



## Virginia Department of Planning and Budget **Economic Impact Analysis**

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**4 VAC 50-20 Impounding Structure Regulations**  
**Department of Conservation and Recreation**  
**Town Hall Action/Stage: 5618 / 9088**  
November 6, 2020

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### **Summary of the Proposed Amendments to Regulation**

The Virginia Soil and Water Conservation Board (Board) proposes to require that all information required to be submitted under this regulation be provided to the Department of Conservation and Recreation (DCR) via the electronic Dam Safety System (DSIS), unless prior approval for an alternative method of submission is granted by DCR.

### **Background**

DCR defines DSIS as an electronic method of accessing information about dams in Virginia. It also allows dam owners and their professional engineers to submit required documents<sup>1</sup> and information regarding their dam to the department. Before DSIS was first implemented in 2016, all files were in paper format and were located at different sites around the Commonwealth.<sup>2</sup>

According to DCR, only 526 of the 2,135 dams in the Commonwealth (25 percent) currently have a registered participant who can enter and submit data into DSIS. As a result, the majority of dam owners still submit required documents via paper forms.

### **Estimated Benefits and Costs**

Having the relevant dam information available through DSIS can greatly aid DCR in accessing the information quickly when it is needed. During weather related emergencies, such as hurricanes or prolonged storms, or in case of a dam failure, the department is utilized as a

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<sup>1</sup> There are 6 types of regulatory documents that dam owners are required to submit to DCR: record reports, dam break inundation zone studies and maps, emergency action plans, inspection reports, permits, and applications.

<sup>2</sup> Source: September 23, 2020 Virginia Soil and Water Conservation Board meeting notes.  
[https://townhall.virginia.gov/L/GetFile.cfm?File=Meeting\116\31245\Minutes\\_DCR\\_31245\\_v1.pdf](https://townhall.virginia.gov/L/GetFile.cfm?File=Meeting\116\31245\Minutes_DCR_31245_v1.pdf)

resource by emergency management officials. According to DCR, having the information in the DSIS dramatically increases the department's ability to effectively and accurately provide information to emergency managers, or in the case of an imminent dam failure to take actions to protect public safety.

There is a cost in time to dam owners and their engineers to fill out paper forms. The initial data entry for first time users of DSIS may require more time compared to filling out paper forms, but DCR believes that there should be significantly less time required to update and revise information to reflect inspections and current dam conditions. DCR believes that once users learn to navigate DSIS, which department staff would help with, no additional time would be required for DSIS entry versus filling out paper forms.

When the dam information is submitted outside of the DSIS system, DCR regional engineers must spend time inputting the data, which impinges on their time conducting reviews of the information provided by the owner or his/her engineer. The proposal to require that the dam owner use DSIS to submit information would enable the DCR regional engineers to use more of their time on analysis to protect public safety. Additionally, more time could be spent discussing with the owner potential funding options for needed repairs as well as engineering requirements or expectations.

### **Businesses and Other Entities Affected**

The proposed amendments affect the owners of the 2,135 dams in the Commonwealth subject to this regulation.<sup>3</sup> State agencies, soil and water conservation districts, local governments, public utilities, and private entities own or maintain the dams.<sup>4</sup> Some dam owners may employ engineering firms to help provide the required information. Such firms would potentially be affected as well.

Since dam owners have had the opportunity to use DSIS since 2016, and only 25 percent of dams currently have a registered participant who can enter and submit data into DSIS, it appears that many dam owners would prefer to continue to use paper forms. Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. While the benefits of enabling the DCR

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<sup>3</sup> Source: DCR

<sup>4</sup> Ibid

regional engineers to use more of their time on analysis to protect public safety may be large, there would be some indefinite cost to dam owners who would prefer to continue submitting paper forms.

### **Small Businesses<sup>5</sup> Affected:**

#### Types and Estimated Number of Small Businesses Affected

The proposal would affect small businesses that own dams and small engineering firms that help dam owners provide information required by the regulation. Data are not available concerning the number of such small businesses.

#### Costs and Other Effects

The proposal would likely require some small businesses that own dams to initially have more staff time spent in reporting information, or pay for more time of outside engineers to report such information.

#### Alternative Method that Minimizes Adverse Impact

There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

### **Localities<sup>6</sup> Affected<sup>7</sup>**

The proposal would particularly affect localities that have dams. Local governments that own dams and are not already inputting the required information through DSIS would likely require some additional staff time to input information. Data are not available concerning the number of such localities.

### **Projected Impact on Employment**

The proposal does not appear likely to substantively affect total employment.

### **Effects on the Use and Value of Private Property**

The proposal would likely require some owners of private property that includes a dam to initially spend more time in reporting information, or pay for more time of outside engineers to

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<sup>5</sup> Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

<sup>6</sup> “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>7</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

report such information. The proposal does not substantively affect real estate development costs.

## Legal Mandates

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.