



Economic Impact Analysis Virginia Department of Planning and Budget

4 VAC 50-20 – Virginia Impounding Structure Regulations
Department of Conservation and Recreation
April 10, 2012

Summary of the Proposed Amendments to Regulation

The Virginia Soil and Water Conservation Board (Board) proposes changes to these regulations in response to requirements placed in the Code of Virginia during the last several General Assembly Sessions that directed the Board to: 1) 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.), 2) adopt regulations in accordance with § 10.1-605 to establish a simplified methodology for dam break inundation zone analysis, and 3) develop a general permit for the regulation of low hazard potential impounding structures in accordance with § 10.1-605.

The proposed regulations contain provisions that address these Code requirements and offer a balance between public safety and the reduced risks associated with low hazard impounding structures. The key elements of the proposed amendments to these regulations include: 1) provisions to allow for the use of incremental damage analyses to modify hazard potential classifications, 2) the use of an annual average daily traffic (AADT) volume of 400 vehicles or less as the number where a roadway may be considered “limited use” and processes by which such an impounding structure may qualify for low hazard potential classification, 3) the implementation of a streamlined general permit process with reduced requirements, and 4) the ability for the Department to assist specified dam owners by conducting simplified dam break inundation zone analyses for them.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Overall public and private dam owners will be positively affected as some will benefit from reduced dam safety compliance costs associated with proposed mechanisms through which hazard potential classification may be reduced. Proposed new provisions including low volume roadway and expanded incremental damage analysis considerations. The Department of Conservation and Recreation does not believe that the safety of downstream residents and property owners will be negatively affected by the proposed amendments as they largely provide for streamlined processes, provide for less costly services, and reduce required dam standards only where risks are low.

Businesses and Entities Affected

The proposed changes affect regulated public and private dam owners that are subject to these regulations as well as downstream residents and property owners who would be potentially affected upon a dam failure. Approximately 1600 dams across the Commonwealth could be affected by this regulatory action. Of these dams, as of December 2011, slightly over 220 were classified as high hazard, almost 400 as significant hazard, and over 940 as low hazard. The low hazard dam owners will benefit the most from the proposed new provisions of these regulations. A number of these dam owners may be small businesses.

Localities Particularly Affected

Dams exist throughout the Commonwealth. The proposal to classify some impounding structures as low hazard due partially to low traffic volume would likely affect less densely populated localities more than relatively congested portions of Virginia.

Projected Impact on Employment

The proposal amendments are unlikely to significantly affect employment.

Effects on the Use and Value of Private Property

The proposed amendments will likely reduce dam safety compliance costs and consequently somewhat increase the net value of private property that includes impounding structures.

Small Businesses: Costs and Other Effects

The proposed amendments will likely reduce dam safety compliance costs for some small businesses that own dams.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely impact small businesses.

Real Estate Development Costs

The proposed amendments will potentially reduce development costs for qualifying properties that include impounding structures.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the

regulation. The analysis presented above represents DPB's best estimate of these economic impacts.