

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Statement of Estimated Regulatory Costs (SERC) – Water Reservation for Caloosahatchee River (C-43) West Basin Storage Reservoir Project

Division: Water Reservations
Board:
Rule Number: 40E-10
Rule Description: Water Reservation Areas: Lower West Coast Planning Area
Rule Description: Reserve water for the protection of fish and wildlife and public safety as a condition precedent to the execution of the Project Partnership Agreement between the Federal Government and the local sponsor (SFWMD) for the Caloosahatchee River (C-43) West Basin Storage Reservoir Project.
Contact Person: Ian Miller, Lead Economist, 561-682-2057, imiller@sfwmd.gov

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

Introduction

This Statement of Economic Regulatory Costs (SERC) is prospective in nature. This is because the proposed amendments to Chapter 40E-10, F.A.C., involve a future reservation of water. When the Caloosahatchee River (C-43) West Basin Storage Reservoir Project (C-43 Reservoir) becomes operational the technical analysis and reservation rule will be revised and an additional SERC will be prepared.

The period of SERC review under this Office of Fiscal Accountability and Regulatory Reform (OFARR) form is a five year-post rule implementation period. However, it is uncertain if the construction of the C-43 Reservoir will be completed and operational by 2018. Therefore, it is premature to attempt to quantify all of the prospective impacts since not all of the possible specific impacts from implementation of the water reservation will be triggered or visible until the project becomes operational. However, this SERC provides key information and data that is necessary for:

- A proper review of the proposed rule amendments,
- Describing the water reservation area for the C-43 Reservoir,
- Informing OFARR about the linkage, and the economic importance between the water reservation and the C-43 Project construction funding and implementation,
- Highlighting and summarizing the quantified regional economic impacts from the C-43 Project's construction phase,
- Establishing a baseline for future comparison to facilitate additional regulatory review when the C-43 Project becomes operational.

This SERC uses the OFARR template, which closely follows the requirements set forth in Section 120.541, F.S. Where certain generic template questions are not applicable to assessing the cost impacts from the proposed rule amendments, explanations are provided.

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Background

This SERC evaluates the potential economic impacts from the proposed water reservation for the C-43 Reservoir. The C-43 Reservoir is to be located in Hendry County, west of LaBelle, Florida. See **Figure 1**, below.

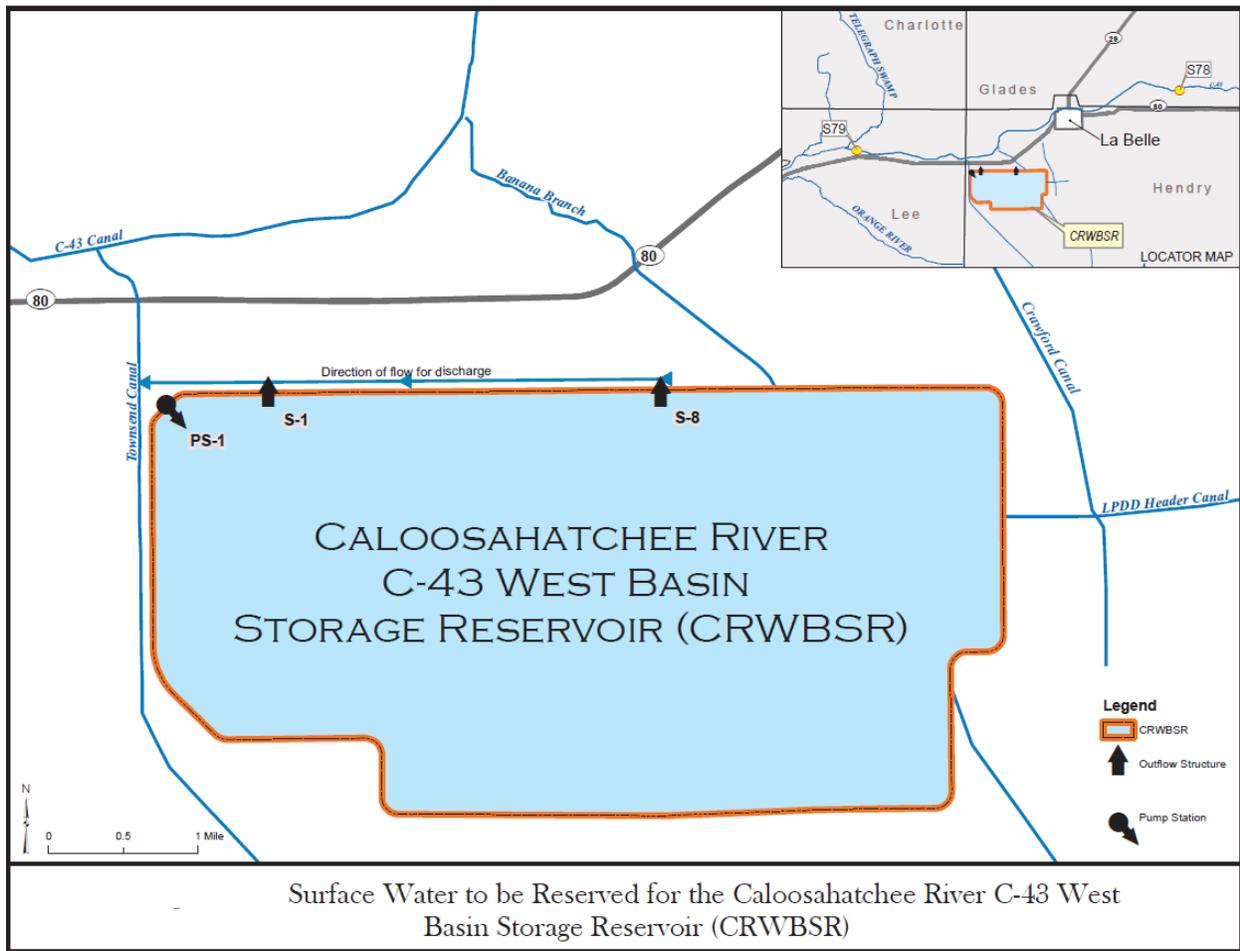


Figure 1. Surface Water to be Reserved for the Caloosahatchee River (C-43) West basin Storage Reservoir.

The proposed water reservation includes all surface water contained within and released via operation from the C-43 Reservoir. The surface water released from the C-43 Reservoir flows over the S-79 structure to meet the volumes of water identified in Rule 40E-10.041(3), F.A.C., Water Reservations. The water reserved under this subsection will be available for fish and wildlife upon a formal determination by the Governing Board, pursuant to state and federal law, that the C-43 Reservoir is operational.

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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 |
| 6. Is the rule likely to reduce property income? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Explanation:

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.

Section 373.470, F.S., requires a project implementation report (PIR) to be prepared prior to the execution of the Project Partnership Agreement between the Corps and the SFWMD. The PIR includes an identification of the increase in water supplies resulting from the project component. The additional water supply must then be reserved or allocated by the SFWMD under Chapter 373, F.S. Having the reservation in place is critical to the federal authorization and funding process (Congressional Authorization and Appropriation) for the restoration infrastructure. Spending on restoration infrastructure will have a large positive direct, indirect, and induced economic impact on the region and the State of Florida.¹ Cost estimates for the C-43 Reservoir indicate that the fully funded cost (as of 2010) was \$610.7 million.² The water reservation will

¹ The regional economic impact of the C-43 Reservoir enabled by this water reservation and the executed Partnership Agreement is documented within the Final Caloosahatchee River (C-43) West Basin Storage Reservoir PIR and Final EIS-September 2007, Appendix G Economic and Social Considerations. Direct spending associated with construction phase wages, spending on project materials, goods and services and vendors, as well as indirect income earned, and spending by inter-dependent industries and their suppliers and employees is expected to have a \$272.9 million total impact (\$ 2006) on industrial output in the Region (Glades, Lee, Hendry, and Charlotte counties) over the multi-year project implementation phase. In current dollar terms, the \$273 million 2006 impact translates to \$317 million (at the end of 2013) See Table 4 below.

² Addendum A, November 2010, Final Caloosahatchee River (C-43) West Basin Storage Reservoir PIR and Final EIS, page 7.

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therefore contribute to enabling a stimulus construction program that will have a significant direct and indirect impact on the region’s economy and personal incomes over the multi-year period in addition to protecting fish and wildlife.

Personal Income:³ The rule will have a positive, indirect impact on personal income and contribute to its growth over a short-term, multi-year construction phase. Personal income, comprised mostly of wages, will be earned by construction workers, vendors, suppliers, and project participants during the construction phase of the project. Subsequent rounds of spending (the multiplicative impacts) will add to personal income in the broader four county Region and State of Florida.

Over the long-term, capturing and reserving more water for the future protection of fish and wildlife will contribute to sustaining the natural resource assets of the region that attracts tourists globally to the Southwest Florida region and contribute to sustaining the quality of life for permanent residents within the Caloosahatchee watershed. It is also expected to increase recreational uses such hunting, kayaking, boating, fishing, etc.

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

³ Local area personal income is defined as income that is received by, or on behalf of, all persons who live in the local area. It is calculated as the sum of wage and salary disbursements, supplements to wages and salaries, proprietors' income with inventory valuation adjustment (IVA) and capital consumption adjustment (CCAdj), rental income of persons with CCAdj, personal dividend income, personal interest income, and personal current transfer receipts, less contributions for government social insurance. Estimates of local area personal income are presented by the place of residence of the income recipients. (See, <http://www.bea.gov/glossary/glossary.cfm?letter=L>)

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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:

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.

The proposed rule amendments will have no adverse impact on business competitiveness. The proposed rules do not contain any requirements that will result in new consumptive use permitting criteria, require new or additional permit analysis, or restrict the allocation of water. When the Governing Board determines that the C-43 Project is operational, any new rules and criteria that may be proposed will be evaluated by an additional SERC. Consequently, there are no competitive barriers to entry associated with the proposed rule amendments that would serve to preclude competition in the markets serving the C-43 Reservoir project area or act to stifle business productivity and innovation.

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 | See <u>Explanation</u> Below |
| 2. New one-time costs | See <u>Explanation</u> Below |
| 3. Subtract 1 from 2 | See <u>Explanation</u> Below |
| 4. Current recurring costs | See <u>Explanation</u> Below |
| 5. New recurring costs | See <u>Explanation</u> Below |

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- | | |
|--|------------------------------|
| 6. Subtract 4 from 5 | See <u>Explanation</u> Below |
| 7. Number of times costs will recur in 5 years | See <u>Explanation</u> Below |
| 8. Multiply 6 times 7 | See <u>Explanation</u> Below |
| 9. Add 3 to 8 | See <u>Explanation</u> Below |

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.

Explanation:

Because the proposed rules do not impose new consumptive use permitting criteria, require new or additional permit analysis, or restrict the allocation of water, there are no increased transactional or regulatory costs associated with the implementation or enforcement of this proposed rule to the District, existing legal users, permit applicants or other state or local government agencies.

While the following SERC is prospective in nature, it should be noted that an additional SERC will be prepared in the future upon a formal determination of the Governing Board that the C-43 Reservoir is operational. Since the period of SERC review under this OFARR form is a five year-post rule implementation period, it is premature to quantify prospective impacts. Given the current and near term fiscal climate, it is uncertain if the C-43 Reservoir construction will be completed and operational within this particular SERC review period of time (2014-2018). Impacts from implementation of the water reservation will not be triggered or become visible until the C-43 Reservoir becomes operational.

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).*

To determine the number of individuals and entities likely to be required to comply with the proposed rule, a GIS analysis selected all of the permits within a 1 mile buffer area running from the C-43 Reservoir (and applicable canal reaches & feeders) downstream to the S-79 structure (**Figure 2**).

The permit data was provided by the Districts Regulation Department. The water reservation project area is overwhelmingly agricultural (mostly citrus) in terms of land use. **Figure 3** shows the breakdown of consumptive use permits by land use type near the C-43 Reservoir.

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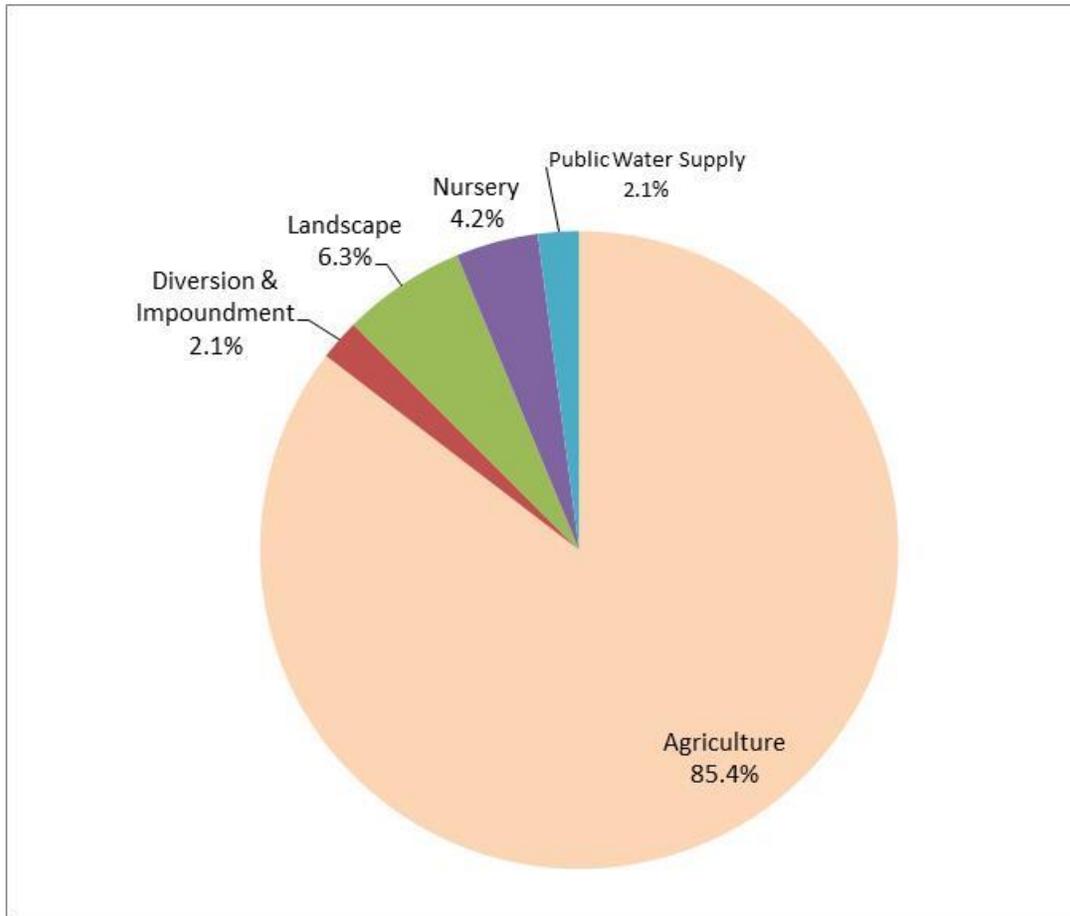


Figure 3. Breakdown of Consumptive Use Permits by Land Use Type.

The distribution of permits for this area by type and water allocation limit categories (for all sources) is shown in **Table 1**.

Table 1: Consumptive Use Permits by Use Type & Permit Type – Surface Water Sources

Permit Type	Minor General Permit	Major General Permit	Individual	Total	Percent of Total
Use Type					
Agriculture	11	12	18	41	85.4%
Diversion & Impoundment			1	1	2.1%
Landscape	1	1	1	3	6.3%
Nursery	1		1	2	4.2%
Public Water Supply	1			1	2.1%
Total:	14	13	21	48	100.0%
Percent of Total:	29.2%	27.1%	43.8%	100.0%	

Source: SFWMD Regulation Department

Minor general permits are issued to uses with a recommended allocation of less than 3 mgm.

Major general permits are issued to uses with a recommended allocation of 3 mgm to less than 15 mgm.

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Individual permits are issued to uses with a recommended allocation of 15 mgm and greater.

Table 1 shows that agricultural land uses dominate the water usage and account for 85% of the water permits. Almost three quarters of the agricultural land uses consist of major general and individual permittees. Table 2 shows the breakdown in consumptive use permits by surface water source and land use type with their respective allocations near the C-43 Reservoir.

Table 2: Breakdown of Consumptive Use Permits by Surface Water Bodies and Land Use Type with Annual Allocations near the C-43 Reservoir

Surface Water Body	Count of Permits by Land Use Type						Annual Allocation	
	AGR	DIV	LAN	NUR	PWS	Total:	MGY	Ac-ft
Banana Branch Canal	4					4	326	1,002
Bedmans Creek	3					3	-	-
Cypress Creek	1					1	501	1,538
Dog Canal	1					1	13	41
Jack's Branch	1					1	204	626
Messer Canal	1					1	39	120
Off-site Canal(s)	1					1	10	31
On-site Canal(s)	1					1	148	453
On-site Lake(s)	7		1			8	631	1,938
On-site Lake(s)/Pond(s)	1					1	16	49
SFWMD Canal (C-43)	16	1	2	2	1	22	38,716	118,816
TOWNSEND CANAL	4					4	16,880	51,804
Total:	41	1	3	2	1	48	57,485	176,416

Source: SFWMD Regulation Department

MGY = million gallons per year

Ac-ft = Acre Feet

AGR = Agricultural, DIV = Diversion & Impoundment, LAN = Landscape, NUR = Nursery, PWS = Public Water Supply

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

Consumptive use permit applicants seeking a surface water allocation from the Caloosahatchee River near and downstream of the C-43 Reservoir will have to comply with this rule. The proposed reservation deems existing legal users of surface water as of the date the rule is adopted as being consistent with the reservation for the duration of their permit. **Tables 1 & 2** shows a breakdown of the existing permittees by their respective use classes. As stated previously, since this rulemaking effort is for the adoption of a prospective reservation, no additional regulatory criteria is being proposed.

E. Good faith estimates (costs):

1. Cost to the department of implementing the proposed rule:

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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).*

Explanation: Because the proposed rules do not impose new consumptive use permitting criteria, require new or additional permit analysis, or restrict the allocation of surface water, there are no increased costs to the District associated with the implementation of this proposed rule.

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).*

Explanation: Because the proposed rules do not impose new consumptive use permitting criteria, require new or additional permit analysis, or restrict the allocation of surface water other state or local government entities will not experience increased regulatory costs associated with the implementation of this proposed rule.

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).*

Explanation: Because the proposed rules do not impose new consumptive use permitting criteria, require new or additional permit analysis, or restrict the allocation, there are no increased costs to the District associated with the enforcement of this proposed rule.

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

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- 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).*

Explanation: Because the proposed rules do not impose new consumptive use permitting criteria, require new or additional permit analysis, or restrict the allocation of surface water, there are no increased regulatory costs associated with the enforcement of this proposed rule to other state or local government entities.

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

Explanation: Because the proposed rules do not impose new consumptive use permitting criteria, require new or additional permit analysis, or restrict the allocation of surface water, no increased transactional or regulatory costs associated will likely be incurred by individuals or entities to comply with the requirements of this rule.

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

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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.” 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:

Explanation: Because the proposed rules do not impose new consumptive use permitting criteria, require new or additional permit analysis, or restrict the allocation of surface water, there are no increased transactional or regulatory costs on small business.

Table 3 shows the distribution of business establishments by employment size class for the counties within the Lower West Coast region. The overwhelming majority of business establishments (99.7%) meet the definition of a small business (i.e. 200 or fewer employees).⁴ In fact, 98.5% of these businesses have 99 or fewer employees.

Table 3: Lower West Coast Counties and SFWMD Total Business Establishments by Employee Size Class

County	Total No. of Businesses	Employees per Establishment								
		1-4	5-9	10-19	20-49	50-99	100-249	250-499	500-999	1000 or more
Hendry	540	307	100	81	37	8	5	1	1	0
Lee	15,629	9,569	2,627	1,755	1,059	381	194	34	4	6
Charlotte	3,542	2,252	623	341	205	81	30	7	3	0
Glades	92	58	14	10	8	1	1	0	0	0
LWC Regional Total:	19,803	12,186	3,364	2,187	1,309	471	230	42	8	6
Percent:	100%	61.5%	17.0%	11.0%	6.6%	2.4%	1.2%	0.2%	0.04%	0.03%

Source: 2011 County Business Patterns (NAICS), U.S. Census Bureau, <http://www.census.gov/econ/cbp/>

⁴ See <http://www.flsenate.gov/laws/statutes/2013/120.541> and <http://www.flsenate.gov/Laws/Statutes/2013/288.703>

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

Explanation: Because the proposed rules do not impose new consumptive use permitting criteria, require new or additional permit analysis, or restrict the allocation of surface water, there are no impacts to any small counties or cities.

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.

Major Civil Works Construction Project & Business Cycle

As described in the PIR, the multi-year construction phase will have a significant positive impact on gross regional product, personal income, and employment (See Footnote 1 above). While the exact timing of this future economic activity benefiting the four county Region is contingent upon many conditions and factors, the water reservation is a critical pre-requisite.

Table 4 reproduces the economic impact estimates from the PIR and expresses these results in current dollars. The purpose of this table is to reinforce the necessity of implementing the rule amendments as soon as possible. The other point relates to how the water reservation and Project would most likely stimulate economic activity at a lackluster expansionary phase of the business cycle, the best time to implement a project. This stimulus would therefore not be likely to draw resources away from other activities but would mobilize and catalyze underutilized resources (i.e., labor, raw materials, technical and scientific expertise).

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Table 4: Expected Regional Economic Impacts

	Employee Compensation	Regional Output	Employment
	2006 US\$	2006 US\$	No.
Direct	\$30,804,000	\$183,067,000	956
Indirect	\$7,764,000	\$23,225,000	269
Induced	\$24,298,000	\$66,625,000	786
Total	\$62,866,000	\$272,917,000	2,011
	Employee Compensation	Regional Output	Employment
	2013 US\$	2013 US\$	No.
Direct	\$35,753,934	\$212,484,271	1,110
Indirect	\$9,011,607	\$26,957,055	312
Induced	\$28,202,477	\$77,331,057	912
Total	\$72,968,018	\$316,772,382	2,334

Sources:

Final Caloosahatchee River (C-43) West Basin Storage Reservoir PIR and Final EIS September 2007, Appendix G
US CPI, U.S. Dept. of Labor, BLS

Figure 4 shows the construction employment level trends from 2003 to 2013 for each county within the Region that was part of the original analysis for the PIR. The data for 2013 is an average of January through March employment levels. It is clear from the figure that the C-43 Project implementation phase will help to improve construction employment levels and aid the economic recovery.

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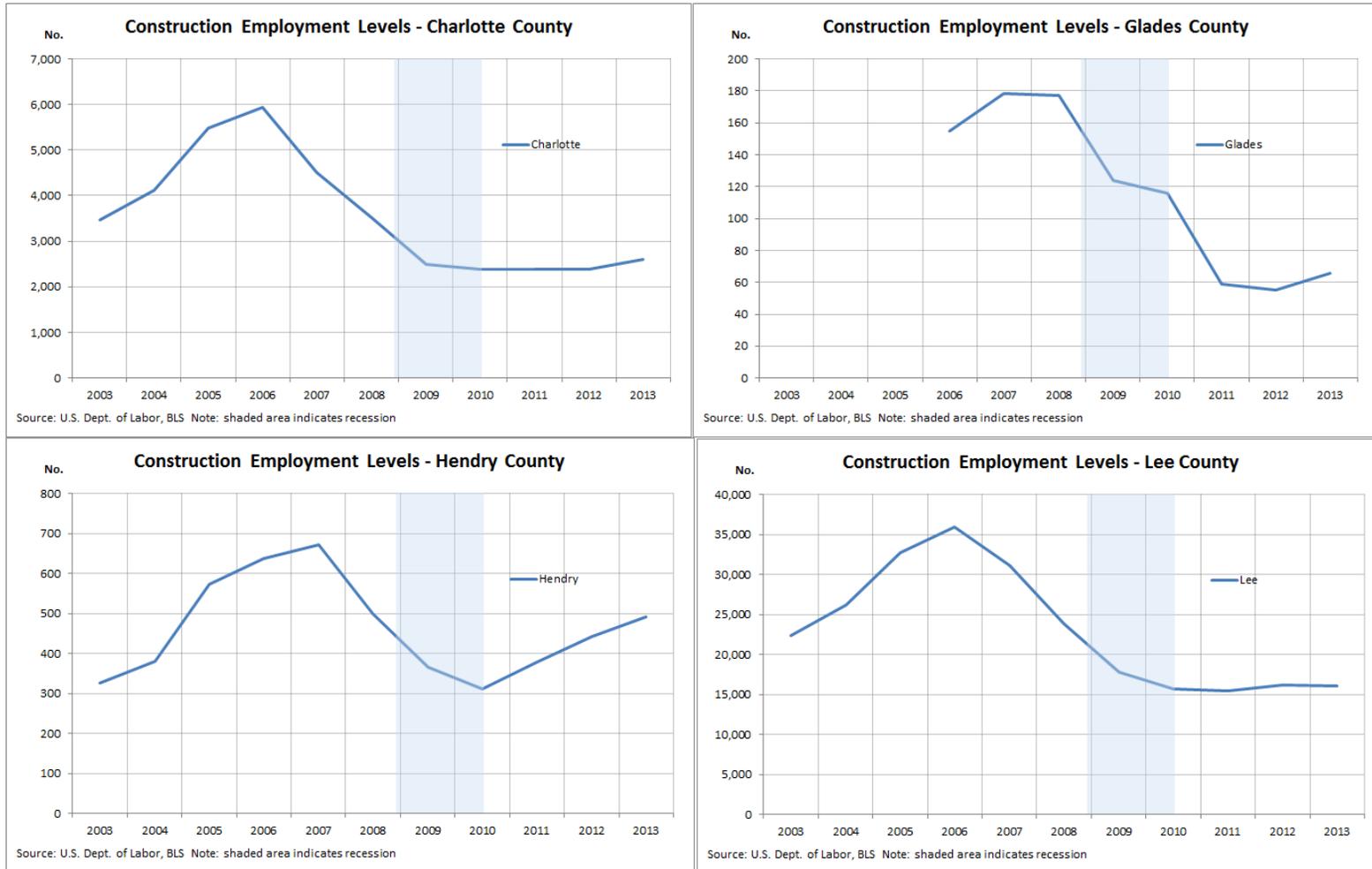


Figure 4: Construction Employment Levels within the C-43 Project Area Four-County Region

Note: The blue shaded area indicates the Recession

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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).*

Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*

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- 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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