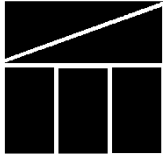


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

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**18 VAC 160-20 Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations**  
**Department of Professional and Occupational Regulation**  
**Town Hall Action/Stage: 4226/7260**  
August 28, 2015

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### Summary of the Proposed Amendments to Regulation

The *Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations* [18 VAC 160 - 20] include rules for licensing waterworks and wastewater works operators and onsite sewage system professionals. The Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (Board) proposes to repeal this regulation and promulgate two new regulation: 1) *Waterworks and Wastewater Works Operators Licensing Requirements* [18 VAC 160-30] for the licensing of waterworks and wastewater works operators, and 2) *Onsite Sewage System Professionals Licensing Regulations* [18 VAC 160-40] for the licensing of onsite sewage system professionals. As part of this action the Board proposes several changes concerning licensure. In particular, the Board proposes to introduce new master and journeyman categories for onsite sewage system professional licensees.

### Result of Analysis

There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

## Estimated Economic Impact<sup>1</sup>

The current regulation includes the following licenses for onsite sewage system professionals: conventional onsite soil evaluator, alternative onsite soil evaluator, conventional onsite sewage system installer, alternative onsite sewage system installer, conventional onsite sewage system operator, and alternative onsite sewage operator. According to the Department of Professional and Occupational Regulation, a major contention in the onsite sewage system industry – especially among those who have been in the industry for many years (decades or more) – has been the examination requirement for licensure. There are apparently individuals who have learned to perform certain skills in the field competently, but are not able to pass written tests. Due to the presence of these long-standing individuals the Board adopted policies in 2009 for installers, 2010/2011 for operators, and 2011 for onsite soil evaluators that have allowed unlicensed individuals to work without a licensee present; this has presented numerous complaints and challenges in ensuring that people performing the regulated work are minimally competent.<sup>2</sup> To balance the concerns regarding the examination with the Board’s duty to the public of ensuring minimum competency of those engaging in the profession to protect the health, safety, and welfare of the public, the Board’s proposed *Onsite Sewage System Professionals Licensing Regulations* [18 VAC 160-40] include separate master and journeyman categories for each license listed above.<sup>3</sup>

The "Master" is defined as “an individual who possesses the minimum skills and competency to install or maintain onsite sewage systems or evaluate soil sites as suitable for conventional and alternative onsite sewage systems, and to design conventional and alternative onsite sewage systems.” The master licensure categories are essentially equivalent to the licenses in the current regulation, with the exception that masters will have supervisory responsibility of journeymen. Currently licensed individuals would become masters once the proposed *Onsite Sewage System Professionals Licensing Regulations* become effective. “Journeyman” is defined

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<sup>1</sup> In a separate action (Action 4141) that was initiated prior to this action (Action 4226), the Board proposed to increase the two-year licensure renewal fee from \$80 to \$100 for all waterworks and wastewater works operators and onsite sewage system professionals. This proposed action (4226) includes the higher renewal fees (\$100); in other words, for the purposes of this analysis it is assumed that Action 4141 will go into effect with the fee increase prior to this action. If 4226 were to go into effect first, it would effectively increase renewal fees for licensees by \$20 per two-year licensure period.

<sup>2</sup> Source: Department of Professional and Occupational Regulation

<sup>3</sup> This concept is present in similarly regulated professions, including trades (master/journeyman), water well service providers (trainee/master/journeyman), and professional engineers and land surveyors (in-training).

as “an individual who possesses the minimum skills and competency to assist with the installation or maintenance of onsite sewage systems or assisting in the evaluation of soil sites as suitable for conventional and alternative onsite sewage systems, and to design conventional onsite sewage systems under the direct supervision of a master licensee.” Unlike masters, journeyman are not required to pass an exam.

Code of Virginia § 54.1-2302 states that “No person shall operate a waterworks or wastewater works, perform the duties of an onsite soil evaluator, or install or operate an alternative onsite sewage system, without a valid license.” Enforcing the Code and requiring individuals to become licensed as a journeyman in order to assist with the installation or maintenance of onsite sewage systems or assisting in the evaluation of soil sites as suitable for conventional and alternative onsite sewage systems, and to design conventional onsite sewage systems under the direct supervision of a master licensee will in practice cost these individuals \$50 per annum (\$100 for two-year license) plus the time and dollar cost of continuing professional education. Improper maintenance, installation, or design of onsite sewage systems can potentially contaminate groundwater and otherwise become a public health hazard. Licensing and regulating journeyman may reduce the health risk for the public. The extent to which this would reduce public health risk is not currently known.

### **Businesses and Entities Affected**

The proposed amendments affect the 4,472 licensed waterworks and wastewater works operators and 1,182 licensed onsite sewage system professionals licensed in the Commonwealth, individuals who have been permitted to work on onsite sewage systems without a licensee present, the firms and public entities that employ them, as well future licensure applicants.

### **Localities Particularly Affected**

The proposed amendments do not disproportionately affect particular localities.

### **Projected Impact on Employment**

The proposal to require journeyman licensure for individuals who assist with the installation or maintenance of onsite sewage systems or assist in the evaluation of soil sites as suitable for conventional and alternative onsite sewage systems, and to design conventional onsite sewage systems, may dissuade a small number of individuals from working in the industry.

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

The proposed amendments are unlikely to significantly affect the use and value of private property.

**Real Estate Development Costs**

The proposed amendments are unlikely to significantly affect real estate development costs.

**Small Businesses:****Definition**

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.”

**Costs and Other Effects**

The proposal to require journeyman licensure will moderately increase costs for those onsite sewage system workers, and perhaps the small firms that employ them if they reimburse their licensure fees and continuing professional education costs.

**Alternative Method that Minimizes Adverse Impact**

The proposed amendments will not adversely affect small businesses.

**Adverse Impacts:****Businesses:**

The proposal to require journeyman licensure will moderately increase costs for those onsite sewage system workers, and perhaps the firms that employ them if they reimburse their licensure fees and continuing professional education costs.

**Localities:**

The proposed amendments are unlikely to adversely affect localities.

**Other Entities:**

The proposed amendments are unlikely to adversely affect other entities.

**Legal Mandates**

**General:** The Department of Planning and Budget 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 Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report 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.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): 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 within the 45-day period.

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.

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