

Economic Impact Statement

LSA Document #09-7

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**Description of Rule**

[IC 16-19-3-27](#) requires that the ISDH study the use of various on-site sewage technologies, develop plans and specifications for the use of those technologies, and promulgate rules for those plans and specifications. The same subdivision of that statute requires the agency to adopt rules to allow local health departments to issue operating permits for on-site sewage systems. [IC 16-41-25-1](#) requires the ISDH to adopt rules that provide for a reasonable period not exceeding 45 days in which a plan review and permit for residential on-site sewage systems must be approved or disapproved.

Under [IC 16-19-3-4](#), ISDH has the authority to adopt rules in order to protect or improve public health in the state, including rules concerning the disposition of excremental and sewage matter. Under [IC 16-19-3-5](#) (formerly [IC 16-1-3-22](#)), ISDH may adopt rules for the efficient enforcement of any of the provisions of that article.

This rule replaces [410 IAC 6-8.1](#), Residential Sewage Disposal Systems, which was promulgated in 1990. This new rule implements appropriate provisions mandated by state statute ([IC 16-19-3-27](#); [IC 16-41-25-1](#)). It also updates minimum statewide criteria for construction, location, and sizing of residential on-site sewage disposal systems, based both on the number of bedrooms in a home (which determines estimated sewage flow, that is, system size) and the type of soil available to absorb water (which determines the type of system that can be installed). As with previous rules, this rule requires a property owner to obtain a permit from the local health officer for installation of a residential on-site sewage system.

[410 IAC 6-8.1](#) will be repealed on the effective date of the new rule.

Economic Impact on Small Businesses**1. Estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.**

[IC 4-22-2.1-4](#) defines a small business as any person, firm, corporation, limited liability company, partnership, or association that: (1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana; (2) is independently owned and operated; (3) employs one hundred (100) or fewer full-time employees; and (4) has gross annual receipts of five million dollars (\$5,000,000) or less.

Tank Manufacturers – 44

On-Site System Installers – 500

2. Estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

There are no record keeping or reporting requirements in the current rule, and none are being added.

3. Estimate of the total annual economic impact that compliance with the proposed rule will have on small businesses subject to the rule.

Tank manufacturers – Two tank manufacturers reported fiscal impacts for retooling; one estimate was \$200, the other was \$250 to \$300. No other tank manufacturers have reported any fiscal impact.

On-site system installers – No fiscal impact.

4. Statement justifying any requirement or cost that is imposed on small businesses by the rule and not expressly required by the statute authorizing the agency to adopt the rule or any other state or federal law.

The additional cost to small businesses is justified because of the benefit to public health. It will help prevent the harms caused by failing on-site sewage disposal systems such as public health hazards, community nuisance conditions, and reduced property values.

5. Regulatory Flexibility Analysis.**Other factors considered:****A. Establishment of less stringent compliance or reporting requirements for small businesses.**

This current rule is less stringent; however, it is not effective enough in decreasing the potential harm caused by on-site sewage systems.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

The effective date of the rule needs to be as soon as possible to increase the effectiveness of on-site sewage systems.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

The rule is as simple as it can be.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

Operation or design standards are necessary to achieve the benefits of the rule.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

The state needs a uniform system to prevent the harms caused by failing on-site sewage systems so small businesses cannot be exempted from the requirements of the rule. Additionally, few of the small businesses will bear a cost from this rule change.

Conclusion

The changes proposed will have insignificant financial effect on the operations of small businesses in Indiana. Of businesses surveyed, only two have indicated any fiscal impact, and those indicated a fiscal impact of not more than \$300.

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