

Office of Regulatory Management
Economic Review Form

Agency name	Department of Environmental Quality
Virginia Administrative Code (VAC) Chapter citation(s)	N/A
VAC Chapter title(s)	N/A
Action title	FOIA Manual Revision
Date this document prepared	August 8, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Guidance Document – Manual for Processing Information Requests Pursuant to the Virginia Freedom of Information Act

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>Background: On average, over the last three years, DEQ has processed 5,740 FOIA requests per year (5,741 in 2021, 5,973 in 2022, and 5,505 in 2023). DEQ’s current Manual for Processing Information Requests Pursuant to the Virginia Freedom of Information Act is outdated for two primary reasons. First, DEQ is in the process of procuring Freedom of Information Act (FOIA) management software. Implementation of this software will replace the need for the response letter templates currently included in Appendix A of the existing guidance. Second, pursuant to § 2.2-3704 of the Code of Virginia, “a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records” DEQ’s existing guidance lists the rates the agency charges but those rates are outdated.</p> <p>Direct Costs: The revised guidance does not impose any direct costs. Rates that DEQ uses to calculate and recover the costs of providing records are not included in the revised guidance but will be posted on DEQ’s FOIA website and updated on a regular basis.</p> <p>Indirect Costs: The revised guidance establishes a new fees policy for processing FOIA requests. Currently DEQ’s policy is to recover the costs of providing records when that cost is \$25 or more. The existing guidance also sets the rates for staff time at either \$22.20 per hour (general knowledge staff) or \$30.40 per hour (technical staff) and sets the charge for paper copies at \$0.05 per side. The revised guidance establishes DEQ’s policy to recover the costs of providing records when the request requires 15 minutes or more of staff time to process. Rather than list the rates for staff time and copies in the guidance document these will instead be posted on the DEQ FOIA website.</p> <p>Direct Benefits: During the last three years DEQ has processed an average 5,740 FOIA requests per year (5,741 in 2021, 5,973 in 2022, and 5,505 in 2023). The rates for staff time in the existing guidance document are significantly out of date. DEQ’s current cost for staff time is \$53.29 per hour (non-management) and \$78.10 per hour (management), which are above the rates of \$22.20 per hour (general knowledge staff) or \$30.40 per hour (technical staff) included in the existing guidance.</p> <p>Indirect Benefits: The revised guidance document will allow DEQ to recover its actual costs for staff time, which will improve customer service across the agency.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>

	(a) There are no direct costs. The agency is unable to monetize the indirect costs because they are dependent on the number of FOIA requests submitted and the time required to process those FOIA requests.	(b) The agency is unable to monetize the direct and indirect benefits because they are dependent on the number of FOIA requests submitted and the time required to process those FOIA requests.
(3) Net Monetized Benefit	Unable to calculate.	
(4) Other Costs & Benefits (Non-Monetized)	A guidance document that allows DEQ to recover its actual costs for processing FOIA requests will improve customer service across the agency.	
(5) Information Sources	Guidance Document – Manual for Processing Information Requests Pursuant to the Virginia Freedom of Information Act; DEQ FOIA data.	

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

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: The revised guidance establishes a new fees policy for processing FOIA requests. Currently DEQ’s policy is to recover the costs of providing records when the cost is \$25 or more. The existing guidance also sets the rates for staff time at either \$22.20 per hour (general knowledge staff) or \$30.40 per hour (technical staff) and sets the charge for paper copies at \$0.05 per side. These rates are below the actual cost for staff time, which is either \$53.29 per hour (non-management) and \$78.10 per hour (management). As a result, DEQ is not recovering its full costs of providing records in response to FOIA requests.</p> <p>Indirect Costs: As a result of a guidance document that does not allow DEQ to recover its full costs of providing records in response to FOIA requests the agency is covering the costs of providing records from other sources, which strains resources and reduces customer service in other areas of the agency’s activities.</p> <p>Direct Benefits: The existing guidance benefits FOIA requesters because the cost of FOIA requests is effectively subsidized at the expense of other agency activities.</p> <p>Indirect Benefits: The existing guidance does not produce any indirect benefits.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits

	(a) The agency is unable to calculate the monetary value of the direct and indirect costs of the existing guidance because they depend on the number of FOIA requests received and the time required to process those FOIA requests. The agency tracks the number of FOIA requests received but historically has not consistently tracked the time required to respond to FOIA requests.	(b) The agency is unable to calculate the monetary value of the direct benefits of the existing guidance because they depend on the number of FOIA requests received and the time required to process those FOIA requests. The agency tracks the number of FOIA requests received but historically has not consistently tracked the time required to respond to FOIA requests.
(3) Net Monetized Benefit	Unable to calculate.	
(4) Other Costs & Benefits (Non-Monetized)	N/A	
(5) Information Sources	Guidance Document – Manual for Processing Information Requests Pursuant to the Virginia Freedom of Information Act; DEQ FOIA data.	

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

(1) Direct & Indirect Costs & Benefits (Monetized)	DEQ did not consider any alternatives to the current proposal other than operating under the status quo.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) N/A	(b) 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: See Table 1a (this revised guidance does not affect local partners any differently than any other person engaging with DEQ through a FOIA request).</p> <p>Indirect Costs: See Table 1a (this revised guidance does not affect local partners any differently than any other person engaging with DEQ through a FOIA request).</p> <p>Direct Benefits: See Table 1a (this revised guidance does not affect local partners any differently than any other person engaging with DEQ through a FOIA request).</p> <p>Indirect Benefits: See Table 1a (this revised guidance does not affect local partners any differently than any other person engaging with DEQ through a FOIA request).</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See Table 1a (this revised guidance does not affect local partners any differently than any other person engaging with DEQ through a FOIA request).	(b) See Table 1a (this revised guidance does not affect local partners any differently than any other person engaging with DEQ through a FOIA request).
(3) Other Costs & Benefits (Non-Monetized)	See Table 1a (this revised guidance does not affect local partners any differently than any other person engaging with DEQ through a FOIA request).	
(4) Assistance	N/A	
(5) Information Sources	See Table 1a (this revised guidance does not affect local partners any differently than any other person engaging with DEQ through a FOIA request).	

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: See Table 1a (this revised guidance does not affect families any differently than any other person engaging with DEQ through a FOIA request).</p> <p>Indirect Costs: See Table 1a (this revised guidance does not affect families any differently than any other person engaging with DEQ through a FOIA request).</p> <p>Direct Benefits: See Table 1a (this revised guidance does not affect families any differently than any other person engaging with DEQ through a FOIA request).</p> <p>Indirect Benefits: See Table 1a (this revised guidance does not affect families any differently than any other person engaging with DEQ through a FOIA request).</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See Table 1a (this revised guidance does not affect families any differently than any other person engaging with DEQ through a FOIA request).	(b) See Table 1a (this revised guidance does not affect families any differently than any other person engaging with DEQ through a FOIA request).
(3) Other Costs & Benefits (Non-Monetized)	See Table 1a (this revised guidance does not affect families any differently than any other person engaging with DEQ through a FOIA request).	
(4) Information Sources	See Table 1a (this revised guidance does not affect families any differently than any other person engaging with DEQ through a FOIA request).	

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 Costs: See Table 1a (this revised guidance does not affect small businesses any differently than any other person engaging with DEQ through a FOIA request).</p> <p>Indirect Costs: See Table 1a (this revised guidance does not affect small businesses any differently than any other person engaging with DEQ through a FOIA request).</p>
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	<p>Direct Benefits: See Table 1a (this revised guidance does not affect small businesses any differently than any other person engaging with DEQ through a FOIA request).</p> <p>Indirect Benefits: See Table 1a (this revised guidance does not affect small businesses any differently than any other person engaging with DEQ through a FOIA request).</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See Table 1a (this revised guidance does not affect small businesses any differently than any other person engaging with DEQ through a FOIA request).	(b) See Table 1a (this revised guidance does not affect small businesses any differently than any other person engaging with DEQ through a FOIA request).
(3) Other Costs & Benefits (Non-Monetized)	See Table 1a (this revised guidance does not affect small businesses any differently than any other person engaging with DEQ through a FOIA request).	
(4) Alternatives	N/A	
(5) Information Sources	See Table 1a (this revised guidance does not affect small businesses any differently than any other person engaging with DEQ through a FOIA request).	

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
N/A	(M/A):				
	(D/A):				
	(M/R):				
	(D/R):				
				Grand Total of Changes in Requirements:	(M/A):
					(D/A):
					(M/R):
					(D/R):

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				
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		
N/A		

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

Title of Guidance Document	Original Word Count	New Word Count	Net Change in Word Count
Manual for Processing Information Requests Pursuant to the Virginia Freedom of Information Act	21 pages 7,445 words	17 pages 6,304 words	-4 pages -1,141 words

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