

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
STATEMENT OF ESTIMATED REGULATORY COSTS  
Rule 62-160.210, F.A.C.

**Background:**

Chapter 62-160, Florida Administrative Code (F.A.C.), contains Quality Assurance (QA) requirements for environmental sample collection and analysis that apply to all parties that submit data to the Department of Environmental Protection (department or DEP). Chapter 62-160, F.A.C., is occasionally revised to incorporate updates in the status of scientific knowledge, lab methods, or certification requirements from the Florida Department of Health (DOH) or the U.S. Environmental Protection Agency (EPA). The revisions to Rule 62-160.210, F.A.C., will require entities conducting biological assessments for DEP-related projects to take and pass online tests as part of initial and on-going proficiency demonstrations. Some of the tests were previously optional (Linear Vegetation Survey and Rapid Periphyton Survey) but are now required while others are wholly new requirements (Habitat Assessment and Lake Vegetation Index Method).

The proposed revisions were presented during a public workshop that was held virtually on November 4, 2024 and after which DEP received written public comments on the proposed revisions through December 13, 2024. DEP did not receive any comments on the additional proposed proficiency requirements for bioassessment methods.

Potential costs associated with revisions and updates to Rule 62-160.210, F.A.C., will be assessed under this SERC. Rule 62-160.210(1), F.A.C., requires any public or private entity that submits data to DEP to follow DEP standard operating procedures (SOPs) for field sampling. Proposed revisions to DEP SOP FA 1000 “Regulatory Scope and Administrative Procedures for Use of DEP SOPs,” part FA 5000 “Field Personnel Qualifications and Training,” and LVI 1000 “Lake Vegetation Index Methods” increase the required minimum qualifications for public and private entities that perform certain biological procedures. The department anticipates that public and private entities that conduct biological procedures will incur additional costs associated with this rule section. However, other changes in training requirements, which are implemented through revised SOPs, will result in cost savings for those same entities.

Also assessed under this SERC are costs to purchase new or updated copyrighted documents that are incorporated by reference into Rule 62-160.800, F.A.C. There are six new or updated methods in *Standard Methods for the Examination of Water Wastewater* and an updated version of The NELAC Institute (TNI) Standard incorporated in the proposed revisions.

1. Will the proposed rule have an adverse impact on small business? [120.541(1)(b), F.S.]  
(See Section E. below for definition of small business.)

Yes

No

If the answer to Question 1 is “yes,” see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
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If the answer to either question above is “yes,” a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)1, F.S.]

Economic growth	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Private-sector job creation or employment	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Private-sector investment	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Productivity	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Innovation	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes  No

**Economic Analysis: The rule revisions to Rule 62-160.210, F.A.C., include a revision of SOP FA 5000 Field Personnel Qualifications and Training, and SOP LVI 1000 Lake Vegetation Index that describes the levels of expertise for the user and provides recommended and required minimum qualifications and training for personnel for the indicated procedures, specifically: FA 5720 Aquatic Habitat Characterization (HA), FA 5730 Rapid Periphyton Survey (RPS), FA 5740 Linear Vegetation Survey (LVS), and LVI 1200 Proficiency Criteria for Lake Vegetation Index (LVI) Sampling.**

**Affected parties are public and private entities that conduct biological monitoring on flowing waters for RPS, LVS, and HA and lakes for the LVI. The revision to SOP FA 5720 requires that personnel submitting data to DEP pass an online test initially before**

submitting stream habitat assessment data and then once every five years. Based on the estimated number of personnel who would be expected to take this test, the Department estimates a cost of \$5,510 every five years or \$1,102 per year. The same cost estimate applies to both the RPS test and the LVS test, required initially and every five years under new sections FA 5730 and FA 5740, for a total cost of \$16,530 every five years or \$3,306 per year for all three online stream tests.

The new LVI method test will be required every two years for personnel who submit data to DEP. Based on the estimated number of personnel who would be expected to take this test, the Department estimates a cost of \$11,275 every five years or \$2,255 per year.

These tests are required only for those organizations submitting their data to be used by the Department. While the tests are free, estimated regulatory costs come from additional staff time to take the proposed proficiency test(s). These rule amendments are the result of Department program evaluation as well as public comment that led to the additions. These tests mirror similar testing already in place for other bioassessment methods and are familiar to data samplers. Because determination of waterbody impairment can impose regulatory costs on utilities, local governments, and private businesses, these tests are created to ensure the competency of data providers so that the regulated entities, who may face costs to restore impaired waterbodies, have assurances that the data used to make impairment decisions are highly reliable.

We estimate that no more than 100 field sampling entities would need to purchase new or updated methods in *Standard Methods for the Examination of Water Wastewater* because they are only required for use under rare circumstances (e.g., use of Winkler titration method for dissolved oxygen verification, use of nitrate probes). The cost to purchase the method collection is \$460, for a maximum one-time cost of \$46,000. Laboratories certified by the Department of Health Environmental Lab Certification Program are required to purchase the TNI Standard, so the update of the TNI Standard in the proposed rule should not have any cost. However, we have estimated that there could be up to 10% of certified labs that may have to purchase the incorporated Volume 1 of the TNI Standard. There are currently 333 labs certified, so 10% would be 33 labs potentially affected. The cost to purchase Volume 1 of the TNI Standard is \$320 per lab, for a maximum one-time cost of \$10,560.

B. A good faith estimate of: [120.541(2)(b), F.S.]

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

**Approximately 150 individuals from approximately 28 entities would be required to take newly required bioassessment tests. Approximately 100 field sampling entities and 33 labs would have to purchase new or updated copyrighted incorporated documents.**

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

**All public and private entities that generate or submit bioassessment data to DEP would have to comply with online testing requirements. Field sampling entities and**

**laboratories that produce data used by DEP may have to purchase copyrighted materials.**

**According to the DEP Bioassessment Method Proficiency Registry Search from 2019-2024, 122 individuals would be expected to be impacted by changes in stream test requirements, including 37 individuals from 10 private entities, 26 individuals from 8 non-DEP entities (water management districts, cities, counties, etc.), and 59 DEP employees from across the state. 105 individuals would be affected by the changes in lake bioassessment test requirements (20 from private, 47 from non-DEP public entities, and 38 DEP employees). Some employees affected by the lake test changes are also affected by stream test changes.**

**We estimate that no more than 100 field sampling entities would need to purchase new or updated methods in *Standard Methods for the Examination of Water Wastewater* because they are only required for use under rare circumstances. We estimate that up to 10% of certified labs may have to purchase the incorporated volume of the TNI Standard, which would be 33 labs.**

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the agency to implement and enforce the rule.

- None. To be done with the current workload and existing staff.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- None. The rule will only affect the agency.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- None.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. “Transactional costs” may include the following: filing fees; expenses to obtain a license; necessary equipment; installation, utilities for, and maintenance of necessary equipment; necessary operations or procedures; accounting, financial, information management, and other administrative processes; labor, based on relevant wages, salaries, and benefits; materials and supplies; capital expenditures, including financing costs; professional and technical services, including contracted services necessary to implement and maintain compliance; monitoring and reporting; qualifying and recurring education, training, and testing; travel; insurance and surety requirements; a fair and reasonable allocation of administrative costs and other overhead; reduced sales or other revenue; or other items suggested by the rules ombudsman in the Executive Office of the Governor or by any interested person, business organization, or business representative. [120.541(2)(d), F.S.]

None. The rule will only affect the agency.

Minimal. Provide a brief explanation. **The costs described in A.3. are due to additional staff time required to take newly required online proficiency tests. The total estimated cost of compliance is \$5,561 per year (\$27,805 over five years) distributed across approximately 150 sampling personnel from public and private entities. There could also be a one-time cost for up to 133 field and lab entities to purchase copyrighted materials, for a total one time cost of \$56,560.**

Other. Provide an explanation for estimate and methodology used.

E. An analysis of the impact on small businesses, small counties, and small cities: [120.541(2)(e), F.S.]

(1) “Small business” is defined by 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 to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

No adverse impact on small business.

Minimal. Provide a brief explanation. **20-30% of sampling personnel who will need to comply with the new requirements work for private consulting firms. Some of those are small businesses.**

Other. Provide an explanation for estimate and methodology used.

(2) A “Small City” is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A “small county” is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

No impact on small cities or small counties.

Minimal. Provide a brief explanation. **Some small cities or counties may hire consultants to conduct biological, water quality, or laboratory analyses subject to these costs. Costs will be minimal, but the consultants may pass a fraction of the cost on to their customers.**

Other. Provide an explanation for estimate and methodology used.

F. In evaluating the impacts described in paragraphs A and E, include a discussion, if applicable, of the market impacts likely to result from compliance with the proposed rule, including: [120.541(2)(f), F.S.]

1. Changes to customer charges for goods or services.
2. Changes to the market value of goods and services produced, provided, or sold.
3. Changes to costs resulting from the purchase of substitute or alternative goods or services.
4. The reasonable value of time to be spent by owners, officers, operators, and managers to understand and comply with the proposed rule, including, but not limited to, time to be spent completing required education, training, or testing.

Discussion and Analysis of Market Impacts: Costs will be minimal, but hired consultants who conduct biological, water quality, or laboratory analyses subject to these costs may pass a fraction of the cost for compliance to the customer.

G. Any additional information that the agency determines may be useful. [120.541(2)(g), F.S.]

None.

Additional Information: **Additional changes made to the bioassessment proficiency process will lead to substantial savings in staff time for the same public and private entities that submit bioassessment data to DEP. The proposed revisions to FA 5720 include a reduction in the number of sites and frequency with which sampling personnel must visit Stream Habitat Assessment testing sites, for a savings of approximately \$22,040 per year distributed over approximately 122 sampling staff. The proposed revisions to LVI 1200 included a reduction in the frequency with which plant experts must take an online test for plant identification, for a savings of approximately \$1,088 per year distributed over approximately 51 plant experts.**

H. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(h), F.S.]

- No regulatory alternatives were submitted.
- A regulatory alternative was received from
- Adopted in its entirety.
- Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.