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Sewage Tank Rule Advisory Panel Meeting

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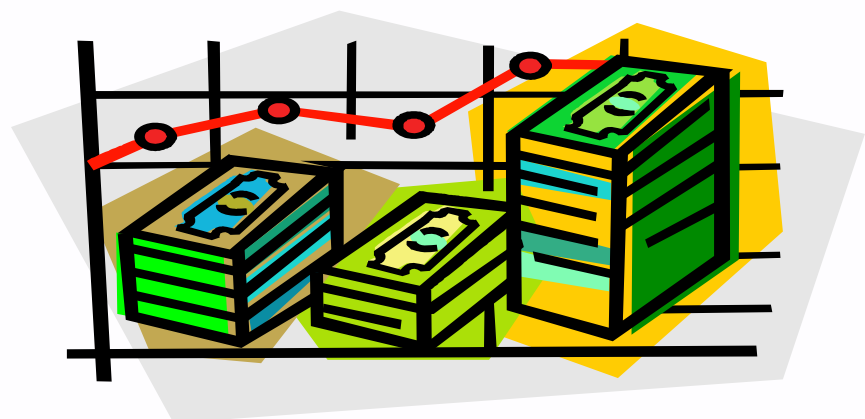
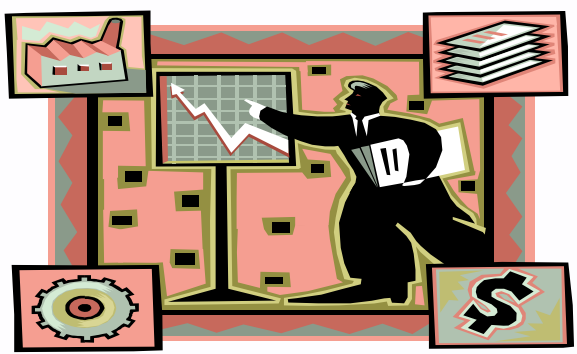
Management Direction on Key Issues

- Comment: Add DOH decision deadline for applications.
- Direction: Add 60 day decision deadline for renewals; add response w/ estimated review time for initial apps.
- Comment: Effluent screens aren't needed, don't work.
- Direction: Keep and clarify requirements.
- Comment: Extend transition date for registered list to allow time to sell existing inventory.
- Direction: Extend registered list to January 1, 2012, request initial applications by July 1, 2011.

Management Direction on Key Issues

- Comment: Can LHJs have their own tank lists?
- Direction: Yes, LHJs can have lists, be more restrictive.
- Comment: Allow PEs from other states to stamp drawings and calculations.
- Direction: Allow licensed PEs from any state.
- Comment: Remove mandatory field watertightness testing for every tank.
- Direction: Testing adds to local permitting; allow more input from LHJs, move to LOSS & small system rules.

Economic Analysis and Rules



Agency Rules and Economics What RCWs Apply?

- **Administrative Procedure Act**
(Chapter 34.05 RCW)
- **Regulatory Fairness Act**
(Chapter 19.85 RCW)



Administrative Procedure Act (APA)

Part III: Agency Rule-making

2 Key Provisions:

- Establishes rule-making requirements for agencies. (Includes “**filing**” requirements)
- Identifies and defines different types of rules.



The Regulatory Fairness Act

- Recognizes rules can have a **disproportionate impact** on small businesses.
- Requires that agencies analyze the **cost of compliance**; and
- Requires agencies to **reduce** disproportionate impacts on small business (where legal and feasible).

Small Business Economic Impact Statement (SBEIS)

Required if more than **minor costs** are imposed
on businesses in an industry.

Minor = a cost per business that is:

- **Greater of** three-tenths of one percent of annual revenue/income **or** \$100.00.

OR

- One percent of annual payroll.

Small Business Economic Impact Statement (SBEIS)

**Agency describes and analyzes the costs to
determine whether there is a **disproportionate
impact****

Examples:

- Reporting;
- Record keeping;
- Compliance costs;
- Lost sales or revenue; and
- Professional services;

How is “disproportionate” determined?

- **Agency compares the costs of what it takes to comply between small business and the ten percent of largest businesses.**
- **Agency uses one or more of the following as a basis for comparing costs:**
 - (a) Cost per employee;
 - (b) Cost per hour of labor; or
 - (c) Cost per one hundred dollars of sales.

What if the impact is disproportionate?

Agency looks at ways to reduce costs to small businesses:

- Based upon the extent of disproportionate impact identified;
- Where legal; and
- Where feasible in meeting the rule objectives.

Methods to Reduce Costs

The Regulatory Fairness Act identifies a variety of methods:

- Reducing, modifying, or eliminating **substantive regulatory** requirements;
- Simplifying, reducing, or eliminating **recordkeeping and reporting** requirements;
- Reducing the **frequency of inspections**;
- Delaying compliance **timetables**;
- Reducing or modifying **fine schedules for noncompliance**; or
- Any other **mitigation techniques**.

What if the Agency can't reduce the costs imposed?

The Agency must:

- Provide a clear explanation of why; and
- Include that statement with its filing of the proposed rule (RCW 34.05.320.)

Any Questions so far??





Significant Legislative Rules

(RCW 34.05.328)

- APA defines significant legislative rule
- Describes 9 different “**determinations**”
(Significant Analysis)
- Relevant for economic discussions =
subsections (1)(d) &(1)(e).

Cost-Benefit Analysis (RCW 34.05.328(1)(d))

Determine that the **probable benefits** of the rule are greater than its **probable costs**.

Takes into account:

- qualitative benefits and costs;
- quantitative benefits and costs;
- specific directives of the statute being implemented.

Least Burdensome Analysis

(RCW 34.05.328(1)(e))

**Determine...that the rule being adopted is the
least burdensome alternative for those
required to comply...**

Sewage Tank Rule – What’s Next?

DOH will follow SBEIS requirements:

- Describe and analyze costs of compliance for small businesses;
- Determine whether there is a disproportionate impact; and
- If yes, determine ways to reduce or mitigate costs to small businesses.

DOH will a prepare Significant Analysis containing:

- A cost-benefit analysis;
- A least burdensome analysis;
- Other 7 types analyses

Questions??



Rule Schedule – Next Steps

June-August 2009:

- Develop proposed rule, SBEIS, Significant Analysis

September 2009:

- File CR-102

October 2009:

- SBOH public hearing
- Complete Concise Explanatory Statement

November - December 2009:

- File CR-103
- Rule effective

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