

Office of Regulatory Management
Economic Review Form

Agency name	Virginia Department of Environmental Quality (DEQ)
Virginia Administrative Code (VAC) Chapter citation(s)	Not applicable – DEQ guidance document
VAC Chapter title(s)	Not applicable – DEQ guidance document
Action title	Not applicable – DEQ guidance document
Date this document prepared	November 1, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Revised Guidance document - Guidance Memo No. 18-2012, Amendment No. 1 Points Assessment for Alleged Violations of the Construction Stormwater Permit Criteria and Enforcement Referral Guidance

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><u>Background:</u></p> <p>This amendment updates DEQ Guidance Memo No. 18-2012. This guidance document provides direction for evaluating noncompliance with the General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities (9 VAC 25-880), the Virginia Erosion and Stormwater Management Regulation (9 VAC 25-875) and the State Water Control Law (Va. Code § 62.1-44.2 et seq.) and provides a point system for determining the appropriate compliance response, including when to refer cases to the Division of Enforcement. The point system allows the Virginia Department of Environmental Quality (DEQ) Stormwater Compliance staff to consistently assess and respond to alleged noncompliance.</p> <p><u>Direct Costs:</u></p> <p>As guidance does not impose any direct costs on stakeholders or the Department since it only establishes procedures for quantifying noncompliance and unpermitted activities related to construction activities to determine the appropriate compliance response and for referring cases to the departments Division of Enforcement.</p> <p><u>Indirect Costs:</u></p> <p>The primary indirect costs are for DEQ staff and stakeholders to become familiar with the revision to the guidance document and possibly attend internal training about the changes. As much of the guidance remains unchanged, the Department expects the time necessary to be minimal.</p> <p><u>Direct Benefits:</u></p> <p>This guidance is expected to result in direct benefits to stakeholders and the Department for the following reasons:</p> <ol style="list-style-type: none"> 1. The procedures were modified so that points assessed for noncompliance are earned on a 3 month rolling basis, rather than a 6 month rolling basis. This is expected to lessen the number of both compliance and enforcement actions because corrected noncompliance incidents more than 3 months old may be exclude from cumulative total, provided a there is no pattern of noncompliance and violation have been corrected. 2. Procedures are modified so that points received for noncompliance for less significant technical issues (such as paperwork, administrative errors, maintaining documents correctly etc.) were reduced, which may result in fewer Notices of Violations (NOV) being issued and fewer facilities being recommended for
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	<p>enforcement actions and receiving fines. For DEQ, this means also a potential reduction in staff time to process NOV's and conduct enforcement actions originating, in part, from administrative noncompliance. This should allow staff more time to address more significant and persistent noncompliance causing harm to state waters.</p> <p>3. The direct benefits cannot be monetized, because of the variability in construction activities and potential noncompliance assessments. However, DEQ maintains over 6,000 Construction General Permits, so these changes are expected reduce the number of actions resulting in a referral for enforcement actions, which would reduce regulatory pressure, burdens, and fines on permittees.</p> <p><u>Indirect Benefits:</u> This guidance will help compliance inspectors to better evaluate noncompliance while reducing the cost of environmental compliance by placing more weight on noncompliance evaluations that are not administrative in nature and those that are more recent or showing patterns of noncompliance and uncorrected violations.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	<p>As guidance, there are no direct costs.</p> <p>Indirect costs vary depending on the type and amount of noncompliance found at a site. Costs are expected to decrease as administrative and older noncompliance, provided they have been corrected, are less likely to result in enforcement actions.</p>	<p>Unable to monetize but the guidance is beneficial it is expected to reduce the number of NOV's creating regulatory burdens and fines due to administrative or previously corrected noncompliance events accumulating over an extended period of time.</p>
(3) Net Monetized Benefit	unable to monetize	
(4) Other Costs & Benefits (Non-Monetized)	Reduced time to conduct and review non compliance; time savings for inspectors and stakeholders.	
(5) Information Sources	none	

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

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>The status quo would be to maintain the existing language of the guidance document DEQ Guidance Memo No. 18-2012. In this case DEQ inspectors, would continue to evaluate noncompliance for construction activities using the existing guidance language.</p> <p><u>Direct Costs:</u> Retaining the status quo of the existing guidance would not impose any direct costs on either stakeholders or the Department.</p> <p><u>Indirect Costs:</u> Maintaining the existing guidance may result in greater staff time/resources expended by the Department pursuing more noncompliance that including actions already corrected for up to 6 months and less impactful administrative violations. Additionally, maintaining the current guidance, would have a negative economic impact since more permittees would be expected to accumulate noncompliance points that could result in being referred for an enforcement action by the Department and potential fines. The Department is unable to quantify these costs due to the variability of staff resources, experience, workload, and the unknown number of projects with findings of noncompliance.</p> <p><u>Direct & Indirect Benefits:</u> Retaining the existing guidance would not have any benefits to regulated entities</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>(a) As guidance, there are no direct costs. Unable to monetize indirect costs</p>	<p>(b) None.</p>
<p>(3) Net Monetized Benefit</p>	<p>NA</p>	
<p>(4) Other Costs & Benefits (Non-Monetized)</p>	<p>NA</p>	
<p>(5) Information Sources</p>	<p>NA</p>	

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

<p>(1) Direct & Indirect Costs &</p>	<p>The Department is unaware of any alternatives to revising the existing guidance. Rescinding the guidance is not a viable alternative since the</p>
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Benefits (Monetized)	guidance establishes a consistent and transparent approach for Department staff to assess noncompliance across the State.	
(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)	Local partners would be impacted the same as other entities Direct Costs: See Table 1a. Indirect Costs: See Table 1a. Direct Benefits: See Table 1a. Indirect Benefits: See Table 1a.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See Table 1a.	(b) See Table 1a.
(3) Other Costs & Benefits (Non-Monetized)	See Table 1a.	
(4) Assistance	See Table 1a.	
(5) Information Sources	See Table 1a.	

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)	Direct Costs: There are no direct costs that impact families associated with the guidance. Indirect Costs: There are no indirect costs that impact families associated with the guidance. Direct Benefits: There are no direct costs that impact families associated with the guidance. Indirect Benefits: There are no indirect costs that impact families associated with the guidance.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None	(b) none
(3) Other Costs & Benefits (Non-Monetized)	(a) None	
(4) Information Sources	NA	

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)	Generally, the guidance would not impact Small Businesses unless they were involved in activities related to this guidance document regarding compliance with erosion and stormwater regulations at construction sites. Small businesses would be impacted in the same manner as described in Table 1a above. The department is unable to identify the number of small businesses that would be affected by this guidance document.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits

	(a) See Table 1a	(b) See Table 1a
(3) Other Costs & Benefits (Non-Monetized)	An estimated dollar amount cannot be determined absent the exact details of noncompliance and the project in question.	
(4) Alternatives	No alternative approaches to this guidance were considered.	
(5) Information Sources	NA	

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

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
NA Guidance				NA

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
NA Guidance		NA

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
Guidance Memo No. 18-2012, Amendment No. 1 Points Assessment for Alleged Violations of the Construction Stormwater Permit Criteria and Enforcement Referral Guidance	9 pages	10 Pages	+ 1 page

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