

Office of Regulatory Management
Economic Review Form

Agency name	Department of Environmental Quality (“Department”)
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC 25-875
VAC Chapter title(s)	Virginia Erosion and Stormwater Management Regulation
Action title	Amend and update the Virginia Erosion and Stormwater Management Regulation to correct technical errors
Date this document prepared	June 5, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Fast-Track Regulation

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><u>Background</u></p> <p>Chapters 68 and 758 of the 2016 Acts of Assembly (the “Consolidation Bill”), as amended by Chapters 656 and 666 of the 2023 Acts of Assembly, combined requirements in the Stormwater Management Act and Erosion and Sediment Control Law to create the Virginia Erosion and Stormwater Management Act (effective July 1, 2024). The Consolidation Bill directed the State Water Control Board (Board) to adopt regulations – to permit, regulate, and control both erosion and</p>
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stormwater runoff – for the legislation to become effective. At its June 22, 2023 meeting, the Board approved final regulations that consolidated 9VAC25-840 (Erosion and Sediment Control Regulations), 9VAC25-850 (Erosion and Sediment Control and Stormwater Certification Regulations), and 9VAC25-870 (Virginia Stormwater Management Program Regulations) into a single regulatory chapter, the Virginia Erosion and Stormwater Management Regulation (9VAC25-875). The Virginia Erosion and Stormwater Management (VESM) Regulation becomes effective July 1, 2024, concurrent with the effective date of the Consolidation Bill, as amended.

Consistent with the Notice of Intended Regulatory Action for Chapter 870 that was posted in the Virginia Register of Regulations on February 4, 2019, no substantive changes to existing erosion and sediment control minimum standards or to the post-construction stormwater management technical criteria were part of the regulatory action that resulted in the Board’s adoption of Chapter 875. The intent of this regulatory action is to amend Chapter 875 by correcting technical errors that have been identified since the publication of the final regulation in December 2023.

Direct & Indirect Costs:

The Virginia Erosion and Stormwater Management (VESM) Regulation revisions include technical changes for consistency with state law and/or to provide clarity and certainty to localities that implement either erosion and stormwater management or erosion and sediment control programs. This action does not change the substantive requirements for owners and operators to submit plans, obtain permits, and maintain compliance with requirements to control erosion and stormwater runoff from land-disturbing activities. In addition, it does not change the technical requirements such as erosion and sediment control minimum standards and post-construction stormwater management criteria that protect public health and the environment. Therefore, there are no significant new direct or indirect costs associated with the proposed changes.

Direct Benefits:

The technical corrections ensure the VESM Regulation is consistent with state law and internally consistent to provide clarity and certainty to stakeholders and the localities that implement erosion and stormwater management or erosion and sediment control programs. This regulatory action makes the regulation easier to understand and implement, as well as providing certainty to stakeholders. The Department is unable to quantify these benefits because they do not make any substantive changes to the regulation or its requirements.

Indirect Benefits:

	Improving clarity of requirements saves time for localities and the regulated community, improves understanding of regulatory requirements, and should result in better compliance with the minimum standards for erosion and sediment control and stormwater management program requirements (i.e., limits on water quantity and water quality that are released to surface waters from land-disturbance sites). Better compliance protects state waters, water quality, habitat, and recreational use.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) No monetized direct or indirect costs associated with these regulatory changes.	(b) The Department is unable to quantify these benefits.
(3) Net Monetized Benefit	Unknown (see discussion above).	
(4) Other Costs & Benefits (Non-Monetized)	Unknown (see discussion above).	
(5) Information Sources	Department permit records; communications with Department staff that worked for consulting firms that prepare and work with stormwater plans.	

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

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: The “status quo” option would be to continue to use language that is inconsistent with existing law, internally inconsistent, or vague. No direct costs will be occurred by the Department.</p> <p>Indirect Costs: The primary indirect costs with the “status quo” are the additional operator, consultant, Department, and local authority staff time to resolve plan review issues due to the inconsistencies between the VESM Regulation and the existing specifications and outdated manuals. The Department is unable to quantify these costs.</p> <p>Direct Benefits: There are no benefits to maintaining incorrect information and requirements in the regulation.</p> <p>Indirect Benefits: There are not any indirect benefits to maintaining the status quo.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Unable to monetize indirect costs associated with the status quo.	(b) Unable to monetize direct and indirect benefits.
(3) Net Monetized Benefit	N/A	
(4) Other Costs & Benefits (Non-Monetized)	N/A	
(5) Information Sources	N/A	

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

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>The Department is not aware of any alternatives to this regulatory change. The regulatory change is very limited in scope to include technical changes for consistency with state law and/or to provide clarify and certainty. This action does not change the substantive requirements for owners and operators to submit plans, obtain permits, and maintain compliance with requirements to control erosion and stormwater runoff from land-disturbing activities. In addition, it does not change the technical requirements such as erosion and sediment control minimum standards and post-construction stormwater management criteria that protect public health and the environment.</p>
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(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	N/A	N/A
(3) Net Monetized Benefit	N/A	
(4) Other Costs & Benefits (Non-Monetized)	N/A	
(5) Information Sources	N/A	

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

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There are no direct costs to local partners because this action does not change the existing responsibilities of local governments to implement either an erosion and stormwater management or erosion and sediment control program consistent with requirements in the Stormwater Management Act and Erosion and Sediment Control Law (Chapters 2.3 and 2.4 of the State Water Control Law, Article 3.1 of Title 62.1 of the Code of Virginia).</p> <p>Indirect Costs: The indirect costs associated with the proposed change are additional staff time necessary for local staff to gain awareness of and implement the regulatory changes. The Department is unable to quantify these costs.</p> <p>Direct Benefits: The direct benefit to local partners is reduced confusion, which will result in less staff time in reviewing, inspecting, and working through issues before and during construction.</p> <p>Indirect Benefits: The indirect benefits associated with this change is that construction projects will be completed faster and with fewer delays caused by uncertainty, thus supporting economic growth within the locality.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits

	(a) Unable to monetize direct and indirect costs.	(b) Unable to monetize direct and indirect benefits.
(3) Other Costs & Benefits (Non-Monetized)	N/A	
(4) Assistance	N/A	
(5) Information Sources	N/A	

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)	<p>Direct Costs: There are no direct costs that impact families associated with the proposed changes.</p> <p>Indirect Costs: There are no indirect costs that impact families associated with the proposed changes.</p> <p>Direct Benefits: There are no direct benefits that impact families associated with the proposed changes.</p> <p>Indirect Benefits: There are no indirect benefits that impact families associated with the proposed changes.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) N/A	(b) N/A
(3) Other Costs & Benefits (Non-Monetized)	N/A	

(4) Information Sources	N/A
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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)	Small businesses would have the same impact as described in 1a above. The department is unable to identify the number of small businesses that would benefit from this regulatory change.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) No monetized direct or indirect costs associated with the regulatory changes.	(b) Unable to monetize direct and indirect benefits.
(3) Other Costs & Benefits (Non-Monetized)	N/A	
(4) Alternatives	N/A	
(5) Information Sources	N/A	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
9VAC25-875-70	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	1	0	0	0
	(D/R):	0	0	0	0
9VAC25-875-250	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	1	0	0	0
	(D/R):	0	0	0	0
9VAC25-875-280	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	1	0	0	0
	(D/R):	0	0	0	0
9VAC25-875-300	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	10	0	2	-2
	(D/R):	0	0	0	0
9VAC25-875-370	(M/A):	8	0	1	-1
	(D/A):	0	0	0	0
	(M/R):	10	0	0	0
	(D/R):	0	0	0	0
9VAC25-875-470	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	1	0	0	0
	(D/R):	0	0	0	0
9VAC25-875-490	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	2	0	1	-1
	(D/R):	0	0	0	0
9VAC25-875-500	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	7	0	0	0

	(D/R):	0	0	0	0
9VAC25-875-550	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	4	2	0	+2 ^A
	(D/R):	0	0	0	0
9VAC25-875-560	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	59	1	0	+1 ^B
	(D/R):	0	0	0	0
9VAC25-875-850	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
				Grand Total of Changes in Requirements:	(M/A):-1 (D/A):0 (M/R):0 (D/R): 0

^A The “additional requirements” in 9VAC25-875-550 have been moved from 9VAC25-875-300 without any changes to the requirements.

^B The additional requirement in 9VAC25-875-560 provides clarification by stating what is implied by the 59 existing requirements – that land-disturbing activities shall be conducted in a manner that is consistent with the minimum standards that are required to be part of the permittee’s erosion and sediment control plan.

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A				

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
N/A		

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Length	New Length	Net Change in Length
N/A			