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WILLIAMSBURG
 ENVIRONMENTAL
 GROUP, INC.

2009
 January Issue

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Virginia Stormwater Management Program
 Permit Regulations Update
 Discharges of Stormwater from Construction Activities

The Virginia Department of Conservation and Recreation has completed updates to the Virginia Stormwater Management Program (VSMP) Permit Regulations for Discharges of Stormwater from Construction Activities (typically referred to as the VSMP Construction General Permit, or the CGP). The public comment period closed on December 26th (DCR has received numerous comments on several proposed changes - see page 2 for some of the more significant DRAFT changes). Pending any subsequent revisions that DCR makes, the permit will become effective on July 1, 2009.

As a refresher (and in general terms) the DCR VSMP Permits consist of a **construction** and a **post-construction** permit component. The construction general permit applies to all regulated land disturbing activities. The post-construction component is the implementation of stormwater quality and quantity controls on new and re-development projects. The CGP is a state permit that is issued in addition to the local government plan review and issuance of a land disturbing permit. **Whereas, a local land disturbing permit may be in place for the life of a construction project, the VSMP CGP is a 5-year permit that has a set expiration date.** The current VSMP CGP (DCR01) has been in place since July 1, 2004 and is set to expire on June 30, 2009. All active CGPs must be renewed prior to June 30, 2009 and be brought into compliance with all new requirements of the new permit – VAR10 and the Stormwater Pollution Prevention Plans (SWPPP) must be brought into compliance within 30 days of coverage (a brief listing of significant changes in the permit is provided on Page 2). **This will require a new registration statement and may also require updates to your Stormwater Pollution Prevention Plan.**

Please contact WEG to assess specific impacts to your project.

It is important to note that the broader changes to the technical requirements, administrative procedures, and fees of the VSMP Permit Regulations for stormwater management are still being reviewed and will be implemented sometime in early 2010, representing yet another milestone that bears watching relative to future project planning.

(Continued on Page 3)

WEG Welcomes Joe Battiata,
 Senior Water Resources Engineer



WEG is pleased to announce the addition of Mr. Joseph G. Battiata, P.E. to our staff. Joe comes to us with over 25 years of experience in Civil Engineering design, project management, and team leadership and will manage the Water Resources Team in our Richmond, Virginia office. He has an extensive background in hydrology, hydraulics, stormwater management, watershed management, erosion control, and general land development infrastructure design. Prior to joining WEG, Joe was a Regional Regulatory Manager for CONTECH Stormwater Solutions, Inc. and served to link the in-house stormwater quality Research and Development programs with the federal, state, and local regulatory program requirements. Prior to CONTECH Stormwater Solutions, he worked in the public-sector for the Location and Design Division of VDOT, where he managed their Erosion and Sediment Control and Stormwater Management Programs, as well as developed and led the implementation of their NPDES Construction and MS4 Permit Programs. His past experience also includes working as the Virginia Stormwater Program Manager and Chief Engineer at DCR. Joe earned his B.S. degree in civil engineering from The Catholic University of America and is a licensed professional engineer in Maryland and Virginia. Joe can be reached at (804) 267-3474 or at jbattiata@wegnet.com.

2008 Legislation Affecting Dam
 Owners and Downstream
 Development (HB837)

On March 8, 2008, House Bill 837 entitled "Dam break inundation zones; localities with authority to address development" passed the General Assembly and was later signed by the Governor. What this means to any given dam owner is that the dam break inundation study provided to DCR for certification must also be submitted to the local government agency that is responsible for plan approval. Once the inundation maps have been submitted to the local government and are on file, for any development project proposed within the inundation zone and which causes an upgrade in the Hazard Classification, the developer is responsible for 50% of the cost to upgrade the dam and spillway. The submission of the inundation study to the local government agency is to begin in 2009.

Please contact rcooper@wegnet.com or dbeisch@wegnet.com if you have questions regarding this legislation.



Dam Owners should be aware that significant changes to the regulations governing the operation and maintenance of their structures have occurred.

Modifications to Dam Safety Regulations: On September 26, 2008 the Virginia Impoundment Structure Regulations (regulations) (under the authority of the *Dam Safety Act, Article 2, Chapter 6, Title 10.1 of the Code of Virginia*) were amended in order to improve public safety and property protection in the event of a dam failure. The important elements of these amended changes are as follows:

- Revised hazard classification categories for dams. Previously, dams were classified as Class I, II, III and IV. The new classification system has been revised to reference High, Significant, Low, and Low-Special Condition hazard classes. This was done to obtain better consistency with the Federal dam classifications.
- The amended regulations are now applicable to all state-regulated dams. The old regulations made a distinction between dams built before 1982 and after.

(Continued on Page 3)

Significant DRAFT Changes to the VSMP General Permit for Discharges of Stormwater from Construction Activities (VAR10) Effective July 1, 2009

All active construction General Permits (DCR01) will require renewal on or before July 1, 2009 and the SWPPP must then be brought into compliance with the new requirements within 30 days of coverage under the new permit. The following provides a list of just some of the more critical changes. Please contact WEG for more details or to evaluate any current projects to assess the impact of the changes.

1. New registration statement (or Notice of Intent) seeking continued coverage under the new Permit (VAR10): The new permit will explicitly require compliance with the post-construction stormwater management requirements of the VA Stormwater Management Regulations, as well as the erosion and sediment control plan requirements of the VA Erosion and Sediment Control Regulations. Where the connection between this permit and these parallel regulations had been previously muddled by conflicting language, there is now a clear endorsement of a single regulatory authority for the administrative and technical requirements and enforcement provisions.
2. A sign or other notice must be posted conspicuously near the main entrance of the construction site containing a copy of the permit coverage letter and the location of the SWPPP.
3. The operator must make the SWPPP available to the public for review upon request. Such availability may be arranged at a convenient time and publicly available location, but no less than twice per month and during normal business hours.
4. The SWPPP must be amended if deficiencies are noted during inspections by the operator's inspection personnel or by local, state, or federal officials. All revisions must be dated and signed.
5. The SWPPP must contain a record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on any portion of the site, and when stabilization measures are initiated.
6. The SWPPP must clearly identify the contractor(s) or subcontractor(s) that will implement and maintain each measure identified in the SWPPP, as well as the name and phone number of the "qualified personnel" conducting inspections.
7. Inspections must be conducted every seven calendar days or at least once every 14 calendar days and within 48 hours following any runoff-producing storm event.
8. A report of all inspections and any corrective actions, along with the name and qualifications of the inspection personnel, must be made and retained as part of the SWPPP. This record is to include rainfall and weather information from the runoff-producing event, or if inspecting on a seven day schedule, the amount of rainfall since the previous inspection.
9. All inspection reports and records of corrective actions must be kept for at least three years from the date that the permit expires or is terminated.
10. The SWPPP must include, if applicable, any correspondence between the U.S. Fish and Wildlife Service, Environmental Protection Agency, U.S. National Marine Fisheries Service, or others regarding any federally-listed threatened or endangered species or federally-designated critical habitat.

Again, please contact your WEG Project Manager for more details or to evaluate any current projects to assess the impact of these changes.

(cont. from page 1-VSMP Permit Regulations Update)

Some of the changes in the proposed stormwater management technical and administrative criteria are too complex to try to summarize here. **Please contact WEG if you would like more information or if you would like to schedule an in-house workshop about the pending regulatory changes affecting stormwater permitting programs in Virginia.** It is important for you to understand the timing of these new permit requirements relative to any long-term construction and development projects. These permits are mandated by the Clean Water Act and do not contain "grandfathering" provisions for active projects. **Therefore, it is critical to note and track the effective dates of the permits and any associated regulatory actions.**

(cont. from page 1-Modifications to Dam Safety Regulations)

- The spillway design requirements have been changed. There is no longer a range of spillway design floods associated with the hazard classification, height of dam, and/or storage capacity. The new table is as follows:

Hazard Potential Class of Dam	Spillway Design Flood (SDF)	Minimum Threshold for Incremental Damage Analysis
High	PMF*	50% PMF
Significant	50% PMF	100-Year
Low	100-Year	50-Year

*Probable Maximum Flood

- A section in these regulations was created that allows for the potential reduction of the spillway design flood (SDF). This section is referenced in the regulations as 4VAC50-20-52, Incremental Damage Analysis. This section allows a dam owner to reduce the SDF capacity (see table) if it can be demonstrated that no additional downstream protection is offered by meeting the required SDF.
- Dam break inundation zone mapping requirements have been established. The requirements define four dam breach scenarios that must be mapped. These are 1) sunny day failure at normal pool, 2) SDF without dam failure, 3) SDF with dam failure, and 4) PMF with dam failure. Also defined within this section of regulations is the downstream extent of mapping required.
- The Emergency Action Plan (EAP) requirements have been expanded for dams with High and Significant Hazard Potential. The EAP requirements now mandate annual exercises/drills be performed to the extent practicable. These exercises should include a face-to-face meeting with local emergency management agencies so all parties understand required actions during an emergency. Furthermore, a table-top exercise is required once every six years. Low Hazard Potential dams are required to submit an Emergency Preparedness Plan. A form is available on the Department of Conservation and Recreation (DCR) website for the Emergency Preparedness Plan.
- Operation and Maintenance Certificates and all Permits now have application fees associated with their submittals to DCR. These fees must be paid or the Dam Safety Regional Engineer will not review submitted applications. The application fees range from \$300 to \$600 based on Hazard Classification. Construction permits are \$2,500 for High and Significant Dams and \$1,000 for Low Hazard Dams.

The remaining updates create and/or modify definitions, reorganize, clarify, and expand sections of the regulations and update the sections pertaining to inspections, enforcement, and unsafe conditions. Williamsburg Environmental Group, Inc. maintains an extensive staff of licensed water resources engineers with experience in dam design, dam alteration, and dam safety permitting. Please contact us at rcooper@wegnet.com or dbeisch@wegnet.com with any questions or concerns regarding potential impacts of these regulatory changes on your dam. We will gladly assist you.