

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Statement Of Estimated Regulatory Costs (SERC)**

Division: Waste Management  
Rule Number: 62-772.300, F.A.C.  
Rule Description: Procurement Procedures for Petroleum Cleanup - Contractor  
Qualifications and Performance Reviews  
Contact Person: Charles Williams

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

Introduction and Description of Rule:

Rule 62-772.300, F.A.C., establishes the minimum qualifications for contractors performing petroleum contamination rehabilitation activities at state funded sites. The rule criteria is based on the requirements of Section 376.30711(2)(b) and (c), F.S. The statute and the new rule requires contractors to possess or maintain a contract with a firm that possesses a certificate to practice Professional Geology and Professional Engineering. Further, the contractor must certify that it: complies with OSHA regulations; maintains workers compensation insurance for all workers as required by the Florida Workers Compensation Law; maintains general liability insurance and comprehensive automobile insurance with a minimum limit of at least \$1 million; professional liability insurance of at least \$1 million per occurrence and \$1 million in the aggregate; submit a sworn statement on public entity crimes; and has the capacity to perform or directly supervise a majority of the work at a site.

While these requirements currently exist in statute, because these requirements are now being made part of Rule 62-772.300, F.A.C., the Department will estimate below the regulatory cost associated with complying with the rule.

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?  
No

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

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Explanation: Any impacts are limited to those petroleum response action contractors seeking to do work in the State-funded Petroleum Restoration Program. However, the Department anticipates that the average cost per similar cleanup activity to be reduced as a result of the competitive procurement procedures outlined in this proposed Ch. 62-772, F.A.C. The difference will be invested in additional cleanup activity and more work for cleanup contractors.

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? No

1. Is the rule likely to raise the price of goods or services provided by Florida business?  
 Yes       No
2. Is the rule likely to add regulation that is not present in other states or markets?  
 Yes       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       No
4. Is the rule likely to cause Florida businesses to reduce workforces?  
 Yes       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       No
6. Is the rule likely to make illegal any product or service that is currently legal?  
 Yes       No

Explanation: Any impacts are limited to those petroleum response action contractors seeking to do work in the State-funded Petroleum Restoration Program.

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.

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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? Yes

1. Current one-time costs \$0
2. New one-time costs \$0
3. Subtract 1 from 2 \$0
4. Current recurring costs: (no current rule)
5. New recurring costs:     \$68,333 x 225 = \$15.37M/year

The above amount represents the annual estimated cost for a contractor to maintain its qualification status, including business licenses, OSHA safety training and compliance, workers compensation insurance, comprehensive automobile insurance, and general and professional liability insurance. This cost varies considerably based on the contractor and is in part based upon its annual revenue and number and types of employees. However, based on a poll of our current agency term petroleum cleanup contractors the average estimated cost of complying with the minimum qualification is \$68,333 per year. Based on the Department's records there are approximately 225 current petroleum cleanup contractors qualified in accordance with Section 376.30711, F.S.

6. Subtract 4 from 5:   \$15.37M
7. Number of times costs will recur in 5 years: 5
8. Multiply 6 times 7:   \$76.85M
9. Add 3 to 8: \$76.85M

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).*

Based on the Department's records there are approximately 225 current petroleum cleanup contractors qualified in accordance with Section 376.30711, F.S.

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

The contractors currently qualified to do work in the State-funded Petroleum Restoration Program under Section 376.30711, F.S., and those that seek to do work in the Program in the future will be impacted. These contractors are primarily environmental consulting, engineering and cleanup firms that employ geologists, hydrogeologists, engineers, earth scientists, technicians, draftsman and administrative staff. They vary in size from small businesses to large corporations with offices located throughout the state in most of the urban areas.

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. *(Provide a brief explanation).* The Department currently spends approximately \$118,000 per year for its Administrative Services Contractor to process and track qualified contractors in the Petroleum Restoration Program in accordance with Section 376.30711, F.S. Although this cost is currently being incurred by the Department under the requirements of Section 376.30711, F.S., because this requirement is to be included in the proposed rule, this cost is identified as a cost of implementing the rule.

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

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

None. This proposed rule will only affect the Department and petroleum response action contractors seeking to do work in the State-funded Petroleum Restoration Program.

Minimal. *(Provide a brief explanation).*

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

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.

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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 and petroleum response action contractors seeking to do work in the State-funded Petroleum Restoration Program.

Minimal. *(Provide a brief explanation).*

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 and petroleum response action contractors seeking to do work in the State-funded Petroleum Restoration Program.

Minimal. *(Provide a brief explanation).*

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 Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 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

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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:

Analysis of the impact on small business: Impacts are limited to those contractors seeking to do work in the State-funded Petroleum Restoration Program.

The cost for a contractor to maintain its qualification status, including business licenses, OSHA safety training and compliance, workers compensation insurance, comprehensive automobile insurance, and general and professional liability insurance, varies considerably based on the contractor and is in part based upon its annual revenue and number and types of employees. However, based on a poll of our current agency term petroleum cleanup contractors the average estimated cost of complying with the minimum qualifications is \$68,333 per year. Based on the Department’s records there are approximately 225 current petroleum cleanup qualified contractors. It is not certain what percentage of all qualified contractors are small businesses as defined in Section 288.703, F.S, but it is estimated to be 50%. Therefore, the total estimated impact on small business as a result of this proposed rule is \$7.69M annually.

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.** It should be noted that contractors are already bearing the cost to maintain their qualification status and the Department is already bearing the cost to process and track qualified contractors in accordance with the requirements of

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Section 376.30711, F.S., and as a normal cost of doing environmental restoration business. However, because these requirements are now being made part of Rule 62-772.300, F.A.C., the Department has considered them a regulatory cost associated with complying with the rule.

- 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.

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).*

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- 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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