Division: Waste Management

Rule Number: Rule Description:

Rule 62-705.100 Applicability

Rule 62-705.200 Definitions

Rule 62-705.300 Grease Waste Hauler Requirements

Rule 62-705.400 Procedures for Disposal Facility Certification

Rule 62-705.500 Inspecting Entity

Rule 62-705.900 Forms

Contact Person: El Kromhout

**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? [ ]  Yes [x]  No

 2. Is the rule likely to reduce total non-farm employment? [ ]  Yes [x]  No

 3. Is the rule likely to reduce private housing starts? [ ]  Yes [x]  No

 4. Is the rule likely to reduce visitors to Florida? [ ]  Yes [x]  No

 5. Is the rule likely to reduce wages or salaries? [ ]  Yes [x]  No

 6. Is the rule likely to reduce property income? [ ]  Yes [x]  No

Explanation: **Section 403.0741, F.S., became effective July 1, 2022. The proposed rule specifies the requirements of the Grease Waste Removal and Disposal Program per Florida Statute 403.0741 and is expected to result in minor increases in regulation for grease waste haulers and certain disposal facilities.** **The proposed rule requires haulers to obtain a license, document the removal of grease waste on service manifests, and retain manifests. The rules also propose requirements for disposal facilities to obtain a certification, and the documentation required to be submitted, and provides the requirements for operation, closure, recordkeeping, and reporting. Additionally, the rules propose authorization of inspecting entities to impose an administrative fine pursuant to Section 403.0741, F.S., and the requirement for inspecting entities to verify an originator has a contract with a hauler. Adoption of the rule will provide a uniform service manifest process for tracking grease waste from the site of generation to the disposal facility.**

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

 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: **Section 403.0741, F.S., became effective July 1, 2022, implementing requirements for grease waste originators, haulers and disposal facilities in Florida. There are no licensing or certification fees or direct increased costs to originator facilities. Other states, including Georgia, have similar requirements which have not negatively impacted their ability to compete in the market. Adoption of the rule will provide a uniform service manifest process for tracking grease waste from the site of generation to the disposal facility. Grease waste disposal facilities, unless otherwise permitted to accept grease waste as a solid waste, wastewater, or biosolids facility under Chapters 62-701, 62-620 or 62-640, F.A.C., will have a uniform set of requirements to gain certification to receive grease waste for processing, recycling, or disposal.**

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 $200,000 ($5,000 per disposal facility)

3. Subtract 1 from 2 $200,000

 4. Current recurring costs $0

 5. New recurring costs $65,000 ($100 per hauler)

 6. Subtract 4 from 5 $65,000

 7. Number of times costs will recur in 5 years 5

 8. Multiply 6 times 7 $325,000

 9. Add 3 to 8 $525,000

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

**There are currently an estimated 650 haulers that will be required to apply for a license and 40 disposal facilities that will be required to apply for a certification. The number of disposal facilities and haulers has been estimated by extrapolating data from counties with known numbers of haulers and disposal facilities to similarly sized counties where the number of haulers and disposal facilities are not known.**

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

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**The rule will affect haulers of grease waste, facilities that process or dispose of grease waste, inspecting entities that include local governing bodies and, local Fats, Oils, and Grease (FOG) programs, who may review service manifests for compliance. The majority of those to be affected by the rule will be private companies with some public entities that have their own haulers, disposal facilities or have a FOG program that will be considered an inspecting entity.**

## E. Good faith estimates (costs):

### 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.

###  [x]  Minimal. *(Provide a brief explanation).* The Department intends to implement the additional permitting and compliance assistance tasks that are part of the proposed rule within its current workload with existing staff. This includes the eight positions allotted to the Department with the approval of the bill.

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

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

###  [ ]  None. This proposed rule will only affect the department.

###  [x]  Minimal. *(Provide a brief explanation).* During a compliance inspection, an inspecting entity will need to include the verification that an originator has a contract with a hauler to remove grease waste from the originator’s establishment and that the removal and disposal is documented on the Service Manifest. Local FOG programs already confirm removal and disposal through manifests or electronic manifesting systems. The addition of contract verification by the inspecting entity would have a minimal impact.

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

### Cost to the department of enforcing the proposed rule:

###  [x]  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.

###  [x]  Minimal. *(Provide a brief explanation).* There may be an increased need for collaboration between the Department and local government entities to assist with compliance, but this is expected to be managed with existing staff.

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

## 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.

###  [x]  Minimal. *(Provide a brief explanation).*

###  The proposed rule does not impose application fees. Haulers and disposal facilities are anticipated to incur costs through time spent completing and submitting the application forms.

###  Haulers: Haulers will be required to annually file an application for a license. The two-page license application form is estimated to take less than one hour to complete and submit. Based on a rate of $100 an hour per hauler, the annual cost for applying for a license for estimated 650 haulers is $65,000. The cost will recur five times in the initial five-year period, for an estimated total cost of $325,000.

###  Disposal facilities: There are two types of disposal facilities and only one is required to apply for a certification and, therefore, will have costs associated with preparation of the application including the site plan documentation.

###  Permitted Solid Waste, Wastewater, and Biosolid facilities: Disposal facilities permitted subject to Chapter 62-701, 62-620, or 62-640, F.A.C., are authorized to accept grease waste for disposal and will not be required to obtain a certification under Chapter 62-705, F.A.C. This is because such facilities’ permits already authorize the facility to store, process or dispose of grease waste.

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###  Non-permitted Disposal Facilities: These facilities account for approximately 40% (40 disposal facilities) of the total disposal facilities currently within the State and will need to obtain a certification. Non-Permitted Disposal Facilities are required to prepare the certification application, a site plan, a description of the facility’s operations, a closure plan, and a contingency plan under the proposed rule. The estimated cost to develop these items is $5,000 on average, for a total estimated cost of $200,000 within the first 5 years of the effective date of the rule. These costs are anticipated to be one-time costs to these facilities, unless the facility proposes significant changes that would necessitate a new or modified application. The proposed rule requires these facilities to submit applications for disposal facility certification once every three years. If the facility’s operations remain the same as those described in the initial certification at the end of the 3-year certification period, the facility will not be required to develop a new site plan, description, contingency plan, and closure plan.

**In order to determine transactional costs, Department staff called disposal facilities and consultants across the state. Consultants provided the Department estimated rates for preparation of the documentation for certification of a grease waste disposal facility under the proposed rules, including preparation of a site plan that is signed and sealed by a Professional Engineer. The Department conducted two public workshops for the rule that many grease haulers, local government inspectors, and originators attended and provided public comments. Department staff attended and presented information on the proposed grease waste removal and disposal program at following conferences: Florida Onsite Wastewater Association, FOG Inspectors (Fat Oils and Grease Inspectors), and Florida Industrial Pretreatment Association, and staff gathered information and comments related to the draft rule, including costs.**

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

# 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

# [x]  Unknown, please explain: The number of haulers or disposal facilities that would meet the definition of a small business as defined in Section 288.703, F.S., is unknown.

[x]  Analysis of the impact on small business:

**The proposed rule will impact small business haulers through the requirements to annually apply for a license and retain the service manifests for at least one year. The proposed rules do not impose fees on hauler license applications. The only costs imposed on small business haulers are the costs associated with the time to complete and submit the application form. These costs are outlined in Section F. above.**

**The proposed rule impacts small business disposal facilities by requiring those facilities to obtain certification if they are not currently permitted under Chapter 62-701, 62-620, or 62-640, F.A.C. The proposed rules do not impose application fees for the certification. The costs imposed on these facilities are related to the time spent completing the application and obtaining the supporting documentation submitted with the application, including the cost to obtain a site plan that is signed and sealed by a professional engineer licensed under Chapter 471, F.S. Disposal facilities will be required under the proposed rule to submit an application for certification every three years. The proposed rules require the disposal facilities to maintain records of grease waste received for three years and retain tank inspection reports, if applicable.**

**One provision of the statute has the potential for great impact on small business originators. Section 403.0741(4)(a), F.S., requires that originators must have a contract with a hauler for grease waste removal. The Department learned that this requirement was cost prohibitive for small business originators through rule development workshops and public comments submitted to the agency. A service call by a grease waste hauler can cost a minimum of $250. The small business originators (sandwich shops, coffee shops, etc.) typically don’t generate enough grease waste to warrant a contract for regular service. Some local governments in Florida, as well as other states with similar programs, allow small business originators generating de minimis amounts of grease waste to manage their own grease waste. To minimize the potential impact to small business originators the Department added a definition for “self-cleaner” to the proposed rule. Self-cleaners that manage grease waste in accordance with the proposed rule will not be required to maintain a contract with a waste hauler.**

[x]  There is no small county or small city that will be impacted by this proposed rule. **Section 403.0741(6), F.S., allows for the regulation of grease waste by local governments. Local governments acting as inspecting entities may receive service manifests from haulers, receive reports of violations, collect and retain fines for service manifest violations, impose license actions, and are not prohibited from adopting or enforcing an ordinance or rule which is stricter or more extensive than the statute or Department rule. Specifically, Section 403.0741(6)(c), F.S., allows for small or fiscally constrained counties to opt out of the requirements in section 403.0741(6), F.S.**

[ ]  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.

###  [x]  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.

 [ ]  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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