

## Notice of Rulemaking Hearing

### Department of Environment and Conservation Division of Water Supply

There will be public rulemaking hearings before the Tennessee Department of Environment and Conservation, Division of Water Supply on behalf of the Commissioner of the Department of Environment and Conservation to hear comments concerning amendments to the Regulations for the Safe Dams Chapter 1200-05-07 pursuant to T.C.A. 69-11-101 et seq. The proposed amendments were drafted to raise the fees for dam inspections, to raise the maximum height of a small dam, to update earthquake design standards for new dams, and to clarify or revise certain portions of the regulations. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated Section 4-5-204.

The hearings will be held on November 27, 2007 at 10 am CST at the large conference room of the TDEC Offices, 1525 Hollywood Drive in Jackson, Tennessee and at the Knoxville Utilities Board Operation Center, 4505 Middlebrook Pike in Knoxville, Tennessee at 10 am EST on November 27, 2007. A hearing will also be held at the TDEC Fleming Training Center in Murfreesboro, Tennessee at Blanton Drive at 10 am CST on November 27, 2007.

Written comments will be considered if received at the Division of Water Supply, 6<sup>th</sup> Floor - L&C Tower, 401 Church Street, Nashville, TN 37243-1539 by the close of business November 30, 2007. Comments may be submitted by letter or by email to [Lyle.Bentley@state.tn.us](mailto:Lyle.Bentley@state.tn.us).

Individuals with disabilities who wish to participate in these proceedings should contact the Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be made in person, by writing, by telephone, or by other means and should be made no less than (10) days prior to the scheduled meeting date to allow time for the Department to determine how it may reasonably provide such aid or service. Contact the Department's ADA Coordinator, Ms. Kim McCrary, 12th Floor, L&C Tower, 401 Church Street, Nashville, TN 37243, (615) 532-0211. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298). For a copy of the entire text of this notice of rulemaking hearing contact Robert L. Foster, at Division of Water Supply, 401 Church Street, Nashville TN 37243-1549 or call the nearest field office of the Department, Division of Water Supply at 1-888-891-8332. The text of the rules may also be downloaded from the Department's website at <http://www.state.tn.us/environment/dws>.

Substance of the Proposed Rules  
Rulemaking Hearing Rules  
of  
Tennessee Department of Environment and Conservation  
Division of Water Supply  
Chapter 1200-05-07  
Rules and Regulations Applied to the Safe Dams Act of 1973.

Amendments

Paragraph 33 of rule 1200-05-07-.02 Definitions is amended by adding the phrase “National Weather Service” before the word “meteorological” and by adding the sentence “The PMP for 10 square miles shall be used for watersheds smaller than 10 square miles.” at the end of the paragraph so that, as amended, the paragraph shall read:

- (33) Probable Maximum Precipitation (PMP) means the greatest amount of rainfall of a six-hour duration which would be expected for a given drainage basin as determined by National Weather Service meteorological estimates. The PMP for 10 square miles shall be used for watersheds smaller than 10 square miles.

Amendments

Part 7 of subparagraph (b) of paragraph (1) of rule 1200-05-07-.04 Certificates of Construction, Operation, and Alteration is amended by deleting the comma so that, as amended, the part shall read:

- 7. The purpose or purposes for which the dam or reservoir is to be used.

Amendments

Subparagraph (f) of paragraph (2) of rule 1200-05-07-.04 Certificates of Construction, Operation, and Alteration is amended by deleting the phrase “for any dam not having Construction Certificate” so that, as amended, the subparagraph shall read:

- (f) Application for an Operating Certificate shall be made on forms available from the Commissioner. Any dam owner who is notified by the Commissioner of the need to apply for an Operating Certificate shall submit such application within thirty (30) days.

Amendments

Paragraph (1) of rule 1200-05-07-.05 Classification of Dams is amended by replacing the number “40.9” with the number “49.9”, the first number “40” with the number “49”, the second number “40” with the number “49”, the phrase “1,000 to 50,000” with the phrase “1,000 to 49,999”, the phrase “41 to 100” with the phrase “50 to 99”, the phrase “greater than 50,000” with the phrase “50,000 or greater”, and the phrase “greater than 100” with the phrase “100 or greater” so that, as amended, the paragraph shall read:

- (1) Size. The classification for size is based on the height of the dam and storage capacity in accordance with the table below. The height of the dam is established with respect to the maximum water storage elevation measured from the natural bed of the stream or watercourse at the downstream toe of the barrier, or if it is not across a stream or watercourse, the height from the lowest elevation of the outside limit of the barrier, to the maximum water storage elevation. For the purpose of determining project size, the maximum storage elevation will be considered equal to the top of dam elevation as defined in Rule 1200—5—7—.02(26). Size classification will be determined by either storage or height, whichever gives the larger size category. For size classification purposes, fractions of heights and storages shall be rounded down to the nearest whole number, e.g., 49.9 feet would be classified in the 20 to 49 feet category.

#### Size Classification

Category	Storage (Ac-Ft)	Height (Ft)
Small	30 to 999	20 to 49
Intermediate	1,000 to 49,999	50 to 99
Large	50,000 or greater	100 or greater

#### Amendments

Subparagraph (b) of paragraph (1) of rule 1200-05-07-.07 Design Standards for New Dams is amended by adding the phrase “constructed before 2008” after the word “dams” and by adding the sentences “All dams constructed during or after 2008 shall be designed to withstand the peak ground acceleration for an earthquake with a 10% probability of exceedance in 50 years as determined by the United States Geological Survey at the time the construction permit is issued. A different peak ground acceleration may be used if site specific studies using accepted engineering practices determine that a different value is appropriate.” at the end of the paragraph so that, as amended, the subparagraph shall read:

- (b) All structures other than Category 3 dams constructed before 2008 shall be designed to withstand seismic accelerations of the following intensities: Zone 1 = 0.025g, Zone 2 = 0.05g, Zone 3 = 0.15g. Zones refer to “Geologic Hazards Map of Tennessee” by Robert A. Miller, 1978. All dams constructed during or after 2008 shall be designed to withstand the peak ground acceleration for an earthquake with a 10% probability of exceedance in 50 years as determined by the United States Geological Survey at the time the construction permit is issued. A different peak ground acceleration may be used if site specific studies using accepted engineering practices determine that a different value is appropriate.

#### Amendments

Subparagraph (c) of paragraph (4) of rule 1200-05-07-.07 Design Standards for New Dams is amended by replacing the phrase “emergency spillway “ with the phrase “freeboard” so that, as amended, the subparagraph shall read:

- (c) Emergency spillways shall be proportioned so that they will pass the freeboard hydrograph at the safe velocity determined for the site. They shall have sufficient capacity to pass the freeboard hydrograph with the water surface in the reservoir at or below the maximum storage elevation.

#### Amendments

Subparagraph (g) of paragraph (4) of rule 1200-05-07-.07 Design Standards for New Dams is amended by deleting the phrase “emergency spillway hydrograph and the” so that, as amended, the subparagraph shall read:

- (g) The freeboard hydrograph shall be routed through the reservoir starting with the water surface at the elevation of the principal spillway inlet.

#### Amendments

Part 8 of subparagraph (h) of paragraph (4) of rule 1200-05-07-.07 Design Standards for New Dams is amended by deleting the comma after “soil” so that, as amended, the part shall read:

- 8. Where bona fide studies or investigations have been made to determine the permissible velocity for a specific soil and site, these values may be used in lieu of those shown below.

#### Amendments

Subparagraph (a) of paragraph (5) of rule 1200-05-07-.07 Design Standards for New Dams is amended by deleting the phrase “most severe of the following conditions: (1) the” and the phrase “or (2) the passage of the emergency spillway hydrograph,” so that, as amended, the subparagraph shall read:

- (a) Sufficient freeboard shall be provided to prevent overtopping with the passage of the freeboard hydrograph plus the additional freeboard required by the site for wave action.

#### Amendments

Paragraph (2) of rule 1200-05-07-.09 Fees is amended by replacing the word \$300 with the word \$500 so that, as amended, the paragraph shall read:

- (2) Safety Inspection Fee. Fees will be charged for Safety Inspections by the Division. The fee is to accompany the application for an Operating Certificate. The fee will be \$500 per inspection. All fees and charges shall be payable only by check or money order to the State of Tennessee.

Authority: T.C.A. 4-5-202, 69-11-104, and 69-11-101 et seq.

The notice of rulemaking set out herein was properly filed in the Department of State on the 21st day of September, 2007. (FS 09-27-09; DBID 721)