

Economic Impact Statement

LSA Document #07-646

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to this Rule

The Division of Water of the Department of Natural Resources estimates that 15 to 20 small businesses would be affected by these rule amendments annually. These are most notably condominiums with provisions for pier usage along public freshwater lakes.

Estimated Average Annual Administrative Costs Small Businesses Will Incur

Although difficult to quantify, annual administrative costs to small businesses would be somewhat reduced. Small businesses that provide spaces for docking, but that do not otherwise qualify as a "marina", would no longer be evaluated as to the need for the placement of pumpout facilities.

In fact, no small business of this nature has been required to provide pumpout facilities, but the result is a possibility. In most instances, the outcome of the review would be that a condominium was not required to provide pumpouts. But compliance with the regulatory review is a cost to small businesses.

More significantly, the contingency that piers operated by a condominium might qualify as a marina has motivated licensure remonstrations by third parties, and it has resulted in litigation. The cost of litigation would vary greatly on a case-by-case basis, but in a recent adjudication, whether a "group pier" was also a "marina" was the most extensively contested issue. Lakeside owners contested the DNR's licensing of piers by a condominium. These private parties spent thousands and probably tens of thousands of dollars on the litigation. The costs of licensure review and of litigation, for whether small businesses should meet the regulatory requirements for marinas, would be eliminated.

Estimated Total Annual Economic Impact on Small Businesses

Although difficult to quantify, there would be a positive economic impact on small businesses. Please see analysis immediately above.

Regulatory Flexibility Analysis of Alternative Methods

The DNR does not propose an alternative regulatory method since the proposal would reduce the economic impact on small businesses. The DNR did not rely on studies in its decision not to employ alternatives to the proposed rule.

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