

Office of Regulatory Management
Economic Review Form

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) Chapter citation(s)	2 VAC 5-455
VAC Chapter title(s)	Regulations for Tradespersons Installing Invasive Plant Species
Action title	Promulgate regulations governing the installation of invasive plant species by tradespersons in Virginia
Date this document prepared	6/27/2024
Regulatory Stage (including Issuance of Guidance Documents)	Proposed

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)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Chapter 153 of the 2023 Acts of Assembly amended the Noxious Weeds Law (Va. Code § 3.2-800 et seq.) to require the Board of Agriculture and Consumer Services (Board) to develop and adopt regulations requiring tradespersons involved with proposing or installing plants to provide written notification to property owners for all plants proposed for installation that are included on the Virginia Department of Conservation and Recreation’s (DCR) Invasive Plant Species List, established pursuant to Va. Code § 10.1-104.6:2.</p> <p>Direct and Indirect Costs: A tradesperson proposing for installation or installing an invasive plant species will likely have costs associated with providing written notification to property owners and maintaining records in accordance with the proposed regulation. The costs will depend upon the tradesperson’s existing operation and the extent to which that operation must be modified to comply with the proposed regulation. The agency does not have any data on which to base an estimate as to the number of entities that will propose for installation or install invasive plants or on the potential range of costs that those entities may incur to comply with the proposed regulation.</p> <p>Direct and Indirect Benefits: The written notification required by the Noxious Weeds Law and the proposed regulation will result in consumers receiving information regarding invasive plants proposed for installation or installed on their property and in increased awareness of the characteristics of these plants. This awareness may result in a decrease in the number of invasive plants planted or in an increase in efforts to manage the invasive characteristics of these plants, if planted.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>(a) The agency is unable to provide a reliable estimate of the direct costs, as any costs incurred will be dependent upon each regulated entity’s current record creation and maintenance infrastructure.</p>	<p>(b) The agency is unable to provide a reliable estimate of the direct benefit of the proposed regulation, as this will be dependent upon each consumer’s response to receipt of written notification that an invasive plant is proposed for installation or has been installed.</p>
<p>(3) Net Monetized Benefit</p>	<p>Unknown</p>	

(4) Other Costs & Benefits (Non-Monetized)	Requiring a notification to property owners will result in consumer's receiving information regarding invasive plant species proposed for installation or installed on their property. The notification will likely provide the property owner (i) with information on the characteristics of the invasive plant species and how to manage the plant species and (ii) an opportunity to select another plant species instead of the invasive plant being proposed for installation.
(5) Information Sources	

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

(1) Direct & Indirect Costs & Benefits (Monetized)	This is a new regulation that is required to be promulgated pursuant to Chapter 153 of the 2023 Acts of Assembly; therefore, the status quo is not an option.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None	(b) None
(3) Net Monetized Benefit	None	
(4) Other Costs & Benefits (Non-Monetized)	None	
(5) Information Sources		

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

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>This is a new regulation that is required to be promulgated by Chapter 153 of the 2023 Acts of Assembly. There is no alternative approach to requiring tradespersons to provide notice to property owners when installing or proposing for installation invasive plants. An alternative to the proposed requirement that tradespersons keep records of the notifications for two years is to not require the maintenance of these notifications. However, without a recordkeeping provision, VDACS would be unable to verify compliance with the statute and regulation.</p> <p>Direct Cost: The direct cost of this alternative approach is the direct cost explained in Table 1a less the cost associated with maintaining the required notifications.</p> <p>Indirect Cost: The agency has not identified an indirect cost associated with the alternative approach.</p> <p>Direct and Indirect Benefit: The direct and indirect benefits of the alternative approach are the same as those explained in Table 1a.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>(a) The agency is unable to provide a reliable estimate of the direct costs, as any costs incurred will be dependent upon each regulated entity's current record maintenance infrastructure.</p>	<p>(b) See Table 1a.</p>
<p>(3) Net Monetized Benefit</p>	<p>Unknown.</p>	
<p>(4) Other Costs & Benefits (Non-Monetized)</p>	<p>The agency is unable to estimate the cost to tradespersons of maintaining the required notifications for the proposed two-year time frame. See Table 1a.</p> <p>A non-monetized cost associated with the alternative approach of not requiring tradespersons to maintain records of notifications issued is that VDACS would be unable to verify compliance with the statute and regulation.</p>	
<p>(5) Information Sources</p>		

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)	The proposed regulation is not expected to have a direct or indirect cost or a direct benefit on local partners. If tradespersons are installing invasive plant species onto property owned by local partners, then the locality will have an indirect benefit of receiving notification of the potential management issues that will arise from those plants being installed on public property.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) N/A	(b) Unknown.
(3) Other Costs & Benefits (Non-Monetized)	None	
(4) Assistance	None	
(5) Information Sources		

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)	The agency has not identified any direct or indirect cost or benefit that the proposed regulation will have on families.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None	(b) None
(3) Other Costs & Benefits (Non-Monetized)	The agency anticipates that families may benefit from learning about the invasive plant species being installed on their properties and how to manage these species.	

(4) Information Sources	
-------------------------	--

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)	<p>Direct Cost: The agency anticipates that there will be a significant, although unknown, number of small businesses that will need to comply with the proposed regulation and will incur direct costs associated with the notification and recordkeeping requirements. There may be costs associated with producing the written notification and maintaining record of the notification. As each business may have a different method for communicating with their clients and maintaining client records, the agency is unable to estimate the cost of producing and maintaining the notification to the property owner.</p> <p>Indirect Cost: The agency has not identified an indirect cost to small businesses associated with the proposed regulation.</p> <p>Direct Benefit: The agency has not identified a direct benefit to small businesses associated with the proposed regulation.</p> <p>Indirect Benefit: If tradespersons are installing invasive plant species onto property owned by small businesses, then the small business will have an indirect benefit of receiving notification of the potential management issues that will arise from those plants being installed on their property.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) The agency is unable to estimate the number of tradespersons who will be impacted by the regulations and, therefore, cannot estimate the direct cost to those tradespersons that are small businesses. Additionally, the agency is unable to provide a reliable estimate of the direct costs, as any costs incurred	(b) Unknown.

	will be dependent upon each small business's current record creation and maintenance infrastructure.
(3) Other Costs & Benefits (Non-Monetized)	None
(4) Alternatives	There is no alternative approach to requiring tradespersons that are small businesses to provide notice to property owners regarding the installation or proposing of invasive plants for installation. Chapter 153 of the 2023 Acts of Assembly requires notification to be written.
(5) Information Sources	

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
2 VAC 5-455-10	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
2 VAC 5-455-20	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R): § 3.2-802	0	1	0	1
	(D/R): § 3.2-802	0	3	0	3
2 VAC 5-455-30	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R): § 3.2-802	0	2	0	2
DIBR	(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): 0 (D/A): 0 (M/R): 1

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
2 VAC 5-455-20	Written notification	0	The agency is unable to provide a reliable estimate of the cost to issue written notification, as any costs incurred will be dependent upon each regulated entity's current record creation infrastructure.	The agency is unable to provide a reliable estimate of the cost to issue written notification, as any costs incurred will be dependent upon each regulated entity's current record creation infrastructure.
2 VAC 5-455-30	Recordkeeping	0	The agency is unable to provide a reliable estimate of the cost to issue written notification, as any costs incurred will be dependent upon each regulated entity's current record	The agency is unable to provide a reliable estimate of the cost to issue written notification, as any costs incurred will be dependent upon each regulated entity's current record maintenance infrastructure.

			maintenance infrastructure.	
--	--	--	-----------------------------	--

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
2 VAC 5-455-20	Written notification	Tradespersons proposing for installation or installing invasive plant species must provide written notification of such to the property owner.
2 VAC 5-455-30	Recordkeeping	Tradespersons proposing for installation or installing invasive plant species must maintain any notification issued for at least two years.

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	N/A	N/A	N/A

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).