

Department of Health
Statement Of Estimated Regulatory Costs (SERC)

Division: Office of Compassionate Use

Board:

Rule Number: 64-4.002

Rule Description: Initial Application Requirements for Dispensing Organizations

Contact Person: Patricia Nelson

Please remember to analyze the impact of the rule, NOT the statute, when completing this form.

A. Is the rule likely to, **directly or indirectly**, have an adverse impact on economic growth, private-sector job creation or employment, or private-sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule?

- | | | |
|--|------------------------------|------|
| 1. Is the rule likely to reduce personal income? | <input type="checkbox"/> Yes | X No |
| 2. Is the rule likely to reduce total non-farm employment? | <input type="checkbox"/> Yes | X No |
| 3. Is the rule likely to reduce private housing starts? | <input type="checkbox"/> Yes | X No |
| 4. Is the rule likely to reduce visitors to Florida? | <input type="checkbox"/> Yes | X No |
| 5. Is the rule likely to reduce wages or salaries? | <input type="checkbox"/> Yes | X No |
| 6. Is the rule likely to reduce property income? | <input type="checkbox"/> Yes | X No |

Explanation: The new regulatory structure established by this rule and the statute upon which it is based should have a positive impact on all of the items in this category.

If any of these questions are answered "Yes," presume that there is a likely and adverse impact in excess of \$1 million, and the rule must be submitted to the legislature for ratification.

B. Is the rule likely to, **directly or indirectly**, have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule?

1. Is the rule likely to raise the price of goods or services provided by Florida business?
- Yes X No

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2. Is the rule likely to add regulation that is not present in other states or markets?

Yes X No

3. Is the rule likely to reduce the quantity of goods or services Florida businesses are able to produce, i.e. will goods or services become too expensive to produce?

Yes X No

4. Is the rule likely to cause Florida businesses to reduce workforces?

Yes X No

5. Is the rule likely to increase regulatory costs to the extent that Florida businesses will be unable to invest in product development or other innovation?

Yes X No

6. Is the rule likely to make illegal any product or service that is currently legal?

Yes X No

Explanation: The answer to Question 2 could be yes, but only because the statute, and by extension the rule, are allowing activities that have previously been illegal in Florida and is still illegal in many other states. That fact necessitates regulation that is not present in other states. Given the new opportunities being created, the new regulations do not impact the competitiveness of Florida businesses.

If any of these questions are answered "Yes," presume that there is a likely and adverse impact in excess of \$1 million, and the rule must be submitted to the legislature for ratification.

C. Is the rule likely, **directly or indirectly**, to increase regulatory costs, including any transactional costs (see F below for examples of transactional costs), in excess of \$1 million in the aggregate within 5 years after the implementation of this rule?

1. Current one-time costs	0
2. New one-time costs	915,945
3. Subtract 1 from 2	915,945
4. Current recurring costs	0
5. New recurring costs	0
6. Subtract 4 from 5	0

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7. Number of times costs will recur in 5 years	0
8. Multiply 6 times 7	0
9. Add 3 to 8	915,945

If 9. is greater than \$1 million, there is likely an increase of regulatory costs in excess of \$1 million, and the rule must be submitted to the legislature for ratification.

D. Good faith estimates (numbers/types):

1. The number of individuals and entities likely to be required to comply with the rule.

15. This number was reached by consensus of the Negotiated Rulemaking Committee on February 5, 2015. The growers on the Committee decided, based on their knowledge of their respective regions, the likely requirements for approval as a dispensing organization, and the statutory requirements, that approximately 15 nurseries that meet the requirements of section 381.986(5)(b)1., Florida Statutes, would apply for Department approval.

2. A general description of the types of individuals likely to be affected by the rule.

Nurseries that meet the requirements of section 381.986(5)(b)1., Florida Statutes, which requires possession of a valid certificate of registration issued by the Department of Agriculture and Consumer Services pursuant to section 581.131, Florida Statutes, for the cultivation of more than 400,000 plants, operation by a nurseryman as defined in section 581.011, Florida Statutes, and operation as a registered nursery in this state for at least 30 continuous years.

E. Good faith estimates (costs):

1. Cost to the department of implementing the proposed rule:

None. The department intends to implement the proposed rule within its current workload, with existing staff.

Minimal. The Department has implemented this statute using existing resources. Upon receipt of initial application fees, the Department will continue its implementation of the statute using available resources. The majority of the Department's resources are only used at licensure and renewal, allowing the Department to make judicious use of resources.

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).*

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2. Cost to any other state and local government entities of implementing the proposed rule:

None. This proposed rule will only affect the department.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).* Nothing in this regulatory structure requires implementation by other state and local government entities. If such entities choose to further regulate dispensing organizations, it is by choice and purely in addition to the state's regulation of dispensing organizations.

3. Cost to the department of enforcing the proposed rule:

None. The department intends to enforce the proposed rule within its current workload with existing staff.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).*

4. Cost to any other state and local government of enforcing the proposed rule:

None. This proposed rule will only affect the department.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).* See answer to E.2. above.

F. Good faith estimates (transactional costs) likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the proposed rule. *(Includes filing fees, cost of obtaining a license, cost of equipment required to be installed or used, cost of implementing processes and procedures, cost of modifying existing processes and procedures, additional operating costs incurred, cost of monitoring, and cost of reporting, or any other costs necessary to comply with the rule).*

None. This proposed rule will only affect the department.

Minimal. *(Provide a brief explanation).*

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X Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).* See answer to C. above.

G. An analysis of the impact on small business as defined by s. 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by s. 120.52, F.S. *(Includes:*

- *Why the regulation is needed [e.g., How will the regulation make the regulatory process more efficient? Required to meet changes in federal law? Required to meet changes in state law?];*
- *The type of small businesses that would be subject to the rule;*
- *The probable impact on affected small businesses [e.g., increased reporting requirements; increased staffing; increased legal or accounting fees?];*
- *The likely per-firm regulatory cost increase, if any).*

A small business is defined in Section 288.703, F.S., as "...an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments."

A small county is defined in Section 120.52(19), F.S., as "any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census." And, a small city is defined in Section 120.52(18), F.S., as "any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census."

The estimated number of small businesses that would be subject to the rule:

- 1-99 100-499 500-999
 1,000-4,999 More than 5,000
 Unknown, please explain:

X Analysis of the impact on small business: The impact of this rule on small business is largely the same as that on larger businesses. In this very specialized field, all businesses face tremendous risk that is not just financial. That risk is then augmented by the fact that the only businesses qualified are those that have been in business for at least 30 years with significant market recognition and good will at stake. Some impacts are greater for small business, i.e. the requirement of certified financials. Some impacts are lesser for small businesses, i.e. the difficulty retaining banking relationships, because the larger the business, the more likely it is to carry large amounts of debt. Overall, most impacts come from the statute, not the rule, and the impacts seem to be balanced vis-à-vis small and large businesses. Finally, the considerable interest in this opportunity exhibited by investors appears to be alleviating some of the financial impacts.

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There is no small county or small city that will be impacted by this proposed rule.

A small county or small city will be impacted. Analysis:

Lower impact alternatives were not implemented? Describe the alternatives and the basis for not implementing them.

H. Any additional information that the agency determines may be useful.

None.

Additional.

I. A description of any good faith written proposal for a lower cost regulatory alternative to the proposed rule which substantially accomplishes the objectives of the law being implemented and either a statement adopting the alternative or a statement of the reasons rejecting the alternative in favor of the proposed rule.

X No good faith written proposals for a lower cost regulatory alternative to the proposed rule were received.

See attachment "A".

Adopted in entirety.

Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*

Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*

See attachment "B".

Adopted in entirety.

Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*

Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*

See attachment "C".

Adopted in entirety.

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Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*

Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*

See attachment "D".

Adopted in entirety.

Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*

Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*

See attachment "E".

Adopted in entirety.

Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*

Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*

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