

**Department of Environmental Protection  
OFFICE OF THE GENERAL COUNSEL**

**Proposed Rule: Is a SERC Required**

Division: Environmental Assessment and Restoration

Rule: (number & description) 62-304.505 (OGC 25-0289), *Incorporation of the state and federal requirements to define nutrient Total Maximum Daily Loads (TMDLs) for Lake Giles (WBID 3168Z4) in the Middle St. Johns River Basin.*

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

**I. Adverse Impact Determination**

a. Economic? (Check all that apply.)

- ☐ Increased fees to be paid by licensee, applicant, registrant, etc.
- ☒ Increased costs of doing business (equipment, software, etc.)
- ☐ Increased personnel costs (additional employees, insurance, overtime, training, etc.)
- ☐ Decreased opportunity for profit (limits on fees, scope of business/practice, ability to partner with others, etc.)

b. Non-economic? (Check all that apply.)

- ☒ Increased time and effort to comply (forms, tests, etc.)
- ☐ Increased need for specialized knowledge (legal, technical, etc.)

If any of the above boxes are checked, answer "Yes," then continue to the next section. If no boxes are checked, answer "No," and skip to Section III below.    ☒ Yes    ☐ No

**II. Small Business Determination**

a. Are any of the affected entities a "small business?" (Check all that apply.)

- ☒ 200 or less **permanent full-time** employees;
- ☒ Net worth less than \$5 million (including value of affiliates);
- ☒ Independently owned and operated (NOT a subsidiary of another entity); **AND,**
- ☒ Engaged in a commercial enterprise?

If **ALL** of the preceding boxes are checked, answer "Yes," and skip to Section III below.

If you did not check **ALL** of the above boxes, check "No," then continue to the next qualification.

☒ Yes    ☐ No

b. Small Business Certification

- ☐ Does any affected entity have Small Business Administration 8(a) certification?  
☐ Yes (see, [www.ccr.gov](http://www.ccr.gov))    ☐ No

If the answers to I and II are "Yes," the agency must prepare a SERC.

**III. Regulatory Cost Increase Determination**

Direct:

- a. Increased Regulatory Cost:
- b. Number of Entities Impacted:
- c. Multiply a. times b.:
- d. Is c. greater than \$200,000? ☐ Yes    ☒ No

Indirect:

- e. Any ascertainable indirect costs? ☒ Yes    ☐ No
- f. Amount of Indirect Cost:
- g. Number of Entities Impacted:
- h. Multiply g. times f.:

- i. Is h. greater than \$200,000? ☒ Yes ☐ No  
j. Is h. plus c. greater than \$200,000? ☒ Yes ☐ No

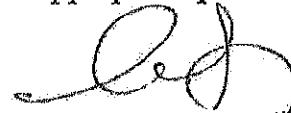
If the answer to d., i., or j. is "Yes," the agency must prepare a SERC.

Prepared By: Eric Simpson Date: Jan. 21, 2025

To be certified by the agency head, if the agency is within the purview of the Governor; otherwise,  
certified by the agency's legal counsel or other appropriate person.

Is a SERC required? ☒ Yes ☐ No

Name: Alexis A. Lambert  
(Print Name)

  
(Signature)

Title: Secretary

Date: 4/19/25

Phone: (850)245-2011

**Florida Department of Environmental Protection  
Statement Of Estimated Regulatory Costs (SERC)**

Division: *Environmental Assessment and Restoration*  
Rule Number: *62-304.505 (OGC 25-0289)*  
Rule Description: *Incorporation of the state and federal requirements to define Total Maximum Daily Loads (TMDLs) for Lake Giles in the Middle St. Johns River Basin Verified Impaired for Nutrients*  
Contact Person: *Eric Simpson* 1/21/2025

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

*Section 120.541(1)(b), Florida Statutes (F.S.), requires the preparation of a Statement of Estimated Regulatory Costs (SERC) in association with agency rulemaking when a proposed rule either will have an adverse impact on small business or is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. The Florida Department of Environmental Protection (department) conducted the following SERC analyses for the proposed rule for the Lake Giles nutrient TMDLs.*

*In preparing a SERC, the Department follows the requirements of 120.541(2), F.S., to evaluate whether a proposed TMDL rule is likely to (1) 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; (2) have an adverse impact on business competitiveness; and (3) increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. For those entities covered by the department's regulatory programs, (i.e., National Pollutant Discharge Elimination Systems (NPDES) Permits), the TMDL could affect associated permitting requirements. The TMDL is not expected to affect those entities not covered under the Department's water and wastewater regulatory programs. As such, the SERC evaluation will focus on estimates of future costs to regulated entities as a result of the adoption of this 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?

- |  |                              |  |
|--|------------------------------|--|
| 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 |

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6. Is the rule likely to reduce property income?

☐ Yes

☒ No

Explanation

*As required by the Federal Clean Water Act and Florida Watershed Restoration Act (403.067, F.S.), the proposed rule sets forth nutrient TMDLs for Lake Giles which have been verified for nutrient impairment. This rule is consistent with state and federal laws/regulations, policies, and guidance and will impose no requirements beyond or in addition to those already in these laws and regulations.*

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.

*Pursuant to paragraph 403.067(6)(c), F.S., the proposed rule will not require legislative 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

☒ 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

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Explanation:

*Developing TMDLs for impaired waters is a mandated requirement of the federal Clean Water Act applied to all states across the nation. It does not apply to the State of Florida alone and, therefore, will not result in unfair prejudice against Florida businesses and will not weaken the competitiveness of the businesses in the state.*

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.

*Pursuant to paragraph 403.067(6)(c), F.S., the proposed rule will not require legislative 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?

*The TMDLs establish a 33 percent reduction target for Total Nitrogen and a 74 percent reduction target for Total Phosphorus in Lake Giles, for municipal separate storm sewer systems (MS4) and other nonpoint sources to address the nutrient impairment.*

*As part of the process of adopting this TMDL, the Department conducts a thorough analysis of discharge sources and establishes general allocations for these sources. In general, a TMDL allocation is broadly divided among three general categories of sources: Category 1: Wastewater facilities permitted under the department's NPDES program, which receive a Wasteload Allocation (WLA); Category 2: local governments having municipal separate storm sewer system (MS4) permits, which receive a WLA separate from the WLA covered in Category 1; and Category 3: all sources other than Categories 1 and 2 receive a Load Allocation (LA).*

*For the first allocation category, there are no NPDES permitted wastewater facilities within the basin of the impaired waters that received a specific wasteload allocation.*

*For the second allocation category, there are local governments in the basin that are regulated by a Phase I MS4 permit, which are covered by the WLA assigned to this category. The Lake Giles Watershed is covered by the City of Orlando NPDES MS4 Phase I permit (FLS000011). The Florida Department of Transportation (DOT) District 5 is a co-permittee in the MS4 permit. Only the urbanized areas of MS4s are subject to regulation for which the TMDL imposes costs under the WLA. Based on this analysis, there were 194 acres of Phase I MS4 anthropogenic landuse within the urbanized area of Orange County in the basin area. The estimated cost is \$369,500 per year and includes costs that could be incurred by the MS4 entities to retrofit as many as 194 acres*

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*to secure load reductions necessary to achieve the TMDLs. The estimated costs for the MS4 entities are based on stormwater retrofit project information provided in the TMDL Water Quality Restoration Grants report (FDEP, 2010a). The total cost in aggregate to build and maintain urban stormwater retrofits for the five-year TMDL implementation is  $\$369,500 \times 5 \text{ years} = \$1,847,500$ .*

*Another potential cost that can be incurred by these proposed TMDLs is to prepare a comprehensive plan for TMDL implementation. Based on the Department's past implementation plan development experience, the cost for the plan development was approximately \$ 50,000 per proposed TMDL rule. This will be a one-time cost.*

*For Category 3 entities, the proposed TMDL contains LAs, and the Department has evaluated whether promulgation of this TMDL will affect any entities as a result of the LA. Discharges captured in the LA are generally considered nonpoint sources and are not subject to Clean Water Act permitting and do not have costs required by this rule. However, the Department understands that reductions in nonpoint source contributions are needed to meet the TMDL, which will require a process that engages all of the entities responsible for these non-regulated loads. An implementation strategy will be developed collaboratively by the Department and all of the contributing stakeholders and will include the most cost-effective, specific stakeholder actions to achieve the restoration goal and a timeline for achieving it. This process could be implemented through the development of a Basin Management Action Plan (BMAP). The estimated annual costs for Category 3 entities are  $(\$0 + \$0) = \$0$ .*

*The total annual cost that potentially can be incurred by these proposed TMDLs will be Category I costs of  $\$0$  + Category II costs of  $\$369,500$  + Category III costs of  $\$0 = \$369,500$ .*

**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).*

*Entities likely to be impacted by the rule include urban and agricultural stormwater dischargers, wastewater treatment facilities, and septic tank owners. Within the Lake Giles watershed, the stormwater collection systems owned and operated by Orange County and Co-Permittees are covered by NPDES MS4 Phase I Permit No. FLS000011. DOT District 5 is a co-permittee. The total costs of implementing will be primarily assigned to these entities and are designed to reduce the nutrients in stormwater discharged. Entities involved in agricultural operations will also likely be required to implement practices to treat stormwater runoff in the future as part of a TMDL implementation strategy (like a BMAP).*

*Additionally, there are 10 septic tanks in the watershed within 200 meters of surface waters that may need to be removed and which those lot owners would then be responsible for*

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*connecting to the central sewer system or upgraded for the treatment of domestic wastewater. It is uncertain at this time the number of septic tank owners that may incur costs for connecting to the central sewer system or be upgraded as a result of the rule.*

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

*The non-regulated entities are city, county, and state government, small business owners, and property owners having septic treatment systems.*

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).*

☐ 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.*

☐ Minimal. *(Provide a brief explanation).*

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

*Costs are based on an economic analysis spreadsheet developed by the department to estimate costs. References for the analysis are provided in Attachment 1*

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).*

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

☐ None.

☒ Minimal. (Provide a brief explanation).

*Costs of enforcement incurred by NPDES entities are already included as a normal cost of implementing the NPDES permit requirements.*

☐ 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.

*Transactional costs incurred by the regulated entities are already included as a normal cost of implementing permit requirements.*

☐ Minimal. (Provide a brief explanation).

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

*Associated costs will include costs to implement new processes and procedures or modify existing processes and procedures, and the associated operating costs to reduce nutrients in stormwater and septic treatment system discharges as needed to comply with the rule. As noted previously, costs to implement the proposed rules will likely be borne by entities responsible for those discharges. Those costs will be equitably apportioned through the adoption and implementation of a Basin Management Action Plan (BMAP) for the watershed.*

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).

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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:

- |  |  |                                  |
|--|--|----------------------------------|
| <input type="checkbox"/> 1-99                                | <input type="checkbox"/> 100-499         | <input type="checkbox"/> 500-999 |
| <input type="checkbox"/> 1,000-4,999                         | <input type="checkbox"/> More than 5,000 |                                  |
| <input checked="" type="checkbox"/> Unknown, please explain: |  |                                  |

*No information is available to reliably estimate the number and types of small businesses in the watershed. The Department has no regulatory authority to exempt small businesses. There will likely be impacts to a number of small businesses with the implementation of this rule. It is not possible to accurately identify the number of small businesses to be impacted or the associated individual costs per business. However, an upper limit on the estimated cost to small business can be made using the assumption that all landuse areas identified in Section C provided cost estimates for nonpoint anthropogenic land uses and agricultural land uses in the watershed. There are an unknown number of small business associated with some of those land uses. Specific cost estimates for those businesses would depend on the type of business and existing degree to which practices have been implemented to minimize nutrient discharges.*

*Costs may also be incurred by property owners with septic systems, however, it is uncertain at this time how many small businesses will be impacted. Additionally, some costs associated with implementation may be passed on to small businesses through user fees, septic system replacement costs and other similar requirements. Those costs will likely be equitably apportioned through the implementation of a BMAP.*

☐ Analysis of the impact on small business:

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

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

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

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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.

☒ 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".

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☐ 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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**Attachment 1**

*Chang, N., M. Wanielista, A. Daranpob, F. Hossain, Z. Xuan, J. Miao, S. Liu, Z. Marimon, and S. Debusk. 2010. Onsite Sewage Treatment and Disposal Systems Evaluation for Nutrient Removal. Stormwater Management Academy, University of Central Florida.*

**References for Development of the SERC spreadsheet**

*Florida Department of Agricultural and Consumer Services (FDACS), Office of Agricultural Water Policy (OAWP)'s BMP program. March 2011.*

*Florida Department of Environmental Protection (FDEP). 2010a. TMDL Water Quality Restoration Grants. <http://www.dep.state.fl.us/water/watersheds/docs/tmdl-grant-nutrient-costs-0210.pdf>. Accessed July 2011.*

*Florida Department of Environmental Protection (FDEP). 2010b. FDEP Review of EPA's "Preliminary Estimate of Potential Compliance Costs and Benefits Associated with EPA's Proposed Numeric Nutrient Criteria for Florida."*

*Florida Geological Data Library (FGDL). 2004-2008. GIS Data: lu\_nwfwmd\_2004; lu\_sfwmmd\_2004; lu\_sjrwmd\_2004; lu\_srwmmd\_2008; and lu\_swfwmd\_2007. <http://www.fgdl.org/download/index.html>*

*Florida Geological Data Library (FGDL). 2007. GIS Data: npdes\_stormwater. <http://www.fgdl.org/download/index.html>*

*Florida Governmental Utility Authority (FGUA). 2009. Board Agenda Item: Thursday, February 19, 2009; Status Update on the Lehigh Acres Utility Expansion Project - Mandatory Wastewater Connections. <http://www.lehighacresweedandseedproject.info/FGUA/Lehigh%20Acres%20Mandatory%20Wastewater%20Connection.pdf>*

*McNeer, Andy. May 2009. Aquapoint Sales Representative. Personal communication.*

*Soil and Water Engineering Technology (SWET). 2008. Nutrient Loading Rates, Reduction Factors and Implementation Costs Associated with BMPs and Technologies. Report prepared for South Florida Water Management District.*

*United States Bureau of Labor Statistics, Department of Labor. 2011. Consumer Price Index.*

*United States Census Bureau, Department of Labor. 2007. Economic Census.*

*Wastewater Technologies. November 2010. Personal communication.*