



# Virginia Department of Planning and Budget **Economic Impact Analysis**

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**12 VAC 5-610 Sewage Handling and Disposal Regulations**  
**Virginia Department of Health**  
**Town Hall Action/Stage: 5896 / 9514**  
March 2, 2022

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). The analysis presented below represents DPB's best estimate of these economic impacts.<sup>1</sup>

## **Summary of the Proposed Amendments to Regulation**

The Board of Health (Board) proposes to incorporate in the regulation design and installation criteria for conveyance pump stations and dispersal areas utilizing certain treated effluent that are already followed under guidance documents and policy.

## **Background**

The purpose of this fast-track action is to incorporate in the *Sewage Handling and Disposal Regulations* the design and installation criteria for conveyance pump stations and dispersal areas utilizing treated effluent (TL-2 and TL-3).<sup>2</sup> The Virginia Department of Health (VDH) states that historically the criteria were addressed via agency Guidance Memorandum and Policies (GMP). These types of designs were addressed piecemeal through product specific approvals beginning in 1995 and culminated in a comprehensive policy in 2009, known as GMP

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<sup>1</sup> Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

<sup>2</sup> "TL-2" means treatment level 2, which is equivalent to a final effluent quality of less than or equal to 30 mg/l 5 Day Biochemical Oxygen Demand and 30 mg/l Total Suspended Solids.

"TL-3" means treatment level 3, which is equivalent to a final effluent quality of less than or equal to 10 mg/l 5 Day Biochemical Oxygen Demand and 10 mg/l Total Suspended Solids.

147, which established a series of blanket variances to 12VAC5-610. These variances consisted of procedures for treatment units to receive general approval, hydraulic loading rates for alternative onsite sewage systems, and design and installation criteria for the dispersal areas.

GMP 147 was rescinded following promulgation of the *Regulations for Alternative Onsite Sewage Systems* (12VAC5-613, AOSS Regulations). However, those regulations are performance regulations and therefore did not include the specific design and installation criteria found in GMP 147. To address this gap, VDH issued GMP 2016-03,<sup>3</sup> and noted that designers could continue to use design guidance from rescinded GMP 147, which would be in compliance with the AOSS Regulations. However, parts of the rescinded GMP 147 are superseded by 12VAC5-613, so there is conflicting and extraneous information that makes it confusing as a definitive reference. In working to resolve the confusion, VDH determined that moving the policy into regulation was necessary to resolve the discrepancies and confusion and also to provide clear design instruction and authority to licensed professionals in Virginia.

### **Estimated Benefits and Costs**

The proposed action mainly shifts into the regulation current design elements and procedural requirements for these designs to conform with those already allowed under current VDH guidance and policy. The main effect of these changes is to provide clarity to homeowners, onsite sewage system designers, onsite sewage system installers, and VDH staff.

One change from current agency policy from the proposed amendments is an increase in the depth of cover over dispersal systems receiving treated wastewater from 4 inches to 6 inches of cover. This is anticipated to have an average increased development cost of less than \$500 for alternative system designs that require soil cover be brought in. However, VDH reports that most designers already utilize 6 inches or more of cover, and therefore the amendment would not impact most designs.

### **Businesses and Other Entities Affected**

According to VDH, approximately 1,200 designs for alternative systems are received each year. Those systems are designed by onsite soil evaluators and professional engineers. Over the past year 197 onsite soil evaluators, and 90 professional engineers have submitted onsite

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<sup>3</sup> <https://townhall.virginia.gov/l/ViewGDoc.cfm?gdid=6000>

sewage system designs to VDH. There are approximately 354 alternative onsite sewage system installers in the Commonwealth, that could potentially install alternative systems, and 244 alternative onsite sewage system operators that could potentially maintain alternative systems.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>4</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, an increase in the depth of cover over dispersal systems from 4 inches to 6 inches of cover would add to compliance costs up to \$500 if the owner would have otherwise used only 4 inches of cover. Thus, an adverse impact is indicated on owners of such alternative systems.

### **Small Businesses<sup>5</sup> Affected:<sup>6</sup>**

The proposed amendments do not appear to directly adversely affect small businesses.

### **Localities<sup>7</sup> Affected<sup>8</sup>**

The proposed amendments do not introduce costs for local governments.

### **Projected Impact on Employment**

The proposed amendments do not appear to be significant to noticeably affect total employment.

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<sup>4</sup> Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

<sup>5</sup> Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

<sup>6</sup> If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

<sup>7</sup> “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>8</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

**Effects on the Use and Value of Private Property**

Increase in the depth of cover over dispersal systems from 4 inches to 6 inches would add to private real property development costs up to \$500 if the owner would have otherwise used only 4 inches of cover.