

Economic Impact Statement

LSA Document #20-15

[IC 4-22-2.1-5](#) Statement Concerning Rules Affecting Small Businesses**[IC 4-22-2.1-5](#) Rules affecting small businesses; economic impact statement required; full implementation of rules; submission of statement to small business ombudsman**

Sec. 5. (a) If an agency intends to adopt a rule under [IC 4-22-2](#) that will impose requirements or costs on small businesses, the agency shall prepare a statement that describes the annual economic impact of a rule on all small businesses after the rule is fully implemented as described in subsection (b). The statement required by this section must include the following:

(1) An estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.

The Office of Indiana State Chemist (OISC) estimates that there will be 10 small businesses subject to this rule. All businesses are confined feeding livestock facilities that manipulate the manure that is produced by the animals and then sell the processed manure with a guaranteed nutrient content.

(2) An estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

Confined Feed Operations (CFOs) are required to keep manure distribution records through their Indiana Department of Environmental Management (IDEM) permit. The estimated annual reporting, record keeping, and other administrative costs that small businesses will incur will be insignificant. The required records are currently being collected.

(3) An estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule. The agency is not required to submit the proposed rule to the office of management and budget for a fiscal analysis under [IC 4-22-2-28](#) unless the estimated economic impact of the rule is greater than five hundred thousand dollars (\$500,000) on all regulated entities, as set forth in [IC 4-22-2-28](#).

It is estimated that the total annual impact that compliance with the proposed rules will be less than \$100,000. The projected 10 businesses that will be subject to this rule will have no significant increase in administrative costs as they are already required to keep similar records. The maximum fees that they would be subject to would be \$2,000 per year.

(4) A statement justifying any requirement or cost that is:**(A) imposed on small businesses by the rule; and**

The proposed rule applies to anyone that wishes to distribute processed manure with a guaranteed nutrient content as opposed to an estimate. Only those wishing to market the material with a guarantee will be subject to the rule. If a small business chooses to distribute with an estimated nutrient content, then the rule is not applicable and there is no cost. Being included in the rule is the choice of the small business.

Should a small business desire to market its product with a guarantee, it is required to then pay a nominal product registration fee and be subject to a three-tiered inspection fee based on the amount of product being distributed. The cost of the proposed rule imposed on the small business may be offset by the sale of the product.

(B) not expressly required by:**(i) the statute authorizing the agency to adopt the rule; or**

[IC 15-16-2-1.5\(c\)](#) specifically directs OISC to adopt these rules.

(c) The state chemist shall adopt rules under [IC 4-22-2](#):

- (1) regulating the distribution of manure based fertilizer; and
- (2) establishing fees for the distribution of manure based fertilizer.

(ii) any other state or federal law.

None.

The statement required by this subdivision must include a reference to any data, studies, or analyses relied upon by the agency in determining that the imposition of the requirement or cost is necessary.

OISC surveyed many of the companies that may be impacted by the proposed rules to collect the data for the imposition of costs.

(5) A regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The analysis under this subdivision must consider the following methods of minimizing the economic impact of the proposed rule on small businesses:

(A) The establishment of less stringent compliance or reporting requirements for small businesses.

The proposed rule applies to anyone that wishes to distribute processed manure with a guaranteed nutrient content as opposed to an estimate. Only those wishing to market the material with a guarantee will be subject to the rule. If a small business chooses to distribute with an estimated nutrient content, then the rule is not applicable and there is no cost. Being included in the rule is the choice of the small business. Less stringent compliance or reporting would be their choice to be excluded from the rule.

(B) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

Only those wishing to market the material with a guarantee will be subject to the rule. If a small business chooses to distribute with an estimated nutrient content, then the rule is not applicable and there is no cost. Being included in the rule is the choice of the small business.

(C) The consolidation or simplification of compliance or reporting requirements for small businesses.

The reporting requirements for the proposed rules should add little to no additional reporting requirements for the small business. The small businesses are already required to make reports to IDEM for their distribution of manures. Our reporting will require similar information.

(D) The establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

Standards are not developed or required by the proposed rules.

(E) The exemption of small businesses from part or all of the requirements or costs imposed by the rule.

Only those wishing to market the material with a guarantee will be subject to the rule. If a small business chooses to distribute with an estimated nutrient content, then the rule is not applicable and there is no cost. Being included in the rule is the choice of the small business.

If the agency has made a preliminary determination not to implement one (1) or more of the alternative methods considered, the agency shall include a statement explaining the agency's reasons for the determination, including a reference to any data, studies, or analyses relied upon by the agency in making the determination.

OISC's responses are found above.

(b) For purposes of subsection (a), a proposed rule will be fully implemented with respect to small businesses after:

(1) the conclusion of any phase-in period during which:

(A) the rule is gradually made to apply to small businesses or certain types of small businesses; or

The proposed rules will become effective thirty days following adoption. Only those wishing to market the material with a guarantee will be subject to the rule. If a small business chooses to distribute with an estimated nutrient content, then the rule is not applicable and there is no cost. Being included in the rule is the choice of the small business.

(B) the costs of the rule are gradually implemented; and

(2) the rule applies to all small businesses that will be affected by the rule.

Only those wishing to market the material with a guarantee will be subject to the rule. If a small business chooses to distribute with an estimated nutrient content, then the rule is not applicable and there is no cost. Being included in the rule is the choice of the small business.

Posted: 03/18/2020 by Legislative Services Agency

An [html](#) version of this document.