

Office of Regulatory Management  
Economic Review Form

<b>Agency name</b>	Department of Labor and Industry
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	16 VAC 25-70
<b>VAC Chapter title(s)</b>	Chapter 70. Virginia Confined Space Standard for the Telecommunications Industry
<b>Action title</b>	Periodic Review of Regulations
<b>Date this document prepared</b>	June 7, 2023
<b>Regulatory Stage (including Issuance of Guidance Documents)</b>	Periodic Review of Regulations

**Cost Benefit Analysis**

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

**Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Not applicable.	(b) Not applicable.
(3) Net Monetized Benefit	Not applicable.	
(4) Other Costs & Benefits (Non-Monetized)	Not applicable.	
(5) Information Sources	Not applicable.	

**Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Not applicable.	(b) Not applicable.
(3) Net Monetized Benefit	Not applicable.	

(4) Other Costs & Benefits (Non-Monetized)	Not applicable.
(5) Information Sources	Not applicable.

**Table 1c: Costs and Benefits under Alternative Approach(es)**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Not applicable.	(b) Not applicable.
(3) Net Monetized Benefit	Not applicable.	
(4) Other Costs & Benefits (Non-Monetized)	Not applicable.	
(5) Information Sources	Not applicable.	

**Impact on Local Partners**

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 2: Impact on Local Partners**

<p>(1) Direct &amp; Indirect Costs &amp; Benefits (Monetized)</p>	<ul style="list-style-type: none"> <li>• Direct Costs: Describe the direct costs of this proposed change here.</li> <li>• Indirect Costs: Describe the indirect costs of the proposed change.</li> <li>• Direct Benefits: Describe the direct benefits of this proposed change here.</li> <li>• Indirect Benefits: Describe the indirect benefits of the proposed change.</li> </ul> <p>The Virginia standard neither disproportionately affects particular localities, nor affects costs for local governments, unless and to the extent that a local government has employees that work in telecommunications manholes. In such cases, local governments would have to assure compliance with the standard, including training requirements for covered employees. Covered local government operations could also be subject to inspection by the Virginia Occupational Safety and Health (VOSH) program, which could result in the issuance of violations and associated penalties.</p> <p>Local governments and small businesses also have the opportunity to take advantage of the Virginia Occupational Safety and Health (VOSH) program’s free, confidential Consultation and Training resources.</p> <p>The Virginia standard provides a comprehensive safety, health and welfare approach to employees exposed to confined space hazards in telecommunication manholes.</p> <p>The current federal OSHA standard for Telecommunications, including 1910.268(o) which covers work in manholes, was in place in its current form in 1987 when this regulation was adopted in Virginia. 1910.268(o) is not as detailed in protective measures for employees as the Virginia standard. The Virginia standard is considered more stringent than the federal standard (e.g., the Virginia standard requires intermittent and in some circumstances continuous monitoring of the air inside the manhole depending on the hazards involved, while the federal standard only requires testing prior to entry; the Virginia standard requires a written entry permit system for all confined space entries, while the federal standard does not – the permits may be destroyed once a successful entry and exit of the manhole has been accomplished).</p> <p>The federal Occupational Safety and Health Administration (OSHA) estimated in 2012 that each fatal accident avoided by employers and employees is valued at 9 million dollars (see Information Source section below).</p>
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(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See (1) above.	(b) See (1) above.
(3) Other Costs & Benefits (Non-Monetized)	None identified.	
(4) Assistance	Not applicable.	
(5) Information Sources	<a href="https://www.usinflationcalculator.com/inflation/current-inflation-rates/">https://www.usinflationcalculator.com/inflation/current-inflation-rates/</a> Data Source: U.S. Bureau of Labor Statistics: All items in U.S. city average, all urban consumers, not seasonally adjusted.  92 Fed. Reg. 29686, Amendments to 29 CFR 1904 and 1902, Improve Tracking of Workplace Injuries and Illnesses, Final Rule. Based on the Viscusi & Aldy's (2003) meta-analysis of studies in the economics literature that uses a willingness to pay methodology to estimate the imputed value of life-saving programs.	

**Impacts on Families**

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 3: Impact on Families**

(1) Direct & Indirect Costs & Benefits (Monetized)	<ul style="list-style-type: none"> <li>• Direct Costs: Describe the direct costs of this proposed change here.</li> <li>• Indirect Costs: Describe the indirect costs of the proposed change.</li> <li>• Direct Benefits: Describe the direct benefits of this proposed change here.</li> <li>• Indirect Benefits: Describe the indirect benefits of the proposed change.</li> </ul> <p>No cost impacts are anticipated for families.</p> <p>See benefits listed in Table 2 above.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See (1) above.	(b) See (1) above.

(3) Other Costs & Benefits (Non-Monetized)	None identified.
(4) Information Sources	None identified.

**Impacts on Small Businesses**

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 4: Impact on Small Businesses**

(1) Direct & Indirect Costs & Benefits (Monetized)	<ul style="list-style-type: none"> <li>• Direct Costs: Describe the direct costs of this proposed change here.</li> <li>• Indirect Costs: Describe the indirect costs of the proposed change.</li> <li>• Direct Benefits: Describe the direct benefits of this proposed change here.</li> <li>• Indirect Benefits: Describe the indirect benefits of the proposed change.</li> </ul> <p>See Table 2 above for costs and benefits. Small businesses would be impacted in the same manner as local governments.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See (1) above.	(b) See (1) above.
(3) Other Costs & Benefits (Non-Monetized)	To the extent that a DOLI inspection delays completion of work in an area where an employee is working inside a telecommunication manhole, the small business could experience a delay in use of the specific area until the onsite inspection is complete.	
(4) Alternatives	<p>The Department believes that economic conditions, or other factors may have significantly changed in the area affected by the regulation:</p> <ul style="list-style-type: none"> <li>• The Virginia standard references in 16VAC25-70-40.C the “Bell System Practices for Testing and Ventilating Manholes [§ 620-140-501 (4.01-7.05) (1976)]” and provides that when continuous mechanical ventilation conforms to the Bell System Practices, “monitoring for oxygen concentrations in the confined space shall not be required.” The Department is under the understanding that the Bell System Practices are outdated but has not determined what current testing and ventilation procedures are followed in the industry at Virginia worksites.</li> <li>• The Virginia standard contains lockout/tagout procedures which predate federal OSHA’s Control of Hazardous Energy Sources (Lockout/Tagout) Standard, 1910.147.</li> </ul>	

	<ul style="list-style-type: none"> <li>• The Virginia standard references the NIOSH/OSHA Pocket Guide to Chemical Hazards DHEW (NIOSH) Publication No. 78-210, which has since been updated.</li> <li>• The Virginia standard references the American National Standards Institute D6.1-1978, "Manual on Uniform Traffic Control Devices for Streets and Highways, which has since been updated.</li> </ul> <p>The Department is requesting the Safety and Health Codes Board (Board) to authorize the Department to prepare a Notice of Intended Regulatory Action to consider revision up to and including repeal of portions or the entire standard in light of changed conditions and OSHA interpretations.</p> <p>The Department is also requesting the Board authorize the Department to appoint a Regulatory Advisory Panel (RAP) pursuant to 16VAC25-11-70 to assist the Department in its review of the standard.</p>
(5) Information Sources	None identified.

**Changes to Number of Regulatory Requirements**

*For each individual VAC Chapter amended, repealed, or promulgated by this regulatory action, list (a) the initial requirement count, (b) the count of requirements that this regulatory package is adding, (c) the count of requirements that this regulatory package is reducing, (d) the net change in the number of requirements. This count should be based upon the text as written when this stage was presented for executive branch review. Five rows have been provided, add or delete rows as needed. In the last row, indicate the total number for each column.*

**Table 5: Total Number of Requirements**

Chapter number	Number of Requirements			
	Initial Count	Additions	Subtractions	Net Change
16VAC25-70-10	0	0	0	0
16VAC25-70-20	0	0	0	0
16VAC25-70-30	8	0	0	0
16VAC25-70-40	6	0	0	0
16VAC25-70-50	3	0	0	0
<b>16VAC25-70-60</b>	2	0	0	0
<b>16VAC25-70-70</b>	4	0	0	0
<b>16VAC25-70-80</b>	4	0	0	0
<b>16VAC25-70-90</b>	3	0	0	0
<b>TOTAL</b>				