. That the Department of Conservation and Recreation shall advise the Governor and the**  
70 **Secretary of Natural and Historic Resources of any variances to the general permit requirements**  
71 **granted by the Department pursuant to § 10.1-605.3 of the Code of Virginia, as amended by this**  
72 **act.**