

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-302.800
RULE TITLE: Site Specific Alternative Criteria
PURPOSE AND EFFECT: The Department of Environmental Protection proposes to revise the site specific alternative criteria (SSAC) for transparency in Apalachee Bay adjacent to the Fenholloway River in Taylor County in Rule 62-302.800, F.A.C. The proposed SSAC is designed to fully protect the designated use of these waters.
SUBJECT AREA TO BE ADDRESSED: The proposed SSAC will revise the existing SSAC for transparency in Apalachee Bay adjacent to the Fenholloway River in Taylor County.
RULEMAKING AUTHORITY: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805 FS.
LAW IMPLEMENTED: 403.021(11), 403.061, 403.087, 403.088, 403.141, 403.161, 403.502 FS.
A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:
DATE AND TIME: Thursday, April 25, 2013, 9:00 a.m.
PLACE: Taylor County Commission Chambers, Taylor County Administrative Complex, 201 East Green Street, Perry, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Eric Shaw at (850)245-8429 or via email at Eric.Shaw@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Eric Shaw, Standards and Assessments Section, Florida Department of Environmental Protection, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400, telephone (850)245-8429; email Eric.Shaw@dep.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 62-302.800 Site Specific Alternative Criteria.
- (1) through (4) No change.
- (5) Site specific alternative criteria apply to the water bodies, or portions of the water bodies, listed below. For dissolved oxygen site specific alternative criteria, normal daily and seasonal fluctuations above the levels listed in the table below shall be maintained.
 - (a) through (c) No change.

(d) Fenholloway River coastal waters (Apalachee Bay) as spatially defined by the coordinates (83° 49' 29.95" W, 29° 59' 38.70" N), (83° 45' 3.61" W, 29° 57' 22.10" N), (83° 47' 23.50" W, 29° 54' 5.01" N), and (83° 51' 45.47" W, 29° 56' 25.71" N). Class III.	The <u>growing season (May – October)</u> annual average down-welling light at 1 m depth at stations F10 (83° 47' 6.60" W, 29° 57' 4.20" N) and F11 (83° 48' 27.00" W, 29° 57' 38.40" N) shall be 36 <u>27</u> percent or more of surface values based on a minimum of 12 measurements <u>and will only apply during years in which the growing season</u> using a 2 pi sensor during times when the average flow at Hampton Springs Bridge (USGS gage 02325000 near Perry) is less than or equal to 60 cubic feet per second (after subtracting flows from permitted point sources).	Taylor
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Rulemaking Authority 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805 FS. Law Implemented 403.021(11), 403.061, 403.087, 403.088, 403.141, 403.161, 403.502 FS. History—Formerly 17-3.05(4), Amended 3-1-79, 10-2-80, 2-1-83, Formerly 17-3.031, Amended 6-17-92, Formerly 17-302.800, Amended 5-15-02, 1-9-06, 6-28-06, 12-7-06, 8-5-07, 8-5-10, 7-3-12,_____.

Section II Proposed Rules

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-4.050	Procedures to Obtain Permits and Other Authorizations; Applications
62-4.242	Antidegradation Permitting Requirements; Outstanding Florida Waters; Outstanding National Resource Waters; Equitable Abatement
62-4.244	Mixing Zones: Surface Waters

PURPOSE AND EFFECT: The proposed rule amendments reduce the application fee required to establish a site specific alternative criterion in surface waters. The proposed rules also revise the limit on the size of turbidity mixing zones and the anti-degradation threshold for turbidity in Outstanding Florida Waters for Joint Coastal Permit projects.

SUMMARY: The Department proposes to amend Rule 62-4.050, F.A.C., to reduce the application fee for a site specific alternative criterion in surface waters from \$15,000 to \$5,000 per water quality parameter. The Department also proposes to amend Rule 62-4.242, F.A.C., to revise the anti-degradation threshold for turbidity levels for beach nourishment projects, while protecting natural marine resources in the affected area. Lastly, the Department proposes to amend Rule 62-4.244, F.A.C., to revise the limit on the size of turbidity mixing zones for Joint Coastal Permits.

OTHER RULES INCORPORATING THIS RULE: Chapter 62-4, F.A.C., is referenced by the following rules: 62-4.001, 62-4.020, 62-4.021, 62-4.030, 62-4.040, 62-4.050, 62-4.052, 62-4.053, 62-4.055, 62-4.060, 62-4.070, 62-4.080, 62-4.090, 62-4.100, 62-4.110, 62-4.120, 62-4.130, 62-4.150, 62-4.160, 62-4.200, 62-4.210, 62-4.220, 62-4.240, 62-4.241, 62-4.242, 62-4.243, 62-4.244, 62-4.246, 62-4.249, 62-4.250, 62-4.510, 62-4.520, 62-4.530, 62-4.540, 62-25.020, 62-25.025, 62-25.035, 62-25.060, 62-25.801, 62-25.900, 62-40.120, 62-40.210, 62-45.030, 62-45.050, 62-45.070, 62-45.110, 62-45.170, 62-110.106, 62-110.107, 62-113.200, 62-204.800, 62-210.200, 62-210.300, 62-210.310, 62-210.700, 62-210.900, 62-212.720, 62-213.205, 62-213.420, 62-213.430, 62-213.440, 62-214.350, 62-296.570, 62-296.600, 62-302.200, 62-302.300, 62-302.530, 62-302.700, 62-302.800, 62-303.200, 62-303.320, 62-330.100, 62-330.200, 62-330.201, 62-330.405, 62-330.630, 62-330.901, 62-343.020, 62-343.070, 62-343.090, 62-343.100, 62-343.130, 62-346.030, 62-345.050, 62-346.051, 62-346.071, 62-346.301, 62-520.470, 62-528.200, 62-528.300, 62-528.305, 62-528.307, 62-528.400, 62-528.415, 62-528.440, 62-528.455, 62-529.630, 62-528.705, 62-528.710, 62-555.401, 62-555.405, 62-555.520, 62-555.528, 62-555.530, 62-555.533, 62-555.536, 62-600.120, 62-600.200, 62-600.300, 62-600.430, 62-600.520, 62-604.300, 62-604.600, 62-610.200, 62-610.300, 62-610.554,

62-610.555, 62-610.650, 62-610.670, 62-610.810, 62-610.820, 62-610.830, 62-610.850, 62-610.860, 62-610.890, 62-611.200, 62-611.450, 62-611.500, 62-611.700, 62-620.100, 62-620.300, 62-620.310, 62-620.320, 62-620.325, 62-620.335, 62-620.610, 62-620.620, 62-620.625, 62-620.705, 62-620.710, 62-621.300, 62-621.303, 62-621.500, 62-624.100, 62-624.300, 62-624.810, 62-625.420, 62-625.600, 62-640.300, 62-650.200, 62-650.300, 62-650.400, 62-650.500, 62-660.200, 62-660.400, 62-660.801, 62-660.802, 62-660.803, 62-660.804, 62-660.805, 62-660.806, 62-671.310, 62-673.310, 62-673.320, 62-673.340, 62-673.630, 62-701.315, 62-701.320, 62-701.710, 62-701.803, 62-709.300, 62-710.210, 62-710.800, 62-711.300, 62-711.801, 62-713.800, 62-730.200, 62-730.220, 62-730.290, 62-730.293, 62-737.800, 62B-34.030, 62B-49.005, 62B-49.006, and 62B-49.012. Rule 62-4.050, F.A.C., is referenced by the following rules: 62-4.050, 62-4.052, 62-4.053, 62-4.080, 62-45.110, 62-110.107, 62-113.200, 62-210.300, 62-210.310, 62-210.900, 62-213.420, 62-330.200, 62-330.201, 62-343.020, 62-343.070, 62-343.100, 62-343.130, 62-346.071, 62-528.300, 62-528.440, 62-528.455, 62-528.630, 62-555.401, 62-555.405, 62-555.520, 62-555.528, 62-555.536, 62-604.600, 62-620.100, 62-620.310, 62-620.320, 62-620.325, 62-620.335, 62-620.710, 62-621.300, 62-621.500, 62-624.100, 62-624.300, 62-624.310, 62-673.320, 62-701.315, 62-701.320, 62-709.300, 62-710.800, 62-711.300, 62-730.220, 62-737.800, and 62B-49.006, F.A.C. Rule 62-4.242, F.A.C., is referenced by the following rules: 62-4.050, 62-4.242, 62-40.120, 62-40.210, 62-302.530, 62-302.700, 62-330.200, 62-330.405, 62-330.630, 62-346.050, 62-346.051, 62-346.301, 62-600.300, 62-600.520, 62-610.300, 62-610.554, 62-610.555, 62-610.810, 62-610.820, 62-610.830, 62-610.860, 62-611.500, 62-650.500, F.A.C. Rule 62-4.244, F.A.C., is referenced by the following rules: 62-4.241, 62-4.244, 62-110.106, 62-302.530, 62-302.800, 62-330.200, 62-346.050, 62-346.051, 62-346.301, 62-600.430, 62-600.520, 62-620.620, 62-620.625, 62-621.303, 62-650.300, F.A.C.

EFFECT ON THOSE OTHER RULES: The proposed amendments are not expected to have significant effects other than to reduce unnecessary process associated with obtaining a variance from the applicable mixing zone and anti-degradation provisions in Chapter 62-4, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: A reduction in the application fee for site specific

alternative criteria will result in a savings to affected parties. The amendments to Rule 62-4.242, F.A.C., will provide a revised threshold for antidegradation of turbidity for beach nourishment projects within Outstanding Florida Waters, based on background variability, which should reduce costs to affected parties who would otherwise be required to obtain a variance. The proposed revisions to Rule 62-4.244, F.A.C., will provide a larger mixing zone for Joint Coastal Permit projects, which should reduce costs to affected parties who would otherwise be required to obtain a variance.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 373.016, 373.026, 373.043, 373.109, 373.171, 373.414, 373.418, 373.421, 403.051, 403.061, 403.062, 403.087, 403.088, 403.0882, 403.504, 403.704, 403.804, 403.805 FS.

LAW IMPLEMENTED: 373.016, 373.109, 373.171, 373.309, 373.409, 373.413, 373.4135, 373.414(9), (11), (12)(a), (13), (14), (15), (16), 373.4145, 373.418, 373.421, 403.021, 403.051, 403.061, 403.087, 403.0877, 403.088, 403.0882, 403.0885, 403.101, 403.111, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.702, 403.708, 403.722, 403.861(7) FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Tuesday, April 23, 2013, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, Marjory Stoneman Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Eric Shaw at (850)245-8429 or by the address or e-mail identified below. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric Shaw, Department of Environmental Protection, Bureau of Assessment and Restoration Support, MS 6511, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, (850)245-8429 or e-mail: eric.shaw@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-4.050 Procedures to Obtain Permits and Other Authorizations; Applications.

- (1) through (3) No change.
- (4) Processing fees are as follows:
 - (a) through (p) No change.

(q) Unless otherwise specified in this rule, the fee for applications for relief mechanisms shall be as follows:

- 1. Site specific alternative criteria for each water quality criteria ~~\$5,000~~ ~~\$15,000~~
- 2. through 6. No change.
- (r) through (z) No change.
- (5) through (8) No change.

Rulemaking Authority 373.026, 373.043, 373.109, 373.414, 373.418, 373.421, 403.061, 403.087, 403.704(30), 403.805 FS. Law Implemented 373.109, 373.309, 373.409, 373.413, 373.4135, 373.414(9), (11), (12)(a), (13), (14), (15), (16), 373.4145, 373.418, 373.421, 403.061, 403.087, 403.0877, 403.088, 403.0885, 403.722, 403.861(7) FS. History--New 5-17-72, Amended 6-19-74, 7-8-82, Formerly 17-4.05, Amended 11-15-87, 8-31-88, 10-3-88, 4-4-89, 3-19-90, 6-11-90, 3-7-91, 3-18-91, 5-30-91, 10-30-91, 11-16-92, 12-21-92, 7-11-93, 2-2-94, Formerly 17-4.050, Amended 11-23-94, 4-30-95, 7-4-95, 12-15-98, 10-22-00, 6-1-01, 1-30-03, 2-19-03, 4-3-03, 5-1-03, 2-7-06, 10-31-07, 4-21-09, _____.

62-4.242 Antidegradation Permitting Requirements; Outstanding Florida Waters; Outstanding National Resource Waters; Equitable Abatement.

- (1) No change.
- (2) Standards Applying to Outstanding Florida Waters.
 - (a) No change.
 - (b) The Department recognizes that it may be necessary to permit limited activities or discharges in Outstanding Florida Waters to allow for or enhance public use or to maintain facilities that existed prior to the effective date of the Outstanding Florida Water designation, or facilities permitted after adoption of the Outstanding Florida Water designation. However, such activities or discharges will only be permitted if:
 - 1. The discharge or activity is in compliance with the provisions specified in subparagraph (2)(a)2. of this section; or
 - 2. For dredging beach-quality sand from inlets and related channels, or restoration/nourishment of beaches and the use of offshore borrow areas, the applicant demonstrates that:
 - a. Turbidity has been minimized for both magnitude and duration to the maximum extent practicable;
 - b. Turbidity at the edge of the approved mixing zone does not exceed natural background levels by more than the range in natural background turbidity levels measured throughout a normal tidal cycle for the applicable sand dredging or beach restoration/nourishment site; and in no case shall it exceed 29 NTUs above natural background; and
 - c. Turbidity levels, both inside and outside of the mixing zone, are not expected to have an adverse impact on marine resources, recreational value or public safety; or

~~3.2-~~ Management practices and suitable technology approved by the Department are implemented for all stationary installations including those created for drainage, flood

control, or by dredging or filling; and ~~3-~~ There is no alternative to the proposed activity, including the alternative of not undertaking any change, except at an unreasonably higher cost.

(c) through (f) No change.

(3) Standards Applying to Outstanding National Resource Waters:

(a) All discharges or activities that may cause degradation of water quality in Outstanding National Resource Waters are prohibited, other than:

1. Discharges or activities that are exempted by statute from Department permitting or regulation;

2. Those discharges or activities described in sub-subparagraphs 62-4.242(2)(a)1.b., 62-4.242(2)(a)1.c., 62-4.242(2)(a)2.b., and 62-4.242(2)(b)2., F.A.C.

(b) through (e) No change.

(4) No change.

Rulemaking Authority 373.016, 373.171, 403.061, 403.062, 403.087, 403.088, 403.504, 403.704, 403.804, 403.805 FS. Law Implemented 373.016, 373.171, 403.021, 403.061, 403.087, 403.088, 403.101, 403.111, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702 FS. History—New 3-1-79, Amended 5-14-81, 9-30-82, 3-31-83, 4-9-84, 11-29-84, 12-11-84, 5-8-85, 7-22-85, 8-31-88, 9-13-89, 10-4-89, Formerly 17-4.242, Amended 1-23-95, 5-15-02,_____.

62-4.244 Mixing Zones: Surface Waters.

(1) through (4) No change.

(5) Mixing zones for dredge and fill permits shall not be subject to the provisions in paragraphs (1)(c) through (j), subsection (2), (3), or (4) of this section, provided that applicable water quality standards are met at the boundary and outside the mixing zone.

(a) through (b) No change.

(c) In no case shall the boundary of a Joint Coastal Permit mixing zone be more than 1000 meters from the point of discharge into the waterbody or the boundary of a dredge and fill mixing zone be more than 150 meters downstream in flowing streams or 150 meters in radius in other bodies of water, where these distances are measured from the cutterhead, return flow, discharge, or other points of generation of turbidity or other pollutants.

(d) When determining the appropriate size of a turbidity mixing zone for a Joint Coastal Permit, the Department shall also use the following criteria:

1. Measures will be implemented to minimize the magnitude and duration of turbidity to the maximum extent practicable;

2. Mixing zones shall be kept to the minimum size necessary to meet the turbidity standard; and

3. Mixing zones shall not encompass hardbottom communities, coral resources, or submerged aquatic vegetation beds outside of the authorized impact sites unless those areas are also evaluated as impact sites.

(6) through (7) No change.

Rulemaking Authority 403.051, 403.061, 403.062, 403.087, 403.0882, 403.804, 403.805 FS. Law Implemented 403.021, 403.051, 403.061, 403.087, 403.088, 403.0882, 403.101, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.702, 403.708 FS. History—Formerly part of 17-3.05, Revised and Renumbered 3-1-79, Amended 10-2-80, 1-1-83, 2-1-83, 2-19-84, 4-26-87, 8-31-88, 10-17-90, Formerly 17-4.244, Amended 3-26-00, 12-13-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Herschel T. Vinyard Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 27, 2012

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-302.200	Definitions
62-302.400	Classification of Surface Waters, Usage, Reclassification, Classified Waters
62-302.500	Surface Waters: Minimum Criteria, General Criteria
62-302.530	Table: Surface Water Quality Criteria
62-302.532	Estuary-Specific Numeric Interpretations of the Narrative Nutrient Criterion
62-302.533	Dissolved Oxygen Criteria for Class I, Class II, Class III, and Class III-Limited Waters

PURPOSE AND EFFECT: The proposed rule amendments revise several definitions used in Chapter 62-302, F.A.C., and correct several typographical errors in Rule 62-302.400, F.A.C. Revisions to Rule 62-302.500, F.A.C., establish numeric criteria for Lindane based on acute toxicity effects. The Department also proposes to amend Rule 62-302.530, F.A.C., to: (1) clarify how surface water quality criteria are applied, (2) update a number of surface water quality criteria, (3) correct outdated rule references for a number of surface water quality criteria, and (4) allow for the use of Ekman and Ponar sampling devices for determining the Shannon-Weaver Diversity Index. Rule 62-302.532, F.A.C., is revised to establish numeric nutrient criteria in the Tidal Peace River estuary. Rule 62-302.533, F.A.C., is created to update the surface water quality criteria for dissolved oxygen (DO) in both fresh and marine waters.

SUMMARY: The Department proposes to amend Chapter 62-302, F.A.C., to: (1) revise several definitions used in Chapter 62-302, F.A.C., (2) correct several typographical errors in Chapter 62-302, F.A.C., (3) clarify how surface water quality criteria are applied, (4) update a number of surface water quality criteria based on updated science, (5) correct

outdated rule references in Chapter 62-302, F.A.C., (6) allow for the use of Ekman and Ponar dredges for determining the Shannon-Weaver Diversity Index, (7) establish numeric nutrient criteria for the Tidal Peace River estuary, and (8) revise the criteria for DO in both fresh and marine waters.

OTHER RULES INCORPORATING THIS RULE: Chapter 62-302, F.A.C., is referenced by the following rules: 18-2.021, 62-4.160, 62-4.241, 62-4.242, 62-4.244, 62-4.246, 62-25.001, 62-25.025, 62-25.080, 62-40.120, 62-40.210, 62-45.070, 62-45.170, 62-110.106, 62-113.200, 62-301.100, 62-302.200, 62-302.300, 62-302.400, 62-302.500, 62-302.520, 62-302.530, 62-302.531, 62-302.532, 62-302.540, 62-302.700, 62-302.800, 62-303.100, 62-303.200, 62-303.320, 62-303.330, 62-303.351, 62-303.352, 62-303.353, 62-303.354, 62-303.370, 62-303.390, 62-303.400, 62-303.430, 62-303.450, 62-303.720, 62-304.310, 62-304.335, 62-312.400, 62-330.100, 62-330.200, 62-330.405, 62-330.410, 62-330.412, 62-330.630, 62-340.700, 62-346.050, 62-346.051, 62-346.301, 62-348.200, 62-520.200, 62-520.520, 62-528.610, 62-528.630, 62-600.120, 62-600.200, 62-600.300, 62-600.400, 62-600.430, 62-600.440, 62-600.500, 62-600.520, 62-610.200, 62-610.300, 62-610.310, 62-610.554, 62-610.555, 62-610.650, 62-610.670, 62-610.810, 62-610.820, 62-610.830, 62-610.850, 62-610.860, 62-611.110, 62-611.200, 62-611.450, 62-611.500, 62-611.600, 62-611.650, 62-611.700, 62-620.320, 62-620.620, 62-621.303, 62-624.800, 62-625.400, 62-640.400, 62-650.300, 62-660.300, 62-673.340, 62-673.610, 62-701.200, 62-709.500, 62-711.540, 62-761.200, 62-762.201, 62-770.200, 62-771.100, 62-777.150, 62-777.170, 62-780.200, 62-782.200, 62-785.200, 62B-49.008, 62B-49.012, 62C-16.0051, F.A.C. Rule 62-302.200, F.A.C., is referenced by the following rules: 62-4.241, 62-302.200, 62-302.530, 62-302.531, 62-302.540, 62-303.351, 62-303.390, 62-348.200, 62-520.200, 62-611.500, 62-620.620, 62-621.303, 62-777.170, 62C-16.0051, F.A.C. Rule 62-302.400, F.A.C., is referenced by the following rules: 62-4.242, 62-40.210, 62-302.400, 62-302.530, 62-330.410, 62-330.412, 62-611.110, F.A.C. Rule 62-302.500, F.A.C., is referenced by the following rules: 62-4.160, 62-4.244, 62-25.030, 62-302.200, 62-302.400, 62-302.500, 62-302.530, 62-302.800, 62-303.400, 62-600.120, 62-611.500, 62-611.650, 62-620.610, 62-621.303, F.A.C. Rule 62-302.530, F.A.C., is referenced by the following rules: 62-4.244, 62-302.200, 62-302.400, 62-302.500, 62-302.530, 62-302.531, 62-302.532, 62-302.800, 62-303.200, 62-303.320, 62-303.330, 62-303.370, 62-303.430, 62-303.450, 62-303.720, 62-611.500, 62-611.600, 62B-49.008, F.A.C. Rule 62-302.532, F.A.C., is referenced by the following rules: 62-302.531, 62-302.532, 62-303.450, F.A.C.

EFFECT ON THOSE OTHER RULES: The proposed amendments will change the dissolved oxygen criteria that industry, local government, agriculture and other surface water dischargers must meet. The remainder of the amendments will have minimal impact on the other rules of the Department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency. Seven domestic wastewater treatment facilities, agricultural and urban stormwater dischargers, and septic tank owners in the Florida Panhandle will be required to comply with more stringent dissolved oxygen criteria; however, less stringent dissolved oxygen criteria will apply to the rest of the state. Costs to the discharges in the Panhandle have been estimated at \$6,450,492, while cost savings anticipated for the rest of the state have been estimated at \$130,000,000, for a statewide cost savings of \$123,549,508.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department relied upon the SERC to determine whether legislative ratification would be required.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 403.061, 403.062, 403.087, 403.088, 403.504, 403.704, 403.804, 403.805 FS.

LAW IMPLEMENTED: 373.414, 403.021, 403.031, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, 403.101, 403.141, 403.161, 403.182, 403.502, 403.504, 403.702, 403.708, 403.802 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Tuesday, April 23, 2013, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, Marjory Stoneman Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Eric Shaw at (850)245-8429 or by the address or e-mail identified below. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric Shaw, Department of Environmental Protection, Bureau of Assessment and Restoration Support, MS 6511, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, (850)245-8429 or e-mail: eric.shaw@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-302.200 Definitions.

As used in this chapter:

(1) through (6) No change.

(7) "Compensation point for photosynthetic activity" shall mean the depth within the water column at which one percent of the ~~light intensity at the surface~~ Photosynthetically Active Radiation remains unabsorbed. The light intensities immediately below the surface ~~at the surface~~ and at depth ~~subsurface~~ shall be measured ~~simultaneously~~ by irradiance meters that measure the total irradiance of light between 400 and 700 nm such as Kahlsieco Underwater Irradiameter (Model No. 268 WA 310), or other device having a comparable spectral response.

(8) through (17) No change.

(18) "Man-induced conditions which cannot be controlled or abated" shall mean conditions that have been influenced by human activities, and

(a) ~~w~~Would remain after removal of all point sources,

(b) ~~w~~Would remain after imposition of best management practices for non-point sources, and

(c) ~~c~~Cannot be restored or abated by physical alteration of the waterbody, or there is no reasonable relationship between the economic, social and environmental costs and the benefits of restoration or physical alteration.

(19) through (28) No change.

(29) "Predominantly fresh waters" shall mean surface waters in which the chloride concentration is less than 1,500 milligrams per liter or specific conductance is less than 4,580 µmhos/cm. Measurements for making this determination shall be taken within the bottom half of the water column.

(30) "Predominantly marine waters" shall mean surface waters in which the chloride concentration is greater than or equal to 1,500 milligrams per liter or specific conductance is greater than or equal to 4,580 µmhos/cm. Measurements for making this determination shall be taken within the bottom half of the water column.

(31) through (44) No change.

Rulemaking Authority 403.061, 403.087, 403.504, 403.704, 403.804, 403.805 FS. Law Implemented 403.021(11), 403.031, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, 403.502, 403.802 FS. History—New 5-29-90, Amended 2-13-92, Formerly 17-302.200, Amended 1-23-95, 5-15-02, 4-2-08, 7-3-12, _____.

Editorial Note: Rule subsections 62-302.200(1)-(3), (5), (7), (9)-(15), (18)-(21), (29)-(30), (34), (38), (40), (42), and (44) became effective on 7-3-12, 20 days after filing the rule certification package for Florida's numeric nutrient standards. Rule subsections 62-302.200(4), (16)-(17), (22)-(25), (35)-(37), and (39) will become effective upon approval by EPA in their entirety, conclusion of rulemaking by EPA to repeal its federal numeric nutrient criterion for Florida, and EPA's determination that Florida's rules address its January 2009 determination that numeric nutrient criteria are needed in Florida.

62-302.400 Classification of Surface Waters, Usage, Reclassification, Classified Waters.

(1) through (2) No change.

(3) The specific water quality criteria corresponding to each surface water classification are listed in Rules 62-302.500 through ~~62-302.540~~, and Rule 62-302.800 ~~62-302.530~~, F.A.C.

(4) through (7) No change.

(8) A petition for reclassification shall reference and be accompanied by the information necessary to support the affirmative findings required in this section, as described in the DEP document titled, "Process for Reclassifying the Designated Uses of Florida Surface Waters" (DEP-SAS-001/10), dated June 2010, incorporated by reference herein. Copies ~~Copies~~ of the Process document may be obtained from the Department's internet site at <http://www.dep.state.fl.us/water> or by writing to the Florida Department of Environmental Protection, Standards and Assessment Section, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400.

(9) through (14) No change.

(15) Unless otherwise specified, the following shall apply:

(a) No change.

(b) Water quality classifications shall be interpreted to include associated water bodies such as tidal creeks, coves, bays and bayous. The boundaries of Class II waters shall be limited to "Predominantly Marine Waters" as defined in subsection 62-302.200(30), F.A.C.

(16) Exceptions to Class III:

(a) No change.

(b) The following listed waterbodies are classified as Class I, Class II, Class III-Limited, or Class V:

1. through 7. No change.

8. Charlotte County

Class I

Alligator Creek – North and South Prongs from headwaters to the water control structure downstream of SR 765-A.

Port Charlotte Canal System – Surface waters lying upstream of, or directly connected to, Fordham Waterway upstream of Conway Boulevard.

Prairie Creek – DeSoto County Line and headwaters to Shell Creek.

Shell Creek – Headwaters to Hendrickson Dam (east of Myrtle Slough, in Section 20, T40S, R24E).

Class II

Lemon Bay, Placida Harbor, and Tributaries – N. Charlotte County Line south to Gasparilla Sound and bounded on the east by SR 775.

Charlotte Harbor, Myakka River, and Gasparilla Sound ~~South~~ – Waters except Peace River upstream from the northeastern point of Myakka Cutoff to the boat ramp in Ponce de Leon Park in south Punta Gorda, Catfish Creek north of N. Lat. 26°50'56", and Whidden Creek north of N. Lat. 26° 51'15".

9. through 45. No change.

46. Okaloosa County.

Class II

Choctahatchee Bay and Tributaries – From a line from White Point southwesterly through Fl. Light Marker 2 of the Intracoastal Waterway, eastward to the county line, including East Pass.

Rocky Bayou – Choctahatchee Bay (from a line extending due east from Shirk Point) to Rocky Creek.

Santa Rosa Sound – From a north-south line through Manatee Point west to the Santa Rosa ~~Rose~~ County Line.

47. through 67. No change.

Rulemaking Authority 403.061, 403.062, 403.087, 403.088, 403.504, 403.704, 403.804 FS. Law Implemented 403.021(11), 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.504, 403.702, 403.708 FS. History—Formerly 28-5.06, 17-3.06, Amended and Renumbered 3-1-79, Amended 1-1-83, 2-1-83, Formerly 17-3.081, Amended 4-25-93, Formerly 17-302.400, Amended 12-26-96, 8-24-00, 12-7-06, 8-5-10,_____.

62-302.500 Surface Waters: Minimum Criteria, General Criteria.

(1) Minimum Criteria. All surface waters of the State shall at all places and at all times be free from:

(a) through (c) No change.

(d) Lindane (g-ben-zene hexachloride) in concentrations above 0.16 micrograms/liter in predominantly marine waters or in concentrations above 0.95 micrograms/liter in predominantly fresh waters.

(2) General Criteria.

(a) through (e) No change.

(f) Notwithstanding the specific numerical criteria applicable to individual classes of water, dissolved oxygen levels that are attributable to natural background conditions or man-induced conditions which cannot be controlled or abated may be established as alternative dissolved oxygen criteria for a water body or portion of a water body. Alternative dissolved oxygen criteria may be established by the Secretary or a Director of District Management in conjunction with the issuance of a permit or other Department action only after public notice and opportunity for public hearing. The determination of alternative criteria shall be based on consideration of the factors described in subparagraphs 62-302.800(1)(a)1.-4. and subsections 62-302.533(3)-(4), F.A.C. Alternative criteria shall not result in a lowering of dissolved oxygen levels in the water body, water body segment or any adjacent waters, and shall not violate the minimum criteria specified in subsection 62-302.500(1), F.A.C. Daily and seasonal fluctuations in dissolved oxygen levels shall be maintained.

Rulemaking Authority 403.061, 403.062, 403.087, 403.504, 403.704, 403.804 FS. Law Implemented 403.021(11), 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708 FS. History—Formerly 28-5.02, 17-3.02, Amended 10-28-78, Amended and Renumbered 3-1-79, Amended 1-1-83, 10-4-89, Formerly 17-3.051, Amended 4-25-93, Formerly 17-302.500, Amended 1-15-96, 12-26-96, 5-15-02, 12-7-06,_____.

62-302.530 Table: Surface Water Quality Criteria.

The following table contains both numeric and narrative surface water quality criteria to be applied except within zones of mixing. The left-hand column of the Table is a list of constituents for which a surface water criterion exists. The headings for the water quality classifications are found at the top of the Table, and the classification descriptions for the headings are specified in subsection 62-302.400(1), F.A.C. Applicable criteria lie within the Table. The individual criteria should be read in conjunction with other provisions in water quality standards, including Rule 62-302.500, F.A.C. The criteria contained in Rule 62-302.500, F.A.C., also apply to all waters unless alternative or more stringent criteria are specified in Rule 62-302.530, F.A.C. Unless otherwise stated, all criteria express the maximum not to be exceeded at any time except within established mixing zones or in accordance with site-specific effluent limitations developed pursuant to Rule 62-620.620, F.A.C. In some cases, there are separate or additional limits, which apply independently of the maximum not to be exceeded at any time. For example, the criteria for carcinogens, which are expressed as an annual average (denoted as “annual avg.” in the Table), are applied as means the maximum allowable annual average concentration at the long-term harmonic mean flow average annual flow conditions (see subsection 62-302.200(2), F.A.C.). Numeric interpretations of the narrative nutrient criterion in paragraph 62-302.530(47)(b), F.A.C., shall be expressed as spatial averages and applied over a spatial area consistent with their derivation. In applying the water quality standards, the Department shall take into account the variability occurring in nature and shall recognize the statistical variability inherent in sampling and testing procedures. The Department’s assessment methodology, set forth in Chapter 62-303, F.A.C., accounts for such natural and statistical variability when used to assess ambient waters pursuant to sections 305(b) and 303(d) of the Federal Clean Water Act.

NOTE: TO VIEW THE TABLE FOR THIS RULE GO TO THE WORD VERSION LOCATED IN SECTION II Vol. 39, No. 63

Rulemaking Authority 403.061, 403.062, 403.087, 403.504, 403.704, 403.804 FS. Law Implemented 403.021(11), 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708 FS. History—New 1-28-90, Formerly 17-3.065, Amended 2-13-92, 6-17-92, Formerly 17-302.540, 17-302.550, 17-302.560, 17-302.570, 17-302.580, Amended 4-25-93, Formerly 17-302.530, Amended 1-23-95, 1-15-96, 5-15-02, 7-19-04, 12-7-06, 8-5-10, 7-3-12,_____.

62-302.532 Estuary-Specific Numeric Interpretations of the Narrative Nutrient Criterion.

(1) Estuary-specific numeric interpretations of the narrative nutrient criterion in paragraph 62-302.530(47)(b), F.A.C., are in the table below. The concentration-based estuary interpretations are open water, area-wide averages. The interpretations expressed as load per million cubic meters of freshwater inflow are the total load of that nutrient to the estuary divided by the total volume of freshwater inflow to that estuary.

Estuary	Total Phosphorus	Total Nitrogen	Chlorophyll <i>a</i>
(a) through (c) No change.			
(d) Charlotte Harbor/Estero Bay	Annual arithmetic mean values for nutrients and annual arithmetic means for chlorophyll <i>a</i> , not to be exceeded more than once in a three year period. Nutrient and nutrient response values do not apply to tidally influenced areas that fluctuate between predominantly marine and predominantly fresh waters during typical climatic and hydrologic conditions.		
1. through 7. No change.			
8. Tidal Peace River	0.50 mg/L	1.08 mg/L	12.6 ug/L
8. through 9. renumbered 9. through 10. No change.			
(e) through (j) No change.			

(2) Estuarine and marine areas are delineated in the eight maps of the Florida Marine Nutrient Regions, all dated February 20, 2013, ~~October 19, 2011~~, which are incorporated by reference. Copies of these maps may be obtained from the Department’s internet site at <http://www.dep.state.fl.us/water/wqssp/swq-docs.htm> or by writing to the Florida Department of Environmental Protection, Standards and Assessment Section, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400.

(3) No change.

Rulemaking Authority 403.061, 403.062, 403.087, 403.504, 403.704, 403.804 FS. Law Implemented 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708 FS. History—New 7-3-12,_____.

Editorial Note: Rule subsections 62-302.532(1)-(2) became effective on 7-3-12, 20 days after filing the rule certification package for Florida’s numeric nutrient standards. Rule subsection 62-302.532(3) will become effective upon approval by EPA in its entirety, conclusion of rulemaking by EPA to repeal its federal numeric nutrient criterion for Florida, and EPA’s determination that Florida’s rules address its January 2009 determination that numeric nutrient criteria are needed in Florida.

62-302.533 Dissolved Oxygen Criteria for Class I, Class II, Class III, and Class III-Limited Waters.

(1) Class I, Class III predominantly freshwaters, and Class III-Limited predominantly freshwaters.

(a) No more than 10 percent of the daily average percent dissolved oxygen (DO) saturation values shall be below the following values:

- 1. 67 percent in the Panhandle West bioregion.
- 2. 38 percent in the Peninsula and Everglades bioregions.
- or
- 3. 34 percent in the Northeast and Big Bend bioregions. A map of the bioregions is contained in *SCI 1000: Stream Condition Index Methods* (DEP-SOP-003/11 SCI 1000), which is incorporated by reference in Rule 62-160.800, F.A.C.

(b) For lakes, the daily average DO level shall be calculated as the average of measurements collected in the upper two meters of the water column at the same location on the same day. For all other freshwaters, the daily average freshwater DO level shall be calculated as the average of all measurements collected in the water column at the same location and on the same day.

(c) In the portions of the Suwannee, Withlacoochee (North), and Santa Fe Rivers utilized by the Gulf Sturgeon, and in the portions of the Santa Fe and New Rivers utilized by the Oval Pigtoe Mussel, DO levels shall not be lowered below the baseline distribution such that there is 90 percent confidence that more than 50 percent of measurements are below the median of the baseline distribution or more than 10 percent of the daily average values are below the 10th percentile of the baseline distribution for the applicable waterbody.

(d) In the portions of the St. Johns River utilized by the Shortnose or Atlantic Sturgeon, the DO shall not be below 53 percent saturation during February and March. During other times of the year, the criteria specified in paragraph 62-302.533(1)(a), F.A.C., shall apply.

(e) The baseline distributions and maps showing the specific areas utilized by the Gulf Sturgeon and the Oval Pigtoe Mussel are provided in Appendix I of the “Technical Support Document for the Derivation of Dissolved Oxygen Criteria to Protect Aquatic Life in Florida’s Fresh and Marine Waters” (DEP-SAS-001/13), dated March 2013, which is incorporated by reference herein. Copies of Appendix I may be obtained from the Department’s internet site at <http://www.dep.state.fl.us/water/wqssp/swq-docs.htm> or by writing to the Florida Department of Environmental Protection, Standards and Assessment Section, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400.

(2) Class II, Class III predominantly marine waters, and Class III-Limited predominantly marine waters.

(a) Minimum DO saturation levels shall be as follows:

1. The daily average percent DO saturation shall not be below 42 percent saturation in more than 10 percent of the values;

2. The seven-day average DO percent saturation shall not be below 51 percent more than once in any twelve week period; and

3. The 30-day average DO percent saturation shall not be below 56 percent more than once per year.

(b) To calculate a seven-day average DO percent saturation, there shall be a minimum of three full days of diel data collected within the seven-day period, or a minimum of ten grab samples collected over at least three days within that seven-day period, with each sample measured at least four hours apart.

(c) To calculate a 30-day average DO percent saturation, there shall be a minimum of three full days of diel data with at least one day of data collected in three different weeks of the 30-day period, or grab samples collected from a minimum of ten different days of the 30-day period.

(d) A full day of diel data shall consist of 24 hours of measurements collected at a regular time interval of no longer than one hour.

(3) If it is determined that the natural background DO saturation in the waterbody (including values that are naturally low due to vertical stratification) is less than the applicable criteria stated above, the applicable criteria shall be 0.1 mg/l below the DO concentration associated with the natural background DO saturation level.

(4) For predominately marine waters, a decrease in magnitude of up to 10 percent from the natural background condition is allowed if it is demonstrated that sensitive resident aquatic species will not be adversely affected using the procedure described in the DEP document titled Appendix H of the “Technical Support Document for the Derivation of Dissolved Oxygen Criteria to Protect Aquatic Life in Florida’s Fresh and Marine Waters: Determination of Acceptable

Deviation from Natural Background Dissolved Oxygen Levels in Fresh and Marine Waters” (DEP-SAS-001/13), dated March 2013, which is incorporated by reference herein. Copies of Appendix H may be obtained from the Department’s internet site at <http://www.dep.state.fl.us/water/wqssp/swq-docs.htm> or by writing to the Florida Department of Environmental Protection, Standards and Assessment Section, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400.

(5) Ambient DO levels above the minimum criteria specified in subsections 62-302.533(1) and (2), F.A.C., shall be maintained in accordance with and subject to Rules 62-302.300 and 62-4.242, F.A.C. This provision is not achieved if, after controlling for or removing the effects of confounding variables, such as climatic and hydrologic cycles, quality assurance issues, and changes in analytical methods, a waterbody segment is shown to have a statistically significant decreasing trend in DO percent saturation or an increasing trend in the range of daily DO fluctuations at the 95 percent confidence level using the one-sided Seasonal Kendall test for trend, as described in Helsel, D.R. and R.M. Hirsh, 2002, *Statistical Methods in Water Resources*, USGS, pages 338 through 340, which is incorporated by reference herein, or an alternative statistically valid trend at a one-sided confidence level of 95 percent. It must be demonstrated that the data satisfy all statistical assumptions of any alternative method used, including residual distribution, variance, and shape of relationship.

Rulemaking Authority 403.061, 403.062, 403.087, 403.504, 403.704, 403.804 FS. Law Implemented 403.021(11), 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Drew Bartlett

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Herschel T. Vinyard Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 27, 2012

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-302.530
RULE TITLE: Table: Surface Water Quality Criteria
PURPOSE AND EFFECT: The proposed rule amendments revise the human health-based surface water quality criteria to account for updated fish consumption rates among Floridians. Criteria were derived using a probabilistic model.

SUMMARY: The Department proposes to amend Rule 62-302.530, F.A.C., to revise the surface water quality criteria that are human health-based. These revised criteria are proposed to reflect more recent fish consumption data and were derived using a probabilistic model.

OTHER RULES INCORPORATING THIS RULE: Chapter 62-302, F.A.C., is referenced by the following rules: 18-2.021, 62-4.160, 62-4.241, 62-4.242, 62-4.244, 62-4.246, 62-25.001, 62-25.025, 62-25.080, 62-40.120, 62-40.210, 62-45.070, 62-45.170, 62-110.106, 62-113.200, 62-301.100, 62-302.200, 62-302.300, 62-302.400, 62-302.500, 62-302.520, 62-302.530, 62-302.531, 62-302.532, 62-302.540, 62-302.700, 62-302.800, 62-303.100, 62-303.200, 62-303.320, 62-303.330, 62-303.351, 62-303.352, 62-303.353, 62-303.354, 62-303.370, 62-303.390, 62-303.400, 62-303.430, 62-303.450, 62-303.720, 62-304.310, 62-304.335, 62-312.400, 62-330.100, 62-330.200, 62-330.405, 62-330.410, 62-330.412, 62-330.630, 62-340.700, 62-346.050, 62-346.051, 62-346.301, 62-348.200, 62-520.200, 62-520.520, 62-528.610, 62-528.630, 62-600.120, 62-600.200, 62-600.300, 62-600.400, 62-600.430, 62-600.440, 62-600.500, 62-600.520, 62-610.200, 62-610.300, 62-610.310, 62-610.554, 62-610.555, 62-610.650, 62-610.670, 62-610.810, 62-610.820, 62-610.830, 62-610.850, 62-610.860, 62-611.110, 62-611.200, 62-611.450, 62-611.500, 62-611.600, 62-611.650, 62-611.700, 62-620.320, 62-620.620, 62-621.303, 62-624.800, 62-625.400, 62-640.400, 62-650.300, 62-660.300, 62-673.340, 62-673.610, 62-701.200, 62-709.500, 62-711.540, 62-761.200, 62-762.201, 62-770.200, 62-771.100, 62-777.150, 62-777.170, 62-780.200, 62-782.200, 62-785.200, 62B-49.008, 62B-49.012, 62C-16.0051, F.A.C. Rule 62-302.530 is referenced by the following rules: 62-4.244, 62-302.200, 62-302.400, 62-302.500, 62-302.530, 62-302.531, 62-302.532, 62-302.800, 62-303.200, 62-303.320, 62-303.330, 62-303.370, 62-303.430, 62-303.450, 62-303.720, 62-611.500, 62-611.600, 62B-49.008, F.A.C.

EFFECT ON THOSE OTHER RULES: The proposed amendments revise the surface water quality criteria that are human health-based. These amendments will change the surface water quality criteria that industry, local government, agriculture and other surface water dischargers must meet to protect human health.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency. The Agency prepared a SERC and a detailed cost estimate of costs that might be incurred by various entities with discharges to Florida waters, and concluded that there would be no predicted costs

for additional impairments resulting from the adoption of the proposed human health-based criteria and that facilities would not be anticipated to have compliance issues or associated costs due to the Department's proposed criteria.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department prepared a detailed cost estimate upon which it relied to determine whether legislative ratification would be required.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804 FS.

LAW IMPLEMENTED: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Tuesday, April 23, 2013, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, Marjory Stoneman Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Eric Shaw at (850)245-8429 or through the address or e-mail identified below. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric Shaw, Department of Environmental Protection, Bureau of Assessment and Restoration Support, MS 6511, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, (850)245-8429 or e-mail: eric.shaw@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-302.530 Table: Surface Water Quality Criteria.

The following table contains both numeric and narrative surface water quality criteria to be applied except within zones of mixing. The left-hand column of the Table is a list of constituents for which a surface water criterion exists. The headings for the water quality classifications are found at the top of the Table, and the classification descriptions for the headings are specified in subsection 62-302.400(1), F.A.C. Applicable criteria lie within the Table. The individual criteria

should be read in conjunction with other provisions in water quality standards, including Rule 62-302.500, F.A.C. The criteria contained in Rule 62-302.500, F.A.C., also apply to all waters unless alternative or more stringent criteria are specified in Rule 62-302.530, F.A.C. Unless otherwise stated, all criteria express the maximum not to be exceeded at any time. In some cases, there are separate or additional limits, which apply independently of the maximum not to be exceeded at any time. For example, annual average (denoted as “annual avg.” in the Table) means the maximum concentration at average annual flow conditions (see subsection 62-302.200(2), F.A.C.). Numeric interpretations of the narrative nutrient criterion in paragraph 62-302.530 (47)(b), F.A.C., shall be expressed as spatial averages and applied over a spatial area consistent with their derivation. In applying the water quality standards, the Department shall take into account the variability occurring in nature and shall recognize the statistical variability inherent in sampling and testing procedures. The Department’s assessment methodology, set forth in Chapter 62-303, F.A.C., accounts for such natural and statistical variability when used to assess ambient waters pursuant to sections 305(b) and 303(d) of the Federal Clean Water Act.

NOTE: TO VIEW THE TABLE FOR THIS RULE GO TO THE WORD VERSION LOCATED IN SECTION II Vol. 39, No. 63

Rulemaking Authority 403.061, 403.062, 403.087, 403.504, 403.704, 403.804 FS. Law Implemented 403.021(11), 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708 FS. History—New 1-28-90, Formerly 17-3.065, Amended 2-13-92, 6-17-92, Formerly 17-302.540, 17-302.550, 17-302.560, 17-302.570, 17-302.580, Amended 4-25-93, Formerly 17-302.530, Amended 1-23-95, 1-15-96, 5-15-02, 7-19-04, 12-7-06, 8-5-10, 7-3-12_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Drew Bartlett

NAME OF AGENCY HEAD WHO APPROVED THE

PROPOSED RULE: Herschel T. Vinyard Jr.

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: March 22, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAR: April 27, 2012

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:

62-303.300

62-303.320

62-303.353

RULE TITLES:

Methodology to Develop the Planning List

Exceedances of Aquatic Life-Based Water Quality Criteria

Nutrients in Estuaries and Open Coastal Waters

62-303.360

62-303.370

62-303.380

62-303.420

62-303.450

62-303.460

62-303.470

62-303.480

62-303.500

62-303.720

Primary Contact and Recreation Use Support

Fish and Shellfish Consumption Use Support

Drinking Water Use Support and Protection of Human Health

Aquatic Life-Based Water Quality Criteria Assessment

Assessments of Numeric Interpretation of Narrative Nutrient Criteria

Primary Contact and Recreation Use Support

Fish and Shellfish Consumption Use Support

Drinking Water Use Support and Protection of Human Health

Prioritization

Delisting Procedure

PURPOSE AND EFFECT: The proposed rule amendments update the listing methodology for assessment of the revised Dissolved Oxygen (DO) criteria to determine waterbody impairments and implement a variety of miscellaneous updates identified during the Triennial Review of Florida’s water quality standards.

SUMMARY: The Department proposes to amend Chapter 62-303, F.A.C., to update the listing methodology for assessment of the revised DO criteria used to determine waterbody impairments and implement a variety of other miscellaneous updates identified during the Triennial Review of Florida’s water quality standards.

OTHER RULES INCORPORATING THIS RULE: Chapter 62-303, F.A.C., is referenced by the following rules: 62-40.210, 62-40.430, 62-40.540, 62-302.530, 62-302.531, 62-302.800, 62-303.100, 62-303.150, 62-303.200, 62-303.300, 62-303.310, 62-303.320, 62-303.330, 62-303.350, 62-303.351, 62-303.352, 62-303.353, 62-303.354, 62-303.360, 62-303.370, 62-303.380, 62-303.390, 62-303.400, 62-303.410, 62-303.420, 62-303.430, 62-303.450, 62-303.460, 62-303.470, 62-303.480, 62-303.500, 62-303.600, 62-303.700, 62-303.710, 62-303.720, 62-303.810, 62-304.100, 62-305.200, 62-672.700, F.A.C. Rule 62-303.300 is referenced by the following rule: 62-303.300, F.A.C. Rule 62-303.320 is referenced by the following rules: 62-303.310, 62-303.320, 62-303.330, 62-303.350, 62-303.360, 62-303.370, 62-303.380, 62-303.420, 62-303.460, 62-303.470, 62-303.480, and 62-303.720, F.A.C. Rule 62-303.353 is referenced by the following rules: 62-303.353 and 62-303.390, F.A.C. Rule 62-303.360 is referenced by the following rules: 62-303.360, 62-303.460, and 62-303.720, F.A.C. Rule 62-303.370 is referenced by the following rules: 62-303.370, F.A.C. Rule 62-303.380 is referenced by the following rules: 62-303.480 and 62-303.720, F.A.C. Rule 62-303.420 is referenced by the following rules: 62-303.390, 62-303.400, 62-303.410, 62-303.420, 62-303.460, 62-303.470, 62-303.480,

and 62-303.720, F.A.C. Rule 62-303.450 is referenced by the following rules: 62-303.450 and 62-303.720, F.A.C. Rule 62-303.460 is referenced by the following rules: 62-303.406, 62-303.470, 62-303.480, and 62-303.720, F.A.C. Rule 62-303.470 is referenced by the following rules: 62-303.470 and 62-303.720, F.A.C. Rule 62-303.480 is referenced by the following rules: 62-303.480 and 62-303.720, F.A.C. Rule 62-303.500 is referenced by the following rule: 62-303.500, F.A.C. Rule 62-303.720 is referenced by the following rule: 62-303.720, F.A.C.

EFFECT ON THOSE OTHER RULES: The proposed amendments refine the methodology for assessing the revised DO criteria in surface waters used to determine water body impairment and implement a variety of miscellaneous updates identified during the Triennial Review of Florida’s water quality standards. These amendments are not expected to have a significant effect on other rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department prepared a detailed cost estimate upon which it relied to determine whether legislative ratification would be required.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.062, 403.067 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Tuesday, April 23, 2013, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, Marjory Stoneman Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Eric Shaw at (850)245-8429 or by the address or e-mail identified below. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric Shaw, Department of Environmental Protection, Bureau of Assessment and Restoration Support, MS 6511, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, (850)245-8429 or e-mail: eric.shaw@dep.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

PART I
GENERAL

62-303.300 Methodology to Develop the Planning List.

(1) This part establishes a methodology for developing a planning list of waters to be assessed pursuant to subsections 403.067(2) and (3), F.S.

~~(2) Waters on the list of water segments submitted to EPA in 1998 that do not meet the data sufficiency requirements for the planning list shall nevertheless be included in the state’s initial planning list developed pursuant to this rule.~~

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Amended 12-11-06, _____.

PART II
THE PLANNING LIST

62-303.320 ~~Exceedances of~~ Aquatic Life-Based Water Quality Criteria Assessment.

(1) Water segments shall be placed on the planning list if, using objective and credible data, as defined by the requirements specified in this section, the number of samples that do not meet an applicable water quality criterion due to pollutant discharges is greater than or equal to the number listed in Table 1 for the given sample size. For sample sizes up to 500, waters are placed on the planning list when 10 percent% or more of the samples do not meet the applicable criteria with a minimum of an 80 percent% confidence level using a binomial distribution. For sample sizes greater than 500, the Department shall calculate the number of samples not meeting the criterion that are needed to list the waterbody with an 80 percent confidence level for the given sample size using the binomial distribution.

Table 1 No change.

(2) through (3) No change.

(4) To place a water segment on the planning list using Table 1, a water segment shall have a minimum of ten samples for the ten-year period, with at least five temporally independent samples. To be treated as a temporally independent sample, samples shall be at least one week apart, regardless of whether the samples are collected at different locations within the segment.

(a) For parameters other than dissolved oxygen (DO), samples ~~Samples~~ collected at the same location less than four days apart shall be considered as one sample, with the median

value used to represent the sampling period. However, if ~~any of the individual dissolved oxygen (DO) values are less than 1.5 mg/l or, for other parameters, individual values exceed acutely toxic levels as listed in Table 2, then the worst-case value shall be used to represent the sampling period. The worst-case value is the minimum value for DO, both the minimum and maximum for pH, or the maximum value for other parameters. However, when DO data are available from diel or depth profile studies, the lower tenth percentile value shall be used to represent worst case conditions for comparison against the minimum criteria.~~

(b) For lakes, the daily average DO level shall be calculated as the average of measurements collected in the upper two meters of the water column at the same location on the same day. For all other freshwaters, the daily average freshwater DO level shall be calculated as the average of all measurements collected in the water column. If any individual DO measurement is greater than 100 percent saturation, 100 percent shall be substituted for that value for the purpose of calculating daily averages.

(c) The daily average freshwater DO criteria shall be assessed preferentially using daily average values calculated from full days of diel monitoring data. A full day of diel data shall consist of 24 hours of measurements collected at a regular time interval of no longer than one hour. If diel monitoring data are not available, instantaneous samples may be used to assess the DO criterion by comparing the instantaneous value with a time-of-day-specific translation of the daily average criterion. To determine the time-of-day-specific translation of the daily average criterion, the time (T) at which the DO sample was taken (in minutes past midnight) is entered into the appropriate equation below for the applicable region and waterbody type. The actual DO measurement collected at a given time is assessed against the calculated time-of-day-specific translation for that time, and if the instantaneous DO is greater than or equal to the calculated value, the daily average DO criterion is achieved.

<u>Region</u>	<u>Equations for Time-of-Day-Specific Translation of the Daily Average DO Criterion</u>
<u>Streams</u>	
<u>Northeast + Big Bend</u>	$1.1844 \times 10^{-13} \cdot T^5 - 4.1432 \times 10^{-10} \cdot T^4 + 4.7729 \times 10^{-7} \cdot T^3 - 1.9692 \times 10^{-4} \cdot T^2 + 0.02314 \cdot T + 31.24$
<u>Peninsula + Everglades</u>	$1.9888 \times 10^{-13} \cdot T^5 - 6.8941 \times 10^{-10} \cdot T^4 + 7.8373 \times 10^{-7} \cdot T^3 - 3.1598 \times 10^{-4} \cdot T^2 + 0.03551 \cdot T + 33.43$
<u>Panhandle West</u>	$9.0851 \times 10^{-14} \cdot T^5 - 2.9941 \times 10^{-10} \cdot T^4 + 3.1560 \times 10^{-7} \cdot T^3 - 1.0851 \times 10^{-4} \cdot T^2 + 0.006285 \cdot T + 65.61$
<u>Lakes</u>	

<u>Northeast + Big Bend</u>	$1.4578 \times 10^{-13} \cdot T^5 - 5.5607 \times 10^{-10} \cdot T^4 + 7.0683 \times 10^{-7} \cdot T^3 - 3.1879 \times 10^{-4} \cdot T^2 + 0.02817 \cdot T + 34.19$
<u>Peninsula + Everglades</u>	$1.3709 \times 10^{-13} \cdot T^5 - 5.0496 \times 10^{-10} \cdot T^4 + 6.1352 \times 10^{-7} \cdot T^3 - 2.5817 \times 10^{-4} \cdot T^2 + 0.01960 \cdot T + 37.14$
<u>Panhandle West</u>	$7.1190 \times 10^{-14} \cdot T^5 - 2.6420 \times 10^{-10} \cdot T^4 + 3.2247 \times 10^{-7} \cdot T^3 - 1.3607 \times 10^{-4} \cdot T^2 + 0.01071 \cdot T + 66.35$

(d) If multiple instantaneous DO samples are available in a day, the time-of-day-specific translation of the daily average criterion will be calculated for each individual sample. Achievement of the daily average DO criteria will be assessed by comparing the average of the actual DO measurements collected at each time against the average of the calculated time-of-day-specific translations for each time. If the average of the measured DO values is greater than or equal to the average of the time-of-day-specific translations of the criteria, the daily average DO criterion is achieved. An average of multiple daily values calculated in this manner will be considered as a single sample for assessment purposes.

(b) through (d) renumbered (e) through (g) No change.

(5) For assessment of the portions of the Suwannee, Withlacoochee (North), and Santa Fe Rivers utilized by the Gulf Sturgeon, and in the portions of the Santa Fe and New Rivers utilized by the Oval Pigtoe Mussel, waters will be listed on the planning list when more than 50 percent of the measurements are below the applicable median or more than 10 percent of the daily average values are below the applicable 10th percentile value at a minimum of a 80 percent confidence level using the binomial distribution. The applicable median and 10th percentile values are specified by river segment in Appendix I of the "Technical Support Document: Derivation of Dissolved Oxygen Criteria to Protect Aquatic Life in Florida's Fresh and Marine Waters" (DEP-SAS-001/13), dated March, 2013, which is incorporated by reference herein. Copies of Appendix I may be obtained from the Department's internet site at <http://www.dep.state.fl.us/water/wqssp/swq-docs.htm> or by writing to the Florida Department of Environmental Protection, Standards and Assessment Section, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400.

(6)(5) For predominantly marine waters, the Department shall evaluate both the minimum allowable DO of 4.0 mg/l and the daily average DO criterion of 5.0 mg/l using Table 1 and shall also evaluate whether the seven-day and 30-day average criteria have been achieved during the planning period. A water segment shall be placed on the planning list for potential DO impairment if the number of samples that do not meet the daily average DO criterion is greater than or equal to the number listed in Table 1 for the given sample size, or if it has a weekly average value below the weekly average DO criterion

or a monthly average value below the monthly average DO criterion in the planning period. At least four temporally independent samples are required to calculate the daily average for any given day. For DO, temporally independent shall be defined as at least 4 hours apart. If there are sufficient data to determine daily averages for more than one day within a four day period, the Department shall use the median value of the daily averages to represent the sampling period.

(a) If any individual DO measurement is greater than 100 percent saturation, 100 percent shall be substituted for that value for the purpose of calculating daily, weekly and monthly averages.

(b) Where DO values are collected at multiple depths at a given station and time, the average of the values shall be used to represent the measurements unless any of the individual DO values are less than 2 mg/l, in which case the lower 25th percentile of the measured values shall be used.

(c) For assessment purposes, the seven-day average DO percent saturation shall be calculated as a weekly average using a minimum of three full days of diel data collected within a week, or a minimum of ten grab samples collected over at least three days within a week, with each sample measured at least four hours apart.

(d) For assessment purposes, the 30-day average DO percent saturation shall be calculated as a monthly average using a minimum of three full days of diel data, with each diel sampling conducted in different weeks of the month, or grab samples collected from a minimum of ten different days of the month.

(e) A full day of diel data shall consist of 24 hours of measurements collected at a regular time interval of no longer than one hour.

~~(7)(6)~~ Notwithstanding the requirements of subsection (4), water segments shall be included on the planning list if:

(a) There are less than ten samples for the segment, but there are three or more temporally independent samples that do not meet an applicable water quality criterion, or

(b) More than one sample do not meet an acute toxicity-based water quality criterion listed in subsection Rule 62-302.500(1) 62-302.530, F.A.C., or a water quality criterion for a synthetic organic compound or synthetic pesticide in any three year period.

(7) through (9) renumbered (8) through (10) No change.

(11) For the assessment of the DO criteria, any DO data collected as a concentration in mg/l shall be converted to percent saturation using the temperature and salinity measured at the same location within fifteen minutes of the DO measurement. Percent DO saturation shall be calculated using the method in Section 5.4 of the *“Technical Support Document: Derivation of Dissolved Oxygen Criteria to Protect Aquatic Life in Florida’s Fresh and Marine Waters.”* (DEP-SAS-001/13), dated March, 2013, which is incorporated by reference herein. Copies of Section 5.4 may be obtained

from the Department’s internet site at <http://www.dep.state.fl.us/water/wqssp/swq-docs.htm> or by writing to the Florida Department of Environmental Protection, Standards and Assessment Section, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400.

(10) through (11) renumbered (12) through (13) No change.

(14) A water segment shall be placed on the planning list for DO impairment if there has been a statistically significant decreasing trend in DO levels or increasing trend in the range of daily DO fluctuations at the 90 percent confidence level using a one-sided Seasonal Kendall test for trend, as described in Helsel, D.R. and R.M. Hirsh, 2002, *Statistical Methods in Water Resources*, USGS, pages 338 through 340, which are incorporated by reference herein, after controlling for or removing the effects of confounding variables, such as climatic and hydrologic cycles, quality assurance issues, and changes in analytical methods, and except as provided for under Rules 62-302.300 and 62-4.242, F.A.C. A copy of pages 338 through 340 may be obtained from the Department’s internet site at <http://www.dep.state.fl.us/water/wqssp/swq-docs.htm> or by writing FDEP, Standards and Assessment Section, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History–New 6-10-02, Amended 12-11-06, _____.

62-303.353 Nutrients in Estuaries and Open Coastal Waters.

Estuaries, estuary segments, or open coastal waters shall be included on the planning list for nutrients if:

(1) The numeric interpretation of the narrative nutrient criterion established in subsection 62-302.531(2), F.A.C., is exceeded; ~~or~~

(2) For estuaries or open coastal waters without a numeric interpretation of the narrative nutrient criterion, ~~their~~Their annual geometric mean chlorophyll a for any year is greater than 11 ug/l,

(3) through (4) No change.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History–New 6-10-02, Amended 12-11-06, 7-2-12, _____.

62-303.360 Primary Contact and Recreation Use Support.

(1) A Class I, II, or III water shall be placed on the planning list for evaluating primary contact and recreation use support if:

(a) There is a sufficient number of samples from the water segment that do not meet the applicable water quality criteria for bacteriological quality based on the methodology described in Rule 62-303.320, F.A.C., with the exception that paragraph

62-303.320(4)(a), F.A.C., does not apply and samples collected on different days within any four day period will be assessed as individual daily samples, or

- (b) through (e) No change.
- (2) through (4) No change.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History--New 6-10-02, Amended 12-11-06, 9-4-07,_____.

62-303.370 Fish and Shellfish Consumption Use Support. A Class I, II, or III water shall be placed on the planning list for fish and shellfish consumption if:

(1) There is a sufficient number of samples from the water segment that do not meet the applicable Class II water quality criteria for bacteriological quality based on the methodology described in Rule 62-303.320, F.A.C., with the exception that paragraph 62-303.320(4)(a), F.A.C., does not apply and samples collected on different days within any four day period will be assessed as individual daily samples, or

- (2) through (5) No change.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History--New 6-10-02, Amended 12-11-06, 9-4-07,_____.

62-303.380 Drinking Water Use Support and Protection of Human Health.

(1) A Class I water shall be placed on the planning list for potential impairment of drinking water use support and the protection of human health if:

(a) There is a sufficient number of samples from the water segment that do not meet the applicable Class I water quality criteria for bacteriological quality based on the methodology described in Rule 62-303.320, F.A.C., does not apply and samples collected on different days within any four day period will be assessed as individual daily samples, or

- (b) through (c) No change.
- (2) through (4) No change.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History--New 6-10-02, Amended 12-11-06, 9-4-07,_____.

PART IV
THE VERIFIED LIST

62-303.420 Aquatic Life-Based Water Quality Criteria Assessment.

- (1) through (7) No change.

(8) For lakes, the daily average DO level shall be calculated as the average of measurements collected in the upper two meters of the water column at the same location on the same day. For all other freshwaters, the daily average freshwater DO level shall be calculated as the average of all measurements collected in the water column. If any individual

DO measurement is greater than 100 percent saturation, 100 percent shall be substituted for that value for the purpose of calculating daily averages.

(9) The daily average freshwater DO criteria shall be assessed preferentially using daily average values calculated from full days of diel monitoring data. A full day of diel data shall consist of 24 hours of measurements collected at a regular time interval of no longer than one hour. If diel monitoring data are not available, instantaneous samples may be used to assess the DO criterion by comparing the instantaneous value with a time-of-day-specific translation of the daily average criterion. To determine the time-of-day-specific translation of the daily average criterion, the time (T) at which the DO sample was taken (in minutes past midnight) is entered into the appropriate equation below for the applicable region and waterbody type. The actual DO measurement collected at a given time is assessed against the calculated time-of-day-specific translation for that time, and if the instantaneous DO is greater than or equal to the calculated value, the daily average DO criterion is achieved.

Region	Equations for Time-of-Day-Specific Translation of the Daily Average DO Criterion
<u>Streams</u>	
<u>Northeast + Big Bend</u>	$1.1844 \times 10^{-13} \cdot T^5 - 4.1432 \times 10^{-10} \cdot T^4 + 4.7729 \times 10^{-7} \cdot T^3 - 1.9692 \times 10^{-4} \cdot T^2 + 0.02314 \cdot T + 31.24$
<u>Peninsula + Everglades</u>	$1.9888 \times 10^{-13} \cdot T^5 - 6.8941 \times 10^{-10} \cdot T^4 + 7.8373 \times 10^{-7} \cdot T^3 - 3.1598 \times 10^{-4} \cdot T^2 + 0.03551 \cdot T + 33.43$
<u>Panhandle West</u>	$9.0851 \times 10^{-14} \cdot T^5 - 2.9941 \times 10^{-10} \cdot T^4 + 3.1560 \times 10^{-7} \cdot T^3 - 1.0851 \times 10^{-4} \cdot T^2 + 0.006285 \cdot T + 65.61$
<u>Lakes</u>	
<u>Northeast + Big Bend</u>	$1.4578 \times 10^{-13} \cdot T^5 - 5.5607 \times 10^{-10} \cdot T^4 + 7.0683 \times 10^{-7} \cdot T^3 - 3.1879 \times 10^{-4} \cdot T^2 + 0.02817 \cdot T + 34.19$
<u>Peninsula + Everglades</u>	$1.3709 \times 10^{-13} \cdot T^5 - 5.0496 \times 10^{-10} \cdot T^4 + 6.1352 \times 10^{-7} \cdot T^3 - 2.5817 \times 10^{-4} \cdot T^2 + 0.01960 \cdot T + 37.14$
<u>Panhandle West</u>	$7.1190 \times 10^{-14} \cdot T^5 - 2.6420 \times 10^{-10} \cdot T^4 + 3.2247 \times 10^{-7} \cdot T^3 - 1.3607 \times 10^{-4} \cdot T^2 + 0.01071 \cdot T + 66.35$

If multiple instantaneous DO samples are available in a day, the time-of-day-specific translation of the daily average criterion will be calculated for each individual sample. Achievement of the daily average DO criterion will be assessed by comparing the average of the actual DO measurements collected at each time against the average of the calculated time-of-day-specific translations for each time. If the average of the measured DO values is greater than or equal to the average of the time-of-day- specific translations of the

criteria, the daily average DO criterion is achieved. An average of multiple daily values calculated in this manner will be considered as a single sample for assessment purposes.

(10) For predominantly marine waters, the Department shall evaluate the daily average DO criterion using Table 3 of this section and shall also evaluate whether the seven-day and 30-day average criteria have been achieved during the verified period. A water segment shall be placed on the verified list for DO impairment if the number of samples that do not meet the daily average DO criterion is greater than or equal to the number listed in Table 3 for the given sample size, or if there is more than one weekly average value below the weekly average DO criterion in any twelve week period of the verified period or more than one monthly average value below the monthly average DO criterion in any calendar year of the verified period. Prior to placing a waterbody on the verified list, the Department shall identify the causative pollutant(s) responsible for the exceedances of the DO criteria. Before assessing the weekly and monthly average DO criterion, the DO data shall be evaluated pursuant to subsections 62-303.420(3) and (5), F.A.C.

(a) If any individual DO measurement is greater than 100 percent saturation, 100 percent shall be substituted for that value for the purpose of calculating daily, weekly and monthly averages.

(b) Where DO values are collected at multiple depths at a given station and time, the average of the values shall be used to represent the measurements unless any of the individual DO values are less than 2 mg/l, in which case the lower 25th percentile of the measured values shall be used.

(c) For assessment purposes, the seven-day average DO percent saturation shall be calculated as a weekly average using a minimum of three full days of diel data collected within a week, or a minimum of ten grab samples collected over at least three days within a week, with each sample measured at least four hours apart.

(d) For assessment purposes, the 30-day average DO percent saturation shall be calculated as a monthly average using a minimum of three full days of diel data, with each diel sampling conducted in different weeks of the month, or grab samples collected from a minimum of ten different days of the month.

(e) A full day of diel data shall consist of 24 hours of measurements collected at a regular time interval of no longer than one hour.

(11) For assessment of the DO criteria for the portions of the Suwannee, Withlacoochee (North), and Santa Fe Rivers utilized by the Gulf Sturgeon, and in the portions of the Santa Fe and New Rivers utilized by the Oval Pigtoe Mussel, waters will be placed on the verified list when more than 50 percent of measurements are below the applicable median or more than 10 percent of the daily average values are below the applicable 10th percentile values, specified in Appendix I of the

“Technical Support Document: Derivation of Dissolved Oxygen Criteria to Protect Aquatic Life in Florida’s Fresh and Marine Waters.” which was incorporated by reference in subsection 62-303.320(5), F.A.C. at a minimum of a 90 percent confidence level using the binomial distribution.

(12) For the assessment of the DO criteria, any DO data collected as a concentration in mg/L shall be converted to percent saturation using the temperature and salinity measured at the same location within fifteen minutes of the DO measurement. Percent DO saturation shall be calculated using the method in Section 5.4 of the “Technical Support Document: Derivation of Dissolved Oxygen Criteria to Protect Aquatic Life in Florida’s Fresh and Marine Waters.” which was incorporated by reference in subsection 62-303.320(11), F.A.C.

(13) A water segment shall be placed on the verified list for DO impairment if there has been a statistically significant decreasing trend in DO levels or an increasing trend in the range of daily DO fluctuations at the 95 percent confidence level using a one-sided Seasonal Kendall test for trend, as described in Helsel, D.R. and R.M. Hirsh, 2002, Statistical Methods in Water Resources, USGS, pages 338 through 340, which were incorporated by reference in subsection 62-303.320(14) F.A.C., after controlling for or removing the effects of confounding variables, such as climatic and hydrologic cycles, quality assurance issues, and changes in analytical methods. Water segments shall not be placed on the verified list for DO impairment until the Department has identified a pollutant causing the decrease or if the decrease in DO levels was authorized under Rules 62-302.300 and 62-4.242, F.A.C.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.021(11), 403.062, 403.067 FS. History—New 6-10-02, Amended 12-11-06, 7-2-12, _____.

62-303.450 Assessments of Numeric Interpretations of Narrative Nutrient Criteria.

(1) A stream or estuary shall be placed on the verified list for impairment due to nutrients if it exceeds the chlorophyll *a* thresholds in subsection 62-303.351(4), F.A.C., or subsection 62-303.353(2)(+), F.A.C., more than once in any consecutive three year period, and there are sufficient data from the last 7.5 years, combined with historical data (if needed to establish historical chlorophyll *a* levels), to meet the data sufficiency requirements of subsection 62-303.350(2), F.A.C. If there are insufficient data, additional data shall be collected as needed to meet the requirements. Once these additional data are collected, the Department shall determine if there is sufficient information, including paleoecological data, to develop a site-specific chlorophyll *a* threshold that better reflects conditions beyond which an imbalance in flora or fauna occurs in the water segment. If there is sufficient information, the Department shall re-evaluate the data using the site-specific thresholds. If there is insufficient information, the Department

shall re-evaluate the data using the thresholds provided in subsections 62-303.351(4) and 62-303.353(1), F.A.C., for streams and estuaries and verify impairment if there is more than one exceedance in any consecutive three year period. In any case, the Department shall limit its analysis to the use of data collected during the last 7.5 years. If alternative thresholds are used for the analysis, the Department shall provide the thresholds for the record and document how the alternative threshold better represents conditions beyond which an imbalance in flora or fauna is expected to occur.

(2) through (6) No change.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Amended 12-11-06, 7-2-12,_____.

62-303.460 Primary Contact and Recreation Use Support.

(1) through (2) No change.

(3) Water segments shall be included on the verified list if:

(a) The number of samples that do not meet the applicable single-sample bacteriological water quality criteria meet the requirements in subsection 62-303.420(6), F.A.C., with the exception that paragraph 62-303.320(4)(a), F.A.C., does not apply and samples collected on different days within any four day period will be assessed as individual ~~daily~~ samples, or

(b) No change.

(4) through (5) No change.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Amended 12-11-06, 9-4-07,_____.

62-303.470 Fish and Shellfish Consumption Use Support.

(1) through (2) No change.

(3) Class II waters shall be included on the verified list for coliform impairment if, following review of the available data as described in subsection 62-303.460(2), F.A.C.

(a) The number of samples above 43 counts per 100 ml meet the requirement in subsection 62-303.420(6), F.A.C., with the exception that paragraph 62-303.320(4)(a), F.A.C., does not apply and samples collected on different days within any four day period will be assessed as individual ~~daily~~ samples, or

(b) No change.

(4) No change.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Amended 12-11-06, 9-4-07,_____.

62-303.480 Drinking Water Use Support and Protection of Human Health.

If the water segment was listed on the planning list due to exceedances of a human health-based water quality criterion ~~and there were insufficient data from the last five years preceding the planning list assessment to meet the data~~

~~sufficiency requirements of subsection 62-303.320(4), F.A.C., additional data will be collected as needed to meet the requirements. Once these additional data are collected, the Department shall re-evaluate the data using the methodology in subsections 62-303.380(1) and (3)(2), F.A.C., and limit the analysis to data collected within 7.5 years of the time the water segment is proposed for listing on the verified list. during the five years preceding the planning list assessment, the additional data collected pursuant to this paragraph (not to include data older than 7.5 years), and Ddata older than 7.5 years shall be used if it is demonstrated to be representative of current conditions. Any determinations to use older data shall be documented by the Department, and the documentation shall provide the basis for the decision that the data are representative of current conditions. For this analysis, the Department shall exclude any data meeting the requirements of subsection 62-303.420(5), F.A.C. The following water segments shall be listed on the verified list:~~

(1) through (2) No change.

(3) For bacteriological water quality criteria, water segments shall be included on the verified list if, following review of the available data as described in subsections 62-303.460(2) and (5), F.A.C.:

(a) The number of samples that do not meet the applicable single-sample bacteriological water quality criteria meet the requirements in subsection 62-303.420(6), F.A.C., with the exception that paragraph 62-303.320(4)(a), F.A.C., does not apply and samples collected on different days within any four day period will be assessed as individual ~~daily~~ samples, or

(b) No change.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Amended 12-11-06, 9-4-07,_____.

PART V

MISCELLANEOUS PROVISIONS

62-303.500 Prioritization for TMDL Development.

(1) through (2) No change.

(3) The following waters shall be designated low priority:

(a) ~~Water segments that are listed before 2010 due to fish consumption advisories for mercury (due to the current insufficient understanding of mercury cycling in the environment).~~

(~~b~~) Man-made canals, urban drainage ditches, and other artificial water segments unless the impairment poses a threat to potable water supplies or to human health that are listed only due to exceedances of the dissolved oxygen criteria.

(c) renumbered (b) No change.

(4) No change.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Amended 12-11-06,_____.

62-303.720 Delisting Procedure.

(1) No change.

(2) Waterbody segments shall be removed from the State’s verified list only after adoption of a TMDL, a Department determination that pollution control programs provide reasonable assurance that water quality standards will be attained pursuant to Rule 62-303.600 F.A.C., or upon demonstration that the waterbody meets the waterbody quality standard that was previously established as not being met.

(a) No change.

(b) For waters listed due to failure to meet aquatic life use support based on biological data pursuant to Rule 62-303.430, F.A.C., the waterbody shall be delisted when ~~the two most recent~~ independent follow-up Biological Health Assessments have been conducted and the waterbody no longer qualifies for the planning list pursuant to subsection 62-303.330(3), F.A.C. indicate the waterbody is no longer impaired pursuant to subsection 62-303.430(2), F.A.C. The follow-up tests must meet the following requirements:

1. through 3. No change.

(c) through (e) No change.

(f) For waters listed based on impacts to potable water supplies pursuant to paragraph 62-303.380(1)(b), the water shall be delisted ~~when applicable water quality criteria are met as defined in paragraph 62-303.380(1)(a), F.A.C., and~~ when the causes resulting in higher treatment costs have been ameliorated.

(g) through (n) No change.

(o) For waters listed based on the monthly average DO criterion for predominantly marine waters, the waterbody shall be delisted when the monthly average DO criterion is met for at least three consecutive years and there are new data available for the same seasons in which the criterion was previously not achieved.

(p) For waters listed based on the weekly average DO criterion for predominantly marine waters, the waterbody shall be delisted when the weekly average DO criterion is met for at least three consecutive years and there are new data available for the same seasons in which the criterion was previously not achieved.

(3) No change.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Amended 12-11-06, 9-4-07, 7-2-12, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Drew Bartlett

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Herschel T. Vinyard Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 27, 2012

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-303.380	Drinking Water Use Support and Protection of Human Health
62-303.480	Drinking Water Use Support and Protection of Human Health

PURPOSE AND EFFECT: The proposed rule amendments update the listing methodology for human health-based water quality criteria to determine water body impairments.

SUMMARY: The Department is amending Chapter 62-303, F.A.C., to update the listing methodology for assessing human health-based water quality criteria in surface waters to determine water body impairments.

OTHER RULES INCORPORATING THIS RULE: Chapter 62-303, F.A.C., is referenced by the following rules: 62-40.210, 62-40.430, 62-40.540, 62-302.530, 62-302.531, 62-302.800, 62-303.100, 62-303.150, 62-303.200, 62-303.300, 62-303.310, 62-303.320, 62-303.330, 62-303.350, 62-303.351, 62-303.352, 62-303.353, 62-303.354, 62-303.360, 62-303.370, 62-303.380, 62-303.390, 62-303.400, 62-303.410, 62-303.420, 62-303.430, 62-303.450, 62-303.460, 62-303.470, 62-303.480, 62-303.500, 62-303.600, 62-303.700, 62-303.710, 62-303.720, 62-303.810, 62-304.100, 62-305.200, 62-672.700, F.A.C. Rule 62-303.380 is referenced by the following rules: 62-303.480, and 62-303.720, F.A.C. Rule 62-303.480 is referenced by the following rule: 62-303.720, F.A.C.

EFFECT ON THOSE OTHER RULES: The proposed amendments refine the methodology for assessing human health-based criteria in surface waters to determine water body impairment. These amendments are not expected to have a significant effect on other rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The Agency also prepared a detailed cost estimate identifying costs that might be incurred by various entities with discharges to Florida waters, and concluded that there would be no predicted costs for additional impairments resulting from the adoption of the proposed human health-based criteria and that facilities would not be anticipated to have compliance issues or associated costs due to the Department’s proposed criteria.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department prepared a detailed cost estimate upon which it relied to determine whether legislative ratification would be required.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.062, 403.067 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Tuesday, April 23, 2013, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, Marjory Stoneman Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Eric Shaw at (850)245-8429 or by the address or e-mail identified below. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric Shaw, Department of Environmental Protection, Bureau of Assessment and Restoration Support, MS 6511, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, (850)245-8429 or e-mail: eric.shaw@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-303.380 Drinking Water Use Support and Protection of Human Health.

(1) through (2) No change.

(3) A water shall be placed on the planning list for potential impairment of drinking water use support and the protection of assessment of the threat to human health if:

(a) For human health-based criteria expressed as monthly averages maximums, the water segment does not meet the applicable criteria based on the methodology described in Rule 62-303.320, F.A.C., or

(b) For human health-based criteria expressed as annual averages, the annual average concentration for any year of the assessment period exceeds the criteria. To be used to determine whether a water should be assessed further for human-health impacts, data must meet the requirements of subsections (2), (3), (6), and (7) in Rule 62-303.320, F.A.C. To calculate an annual average, there shall be at least three samples per year, with samples from at least three different quarters of the year.

(4) No change.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History--New 6-10-02, Amended 12-11-06, 9-4-07, _____.

62-303.480 Drinking Water Use Support and Protection of Human Health.

If the water segment was listed on the planning list due to exceedances of a human health-based water quality criterion and there were insufficient data from the last five years preceding the planning list assessment to meet the data sufficiency requirements of subsection 62-303.320(4), F.A.C., additional data will be collected as needed to meet the requirements. Once these additional data are collected, the Department shall re-evaluate the data using the methodology in subsection 62-303.380(2), F.A.C., and limit the analysis to data collected during the five years preceding the planning list assessment, the additional data collected pursuant to this paragraph (not to include data older than 7.5 years), and data older than 7.5 years if it is demonstrated to be representative of current conditions. Any determinations to use older data shall be documented by the Department, and the documentation shall provide the basis for the decision that the data are representative of current conditions. For this analysis, the Department shall exclude any data meeting the requirements of subsection 62-303.420(5), F.A.C. The following water segments shall be listed on the verified list:

(1) For human health-based criteria, other than bacteriological criteria, expressed as monthly averages maximums, water segments that meet the requirements in subsection 62-303.420(7), F.A.C., ~~or~~

(2) through (3) No change.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History--New 6-10-02, Amended 12-11-06, 9-4-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Herschel T. Vinyard Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 27, 2012

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
Agency for Persons with Disabilities

RULE NOS.:	RULE TITLES:
65G-4.020	iBudget Florida
65G-4.0210	Definitions
65G-4.0211	General Provisions
65G-4.0212	Transition of Individuals to iBudget Florida
65G-4.022	iBudget Cost Plan Development and Approval
65G-4.024	Cost Plan Changes
65G-4.027	Cost Plan Funding and Review

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 94, December 19, 2012 issue of the Florida Administrative Register.

65G-4.0210 Definitions.

(1) ABC: The Allocation, Budgeting, and Contracts information technology system used by the agency to maintain demographic, services, budget, and other data.

(2) Allocation Algorithm: The mathematical formula based upon statistically validated relationships between client characteristics (variables) and the client’s level of need for services provided through the Waiver. To calculate the allocation algorithm for an individual

(a) The following weighted values, as applicable, shall be summed, and the resulting total then squared:

1. The base value for all individuals, 26.7080;
2. If the individual is age 21 or older, 53.1104;
3. If the individual resides in supported or independent living, 62.5319;
4. If the individual resides in an APD-licensed foster or group home, or a non-APD licensed congregate home, 92.1163;
5. If the individual resides in a Residential Habilitation Center or Comprehensive Transitional Education Program, 121.5095;
6. The sum of the scores on the individual questions in the QSI Behavioral Status Subscale (Questions 25-30), multiplied by 2.5457;
7. The sum of the scores on the individual questions in the QSI Functional Status Subscale (Questions 14 – 24), multiplied by 0.4124;
8. The individual’s score on QSI Question 18, multiplied by 7.1686;
9. The individual’s score on QSI Question 20, multiplied by 5.8770; and
10. The individual’s score on QSI Question 23, multiplied by 7.6807;

(b) The squared result of the sum of (a)1.-10 above, is the individual’s ~~client’s~~ Allocation Algorithm Amount, the annual dollar amount for the client’s iBudget, subject to the following conditions:

1. The total of all clients’ projected annual iBudgets may not exceed the Agency’s annual appropriation for Waiver services;

2. If, during the calculation of an individual’s iBudget Allocation Algorithm Amount, the sum of all Waiver clients’ Allocation Algorithm Amounts exceeds the annual appropriation, the Agency shall adjust that individual client’s Allocation Algorithm Amount by the factor of the annual appropriation divided by the total of all clients’ Allocation Algorithm Amounts. For purposes of this subsection, the Agency’s “annual appropriation” means the annual amount appropriated by the Legislature for DD Waiver Services reduced by the amount reserved by the Agency pursuant to Section 393.0662(1)(b), F.S.

(3) Allocation Implementation Meeting (AIM) Work Sheet: A form used by the Agency to communicate ~~to a client’s~~ (a) ~~their~~ existing annualized cost plan detailing approved services, if any, (b) ~~the~~ proposed services based upon the target iBudget Florida allocation, and (c) the request for additional services, if any, should the individual or their ~~legal~~ representative feel that any extraordinary or ~~the~~ health and safety needs of the individual cannot be met within the target iBudget Florida allocation. The AIM worksheet is hereby adopted and incorporated by reference in the rule, and may be found on the Agency’s website at <http://apd.myflorida.com/ibudget/docs/AIM%20Excel%20for%20Rule.pdf>, and <http://apd.myflorida.com/ibudget/docs/AIM%20Instructions%20for%20Rule.pdf> ~~[new address to be set up]~~.

(4) Approved cost plan: The document that lists all waiver services that have been authorized by the agency for the individual, including the anticipated cost of each approved waiver service, the provider of the approved service, and information regarding the provision of the approved service.

(5) Client representative: The individual’s parent (for a minor), guardian, guardian advocate, person holding a power of attorney for decisions regarding health care or public benefits, healthcare surrogate, a designated representative (evidenced by a written designation), or client advocate. The individual’s Waiver Support Coordinator shall ascertain whether a client has any of these representatives and inform the agency of the identity and contact information. When the term “legal representative” is used in these rules it means only those individuals who generally have legal authority to act independently for the client, such as the individual’s parent (for a minor), guardian, guardian advocate, healthcare surrogate or person holding a power of attorney for decisions regarding health care or public benefits.

~~(6)(5)~~ Existing annualized cost plan: The annualized total amount of funding authorized by the ~~A~~agency for the approved cost plan immediately prior to the new period for which a budget allocation is being developed. This amount shall exclude one-time expenses or any services which were

authorized during the year and the authorization has expired. Only clients who are receiving waiver services will have an existing annualized cost plan.

~~(7)(6)~~ Extraordinary Need: Extraordinary Need is only considered when establishing the initial iBudget for a client. An extraordinary need would place the health and safety of the client, the client's caregiver, or the public in immediate, serious jeopardy without the provision of services or supports that would relieve the immediate, serious jeopardy and the iBudget Florida allocation algorithm amount is insufficient to fund, and includes:

(a) A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;

(b) A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a non-licensed person;

(c) A chronic comorbid condition. As used in this subparagraph, the term "comorbid condition" means a diagnosed medical condition, for example a condition included in the International Statistical Classification of Diseases and Related Health Problems (commonly referred to as the ICD), existing simultaneously but independently with another medical condition in a patient;

(d) A need for total physical assistance. That the individual must have assistance to complete daily activities such as eating, bathing, toileting, grooming, and personal hygiene;

(e) A need caused by characteristics intrinsic to a client's diagnosed condition, or the natural progression of their diagnosed condition.

(f) A need for additional services or supports resulting from the due to unique circumstances or condition of the caregiver, ~~and not caused by the client's condition;~~

(g) A need which is caused by the client's specific age change which eliminates eligibility for services provided by State Plan Medicaid for Children (at the age of 21), the Foster Care system (at the age of 18), or the Educational System (up to age 22);

(h) Any other need for services or supports without which the health and safety of the client, or the client's caregiver, or the public safety would be in immediate, serious jeopardy.

A temporary or episodic change in client needs (for example a change in caregiver status, or living setting) does not qualify as an extraordinary need. As a point of information, temporary or one time needs are addressed by Rule 65G-4.027, F.A.C., as are changes of extended duration after the iBudget is established.

~~(8)(7)~~ Final iBudget Allocation: The amount of funds that has been approved by the agency, pursuant to the iBudget Florida Rules, for an individual to expend for waiver services during a fiscal year.

~~(9)(8)~~ iBudget Florida: The waiver service delivery system that uses individual budgets and under which the Agency for Persons with Disabilities operates the Developmental Disabilities Individual Budgeting Waiver.

~~(10)(9)~~ iBudget Florida Rules: Rules 65G-4.0210 through 4.0212, 4.022, 4.024, and 4.027, are the rules which implement and interpret the iBudget Florida allocation algorithm and methodology required by Section 393.0662, Florida Statutes. References within the iBudget Florida Rules to "these rules" shall mean the iBudget Florida Rules.

~~(11)(10)~~ Individual: a person with a developmental disability, as defined by Section 393.063, Florida Statutes and as applied by the iBudget Florida Rules 65G-4.014 through 65G-4.017, who is enrolled in iBudget Florida. Individuals are also referred to as "clients" in this rule.

~~(12)(11)~~ Medical Necessity or Medically Necessary: A set of conditions for determining the need for and appropriateness of Medicaid-funded services for an enrolled client recipient. To determine if a service is a Medical Necessity or Medically Necessary, the medical or allied care, goods, or services furnished or ordered must meet the following conditions:

(a) Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain;

(b) Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the client's ~~patient's~~ needs;

(c) Be consistent with generally accepted professional medical standards as defined by the Medicaid program and not be experimental or investigational;

(d) Be reflective of the level of service that can be safely furnished, for which no equally effective and more conservative or less costly treatment is available, statewide; and

(e) Be furnished in a manner not primarily intended for the convenience of the client recipient, the client's ~~recipient's~~ caretaker, or the provider.

Medical Necessity alone is not sufficient to authorize a service under the Waiver. Individuals must use all available services authorized under the state Medicaid plan, school-based services, private insurance and other benefits, and any other resources that may be available to them before using funds from their iBudget allocations to pay for support and services. Failure to comply with this requirement shall result in denial of the service request. The determination of medical necessity is used for all decisions made regarding services, extraordinary needs, and supplemental funding.

~~(13)(12)~~ Natural Supports: Refers to services or supports that are available from the individual's family members, neighbors, or friends and for which no payment for the service or support is provided. A consideration of the availability of natural supports includes, but is not limited to consideration of the client's caregiver(s) age, physical and mental health, travel

and work or school schedule, responsibility for other dependents, sleep, and ancillary tasks necessary to the health and well-being of the client.

~~(14)~~(13) Questionnaire for Situational Information (QSI):

An assessment instrument used by APD to determine an individual's needs in the areas of functional, behavioral, and physical status. The QSI has been adopted by the Agency in Rule 65G-4.0026 (2) as the current valid and reliable assessment instrument.

~~(15)~~(14) Service Families: Eight categories that group services related to: Life Skills Development, Supplies and Equipment, Personal Supports, Residential Services, Support Coordination, Therapeutic Supports and Wellness, Transportation and Dental Services. The Service Families include the following services:

(a) Life Skills Development, which includes:

1. Life Skills Development Level 1 (formerly known as companion services);
2. Life Skills Development Level 2 (formerly known as supported employment); and
3. Life Skills Development Level 3 (formerly known as adult day training).

(b) Supplies and Equipment which includes:

1. Consumable Medical Supplies;
2. Durable Medical Equipment and Supplies;
3. Environmental Accessibility Adaptations; and
4. Personal Emergency Response Systems (unit and services).

(c) Personal Supports, which includes:

1. Services formerly known as in-home supports, respite, personal care and companion for individuals age 21 or older, living in their own home or family home and also for those at least 18 but under 21 living in their own home; and
2. Respite Care (for individuals under 21 living in their family home).

(d) Residential Services, which includes:

1. Standard Residential Habilitation;
2. Behavior-Focused Residential Habilitation;
3. Intensive-Behavior Residential Habilitation;
4. Live-In Residential Habilitation;
5. Specialized Medical Home Care; and
6. Supported Living Coaching.

(e) Support Coordination, which includes:

1. Limited Support Coordination;
2. Full Support Coordination; and
3. Enhanced Support Coordination.

(f) Therapeutic Supports and Wellness, which includes:

1. Private Duty Nursing;
2. Residential Nursing;
3. Skilled Nursing;
4. Dietician Services;

5. Respiratory Therapy;
6. Speech Therapy;
7. Occupational Therapy;
8. Physical Therapy;
9. Specialized Mental Health Counseling;
10. Behavior Analysis Services; and
11. Behavior Assistant Services.

(g) Transportation; and

(h) Dental Services, which consists of Adult Dental Services.

~~(16)~~(15) Significant: Applies to a significant change in circumstance or a significant need. Significant means of considerable magnitude or considerable effect.

~~(17)~~(16) Supplemental funding: Funding granted after the beginning of the fiscal year or the date of the individual's final iBudget Allocation. Such funding shall be for temporary or permanent changes in service needs or for one-time needs that are medically necessary.

~~(18)~~(17) Support plan: An individualized plan of supports and services designed to meet the needs of an individual enrolled in the waiver. The plan is based on the preferences, interests, talents, attributes and needs of an individual.

~~(19)~~(18) Target Allocation: The allocated budget amount, in dollars, based upon the allocation algorithm and any other information the Agency has regarding the client's characteristics that could increase the Target Allocation, which is provided to the client as an initial suggested budget amount starting point. ~~The Target Allocation is determined before extraordinary needs, if any, have been evaluated.~~

~~(20)~~(19) Temporary basis: A time period of less than 12 months.

~~(21)~~(20) Waiver: The Developmental Disabilities Individual Budgeting Medicaid Home and Community Based Services Waiver (iBudget Florida) and the Four Tier Medicaid Home and Community Based Services Waivers operated administered by APD.

~~(22)~~(21) Waiver Support Coordinator: Abbreviated as WSC, means a person who is designated by the Agency to assist individuals and families in identifying their capacities, needs, and resources, as well as finding and gaining access to necessary supports and services; coordinating the delivery of supports and services; advocating on behalf of the individual and family; maintaining relevant records; and monitoring and evaluating the delivery of supports and services to determine the extent to which they meet the needs and expectations identified by the individual, family, and others who participated in the development of the support plan.

Rulemaking Authority 393.501(1), 393.0662 FS. Law Implemented 393.0662 FS. History—New _____.

65G-4.0211 General Provisions.

(1) The Agency will provide clients of home and community-based waiver services for persons with developmental disabilities with an iBudget Florida allocation as required by Section 393.0662, F.S. The Agency will determine the iBudget Florida allocation consistent with the criteria and limitations contained in the following provisions: Sections 409.906(13) and 393.0662, F.S.; and Rules 59G-13.080, 59G-13.081, 59G-13.082 and 59G-13.083, F.A.C. These criteria include:

(a) The client's needs in functional, medical, and behavioral areas, as reflected in the client's assessment using the assessment instrument known as the Questionnaire for Situational Information (QSI), the client's support plan, and existing annualized cost plan.

(b) The client's existing annualized cost plan, if any, that has been developed through Agency evaluation of client characteristics, the Agency approved assessment process, support planning information, and the Agency's prior service authorization process.

(c) The client's current living setting;

(d) The availability of supports and services from other sources, including Medicaid state plan and other federal, state and local programs as well as natural and community supports;

(e) If a client with documented behavioral, medical or functional needs chooses a less costly service to address those needs, the Agency will consider the need for those services in determination of the client's iBudget allocation. For clients with behavioral, medical and adaptive needs, the Agency may consider a client's use of less costly services for those clients who choose less costly services to address a documented need. In those instances, WSCs shall coordinate with their clients to ensure that services are selected to keep the cost plan within the client's Final iBudget Allocation while maintaining the client's health and safety; and

(f) The Agency shall ensure that the sum of all individual budgets does not exceed the Agency's annual appropriation; and

(g) WSCs shall coordinate with their clients to ensure that services are selected from all available resources to keep the annual cost of services within the client's Final iBudget Allocation while maintaining the client's health and safety

(2) As part of the assessment process, the Questionnaire for Situational Information 4.0 (QSI) is hereby adopted by the Agency as a valid and reliable assessment instrument. The QSI is available at: <http://apd.myflorida.com/waiver/qsi-version-4.pdf>, or <http://apd.myflorida.com/waiver/>.

(3) The client must utilize all available State Plan Medicaid services, school-based services, private insurance, and any other resources which may be available to the client before expending funds from the client's iBudget Florida allocation for support or services. As an example, State Plan Medicaid services for children under the age of 21 typically

include, but are not limited to, personal care assistance, therapies, consumable medical supplies, medical services, and nursing services ~~for which the client is eligible, that duplicate the waiver services proposed for the client.~~ A client shall not be provided waiver services that duplicate available State Plan Medicaid Services for which the client is eligible including, but not limited to, personal care assistance, therapies, medical services, and nursing services.

(4) Within 5 working days of a client's request the WSC shall submit a request to the Agency to review a client's iBudget Florida allocation when a client has a significant change in circumstance or condition that impacts on the client's health, safety, or welfare or when a change in the client's support plan of care is required to avoid institutionalization. At that time a new QSI assessment will be conducted, if requested. The information identifying and documenting a significant change in circumstance or condition that necessitates additional funding or different services must be submitted by the client's WSC to the appropriate Agency Area office for determination.

(5) The agency will request and review documentation and information necessary to evaluate individuals' increased funding ~~service~~ requests. The requested documentation will vary according to the funding service request and may include the following as applicable: support plans, results from the Questionnaire for Situational Information, documentation from reviews by contracted prior service authorization vendors, cost plans, expenditure history, current living situation, interviews with the individual and his or her providers and caregivers, prescriptions, data regarding the results of previous therapies and interventions, assessments, and provider documentation.

(6) Response to funding service requests: ~~The agency will respond W~~within thirty (30) days of receipt of a ~~to all~~ requests for services, supplemental funding, and adjustments in the individual's service array or support plan, the Agency shall approve, deny (in whole or in part), or request additional documentation concerning the request if the request provides all necessary documentation for the review. If the request does not include all necessary documentation, the Agency shall provide the client and WSC with a written notice of what additional documentation is required. The client or WSC shall provide the documentation within 10 calendar days, or notify the Agency in writing that the client wishes the Agency to render its decision based upon the documentation provided. If additional documentation is requested, the deadline for the Agency's response shall be extended to sixty (60) ~~thirty (30)~~ days following the receipt of the original request requested documentation. ~~If the requested documentation is not received by the Agency within thirty (30) days of the client's receipt of the Agency's written notice that additional documentation is required, the request will be denied.~~ Nothing in this section prohibits the authorization of emergency services on a temporary basis through the Agency's Regional offices.

(7) Consumer Directed Care Plus (CDC+): Clients enrolled in the CDC+ program are subject to these rules as they are transitioned onto the iBudget Florida system.

Rulemaking Authority 393.501(1), 393.0662 FS. Law Implemented 393.0662 FS. History—New_____.

65G-4.0212 Establishing the Final iBudget Allocation Amount.

Subsections (1) and (3) of this rule apply to all clients receiving an initial iBudget allocation. Subsections (2), (4) and (5) of this rule apply only to those clients transitioning to iBudget from one of the agency's other Waivers.

(1) To establish the client's Allocation Algorithm Amount, following steps will be followed:

(a) For any client who has not previously had a QSI assessment, a QSI assessment must be completed prior to calculating the allocation algorithm amount under (b).

(b) An Allocation Algorithm Amount shall be calculated for the client.

(2) This subsection is only applicable to clients transitioning to iBudget Florida from an existing Waiver. In order to reduce the amount of any decrease due solely to the transition to iBudget Florida, an Individual's Allocation Algorithm amount shall be adjusted, if necessary, as provided in this subsection. ~~This subsection is only applicable to clients transitioning to iBudget Florida from an existing Waiver.~~ If a client or their representative do not participate in the process set out in subsections (1), (2) and (3) of this rule, the Agency will complete all other steps to determine the client's final iBudget Allocation based upon the information it has available to it.

(a) If the Allocation Algorithm Amount from (1)(b) is greater than the client's existing annualized cost plan amount, the Allocation Algorithm Amount will be reduced to the amount of the client's existing annualized cost plan.

(b) ~~While all waiver services are available to clients enrolled in the iBudget Waiver, in order to reduce the amount of any decrease of funding due solely to the transition to iBudget Florida, the agency will sum~~ The total annual dollar amounts for only the following services which are included in the client's existing annualized cost plan shall be calculated (resulting in the "sum"): Adult Day Training, Behavior Services, Consumable Medical Supplies, Durable Medical Equipment, In-Home Supports, Nursing Services, Occupational Therapy, Personal Care Assistance, Physical Therapy, Residential Habilitation, Respiratory Therapy, Special Medical Home Care, Supported Employment, Supported Living Coaching, and Support Coordination. If this sum is greater than the result in paragraph (a), then the result in paragraph (a) will be replaced by this sum .

(c) If after the procedures in (a) and (b), the resulting amount is less than the individual's existing annualized cost plan, but is within \$1,000, the Allocation Algorithm Amount ~~budget allocation~~ will be adjusted to equal the existing annualized cost plan amount.

(d) If the Allocation Algorithm Amount from (1)(b) would result in a reduction of over 50% of the client's existing annualized cost plan amount, the Allocation Algorithm Amount will be increased to be equal to 50% of the client's existing annualized cost plan amount.

~~(e)(d)~~ After the adjustments required by (a), (b) ~~and~~, (c) ~~and~~ (d) are made, if any, the resulting amount is the Target Allocation.

(f)1. Any increase or decrease to a client's existing annualized cost plan caused solely by the transition to an iBudget Florida allocation is limited to no more than 50% of the difference between (i) the client's Allocation Algorithm Amount from subsection (1) paragraph (b) of this rule together with any Extraordinary Needs approved under subsection (3) of this rule, and (ii) the client's existing annualized cost plan, as provided in Section 393.0662(3)(b), F.S.

2. If a client's reduction caused solely by the transition to an iBudget Florida allocation is greater than the limit in (f)1, the remaining deficit shall be available in addition to the client's Final iBudget Allocation, for only one year beginning on or before October 1, 2013.

(3) Extraordinary Needs Review: The Agency shall consider extraordinary needs as identified in Rule 65G-4.0210(7), F.A.C. After the computation and adjustments in this rule resulting in the Target Allocation, the Target Allocation will be provided to the client and the client's Waiver Support Coordinator. The WSC will discuss the ~~T~~target Allocation with the client, ~~guardian or other legal~~ representative in order to determine if extraordinary or health and safety needs can be met within the ~~T~~target Allocation. The Target Allocation amount may be adjusted according to extraordinary needs as provided in this subsection.

(a) For all individuals whose ~~T~~target Allocation represents a potential reduction to the individual's existing annualized cost plan, the ~~A~~agency will conduct an individual review to provide the individual an opportunity to discuss the Target ~~A~~llocation through the Allocation Implementation Meeting (AIM). The AIM worksheet (form) shall be completed as follows as part of that individual review:

(b) Existing Annualized Cost Plan. This section of the AIM form is to be completed in its entirety by the WSC prior to the ~~discussion meeting~~ with the client or the client's representative, if the client has an existing annualized cost plan. This section of the AIM form reflects the client's existing annualized cost plan services for the cost plan as it exists immediately prior to the iBudget implementation.

1. If the client does not have a Waiver cost plan, this section of the AIM form will not be completed.

2. When this section is to be completed, the following fields in the form shall be completed with the information indicated which has been retrieved from the ABC database:

- a. Line a – SERVICE – enter the current tiered waiver name of each approved service
- b. Line b – BEGIN DATE – enter the date that the service plan began.
- c. Line c – END DATE – enter the end date of that service plan.
- d. Line d – RATE – enter the current rate for that service
- e. Line e – CURRENT UNITS - enter the number of units on the approved annualized service plan.
- f. Line f - ALLOCATIONS – this will be populated from the rate and the current units.
- g. Line g – ANNUALIZED UNITS – enter the total approved units for a full year.
- h. Line h – ANNUALIZED ALLOCATIONS – the dollar amount sum for the Annualized Units

(c) Proposed Annualized iBudget Services (Based on Target Allocation). This section should be completed by the WSC prior to the discussion with visiting the client or their individual/legal representative to show options for arranging current services within the target allocation. The WSC may complete multiple versions to assist the individual in seeing the possibilities. The following fields in the form shall be completed:

1. Line i – SERVICE – Enter the iBudget service name. NOTE: If natural or community resources are considered in addition to iBudget waiver services, these should be included to demonstrate the total array of services.
2. Line j – BEGIN DATE – Enter the iBudget Begin Date
3. Line k – END DATE – Enter the end of the cost plan year
4. Line l – RATE – Enter the iBudget rate for the iBudget service
5. Line m – CURRENT UNITS – enter the number of units that would be possible within the iBudget target allocation for the balance of the cost plan year.
6. Line n – ANNUALIZED UNITS – For plans not beginning at the start of the cost plan year, the annualized number of units should be entered here.
7. Line o – ANNUALIZED ALLOCATIONS – the dollar amount sum for the Annualized Units.

If the individual or their legal representative agrees that the service needs can be met within the Target Allocation, this becomes their final iBudget Florida allocation. A final proposed cost plan should be identified with a written notation by the WSC to the Agency that this is the choice of the individual or their legal representative. The right to due process is retained even if the Target Allocation is accepted,

and acceptance alone of a reduced iBudget allocation shall not be used at any administrative hearing as evidence of lack of need.

(d) Recommended Annualized iBudget Services. If the individual or their legal representative feels that the extraordinary or health and safety needs of the individual cannot be met within the Target Allocation, this section must be completed. All columns are to be completed by the WSC, with input from the individual or their representative, to show the services that are felt to be necessary to maintain the person's health and safety and to demonstrate these health and safety concerns constitute an extraordinary need that would be present absent the requested services.

1. The WSC will gather the documentation needed to demonstrate a client's extraordinary needs, and medical necessity for newly requested services (if any), for the Proposed Annualized iBudget and discuss meet with APD staff ~~to discuss~~ why the Target Allocation is insufficient to meet the health and safety needs of the individual. If the WSC or client has concerns about the accuracy of the criteria used for determination of the client's algorithm, this shall also be addressed by verifying the accuracy of the criteria used with the client in the review by APD staff.

2. The AIM Signature Page and all versions of the cost plan demonstration pages shall be submitted to the agency with the justification documents.

(e) The AIM Signature Page. The AIM Signature Page is to be completed and reviewed with each individual or their representative. During the transition to iBudget Florida, this page is not required unless the client's final iBudget allocation is less than their existing annualized cost plan.

1. Complete the upper portion in its entirety, including the annualized iBudget target allocation, and the pro-rated target allocation, if appropriate.

2. The first two sections of the AIM Cost Plan demonstration pages should be completed prior to meeting with the individual or their representative

3. Note the points discussed with the each individual or their representative and all options that were considered.

4. The individual or their representative is required to sign the form to document that they have discussed the AIM worksheet met with the WSC. If the client or representative does not sign the form, the WSC shall document why no signature was recorded.

a. This is not an agreement to accept, or an acceptance or rejection of, the iBudget Targeted Allocation amount. Signing the worksheet only confirms that the discussion of the AIM worksheet occurred meeting was held and that their targeted iBudget Target Allocation was explained, along with options for accepting the targeted amount or for requesting consideration of restoration of all or part of the approved annualized tiered waiver cost plan ~~amount~~.

b. The right to a fair hearing is not affected by the client's or their representative's signature on this form, and hearing rights and a hearing request form will be provided with the final notice of their iBudget allocation.

5. Once the AIM worksheet is complete under this subsection, it shall be filed in the client's Central Record and a copy provided to the Agency.

(f) Once the completed AIM worksheet has been reviewed, the Agency will not approve an increase to an individual's iBudget Florida allocation if the Agency determines that the individual has other resources or supports available to meet the health and safety needs of the client or the client's caregiver. The Agency shall only approve an increase to an individual's iBudget Florida allocation if the client has extraordinary needs, that is the health and safety needs of the client, the client's caregiver, or the public would be in immediate serious jeopardy unless the increase is approved. The Agency's decision on extraordinary needs shall be based on the documentation provided through the AIM process, as well as the Agency's internal review.

(g) An extraordinary need, as defined in Rule 65G-4.0210(7)(6) and applied in the iBudget Florida Rules, must be demonstrated through the AIM review process for any Final iBudget Florida Allocation to exceed the client's existing annualized cost plan amount.

(h) iBudget Florida allocations are pro-rated as appropriate based on the length of time remaining in the fiscal year at the time of transition.

(i) Once the iBudget Florida cost plan is authorized, an individual may use his or her budget for any services for which he or she meets the criteria in these rules as long as the individual's health and safety needs are met in conformance with Rule 65G-4.024, F.A.C.; the Cost Plan Changes rule.

(j) The individual or their representative will be sent a notice advising them of the Agency's decision for the amount of the client's final iBudget Allocation.

(4) During an individual's transition to iBudget Florida from another Waiver, services that appear on an individual's current authorized cost plan shall be pre-approved by type and intensity to the extent of an individual's iBudget Florida allocation, unless the individual's situation has changed such that he or she no longer qualifies for the service types. The frequency, scope, or duration of such service types is determined by the individual and the WSC once the final iBudget allocation has been approved. Pre-approval of types and intensities of services permits an individual to choose such pre-approved services at the frequency, scope, and duration that can be accommodated within his or her budget allocation on a proposed cost plan for review by the agency. Therefore, pre-approval of a service type or intensity does not guarantee that an individual's proposed cost plan containing those services will be approved, nor does it guarantee that the frequency, scope, or duration of pre-approved services listed

on the individual's proposed cost plan will be approved. The agency will build a cost plan for any individual who fails to cooperate in developing an iBudget cost plan.

(5) Transition to the iBudget from another Waiver.

(a) The Agency's transition to iBudget Florida shall be completed no later than June 30, 2013, but this completion date shall not affect the determination of what is the first year a client receives an iBudget funding amount for any recipient transitioning to the iBudget Waiver.

(b) For purposes of this Rule, only for individuals who had been receiving Waiver services and are transitioning to iBudget Florida, "Target iBudget Florida Allocation" means the sum of the allocation algorithm amount, in dollars, and the adjustments in subsection (2) of this rule. The transition provisions in this rule only apply to individuals who previously were receiving Waiver services administered by the Agency (for example the Tier waivers).

~~(c) Any increase or decrease to a client's existing annualized cost plan caused solely by the transition to an iBudget Florida allocation is limited in duration to six months from the day that the individual began receiving iBudget Florida authorized services. At the end of the six month period the client's transition to iBudget Florida is complete. At the end of the six month period, the Agency shall identify any client who has transitioned to iBudget and whose final iBudget amount will cause the client to experience an increase or a decrease of more than 50% due solely to the transition to the iBudget system, as provided in Section 393.0662(3) (b), F.S. For these individuals, a new final iBudget amount will be developed according to the remainder of these rules.~~

Rulemaking Authority 393.501(1), 393.0662 FS. Law Implemented 393.0662 FS. History—New _____.

65G-4.022 The iBudget Florida Cost Plan.

(1) Each individual's initial iBudget Florida cost plan shall be reviewed and approved by the Agency in conformance with these rules and the Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, November 2010, available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-01050>, as adopted by Rule 59G-13.083, F.A.C., which is hereby incorporated by reference.

(2) For an individual to begin receiving a specific waiver service, that service must have been listed in a cost plan that has been reviewed and approved by the agency, and the service authorization must have been issued to the provider prior to the delivery of service.

(3) Requested cost plan changes must detail funding for the requested services ~~and those essential for health and safety~~, through the entire fiscal year or portion of year the individual is enrolled in iBudget Florida, regardless of when the cost plan is submitted. The total amount of services requested to be authorized for the fiscal year may not exceed the individual's

current budget allocation for that fiscal year. If services are requested to meet needs that cannot be met within the client's existing iBudget Allocation, the WSC must seek a new calculation of the algorithm amount under subsection 65G-4.024(5) or supplemental funding under Rule 65G-4.027, F.A.C.

(4) Individuals shall use all available services authorized under the Sstate Plan Medicaid plan, school-based services, private insurance and other benefits, and any other resources that may be available to them before using funds from their iBudget allocations to pay for support and services. Failure to comply with this subsection shall result in denial of the supplemental funding additional service request.

(5) Individuals must budget their funds so that their needs are met throughout the plan year. All individuals shall allocate iBudget funding each month for waiver support coordination services, which is a required service under the waiver.

(6) No additional funding for an individual's services shall be provided if the need for the additional funding is not premised upon a new need, but is created by the individual's noncompliance with Rule 65G-4.024, F.A.C use of previously approved funds for alternative services.

(7) At the time of the annual support plan review the agency shall conduct a medical necessity review of the iBudget allocation annual amount and the specific services that are authorized in the iBudget cost plan to ensure all services continue to meet the eligibility criteria for the service and to ensure that any one time, or temporary services are not continued if they are no longer needed. This review shall be completed within 15 ~~10~~ business days of the receipt of the annual support plan and cost plan submitted by the Waiver Support Coordinator. The reviews shall be conducted by agency staff that have been trained in the medical necessity criteria.

Rulemaking Authority 393.501(1), 393.0662 FS. Law Implemented 393.0662 FS. History—New _____.

65G-4.024 Cost Plan Changes.

Cost Plans are changed according to provisions of this rule:

(1) After the individual's initial cost plan is approved, he or she may change the services in his or her approved cost plan provided that such change does not jeopardize the health and safety of the individual.

(2) When changing the services within the approved cost plan, the individual and his or her WSC shall ensure that sufficient funding remains allocated for unpaid services that were authorized and rendered prior to the effective date of this change.

(3) Cost Plan Flexibility. Clients enrolled in iBudget Florida will have flexibility and choice to budget or adjust funding among many service families without requiring additional authorizations from the agency, provided the overall client iBudget allocation is not exceeded and all health and

safety needs are met. Clients may adjust funding among the following service families without prior authorization from the agency: (a) Life Skills Development; (b) Supplies and Equipment; (c) Personal Supports; (d) Transportation; and (e) Dental. All other services families require prior approval from the agency before making a funding change, these services include Residential Services, Support Coordination, and Wellness and Therapeutic Supports.

(4) Retroactive application of changes to service authorizations is prohibited without written prior approval from the agency.

(5) When an individual's situation changes significantly during the fiscal year such that the budget allocation algorithm, formula would generate a lesser amount of funding (for example, if the individual moves from a licensed residential facility to a family home), the individual's budget allocation will be recalculated as provided in these rules and adjusted on a pro-rata basis to reflect his or her new situation. When an individual's situation changes during the fiscal year such that the allocation algorithm would generate a greater amount of funding, the individual may request that their budget allocation be recalculated by the Agency as provided in these rules and adjusted on a pro-rata basis to reflect his or her new situation. The Agency shall recalculate any allocation algorithm and budget allocation promptly upon request. Any request under this provision shall be made as required by subsection 65G-4.0211(4), F.A.C. A new iBudget allocation for the client is calculated under the provisions of these iBudget Rules.

~~(6) If an individual's budget allocation includes additional funding beyond what was determined by the allocation algorithm, and the agency determines that the additional funding is no longer necessary, according to these rules, the agency will adjust the individual's budget allocation on a pro-rata basis to the amount actually needed to ensure health and safety.~~

~~(6)(7) If a client no longer meets medical necessity to receive a particular service, the agency shall notify the client of the intent to reduce or remove the authorization for that service or level of service. The Agency shall also adjust the client's Final iBudget Allocation, as necessary to reflect this change.~~

Rulemaking Authority 393.501(1), 393.0662 FS. Law Implemented 393.0662 FS. History—New _____.

65G-4.027 Supplemental Cost Plan Funding.

(1) Supplemental funding may be of a one-time, temporary, or long-term nature. Significant changes to the need for funding services for a client may be a one-time or temporary need, or the need may be long term, meaning a period of 12 months or more. Significant changes may create needs for services which cannot be accommodated within the client's iBudget Florida allocation. However, the presence of a

significant need for one-time or temporary, or for long-term or permanent, supports or services alone do not warrant an increase in the iBudget Florida allocation to the client.

(2) AWSC shall submit any requests for supplemental funds on behalf of an individual. To receive supplemental funds, individuals shall meet criteria described below as well as the other requirements provided in these rules.

(3) Supplemental funding shall only be granted if the following conditions of either (a) or (b) are met, and the requirements of subsection (4) are met.

(a) A significant need for one-time or temporary support or services that, if not provided, would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy, unless the increase is approved. A significant need may include, but is not limited to, the provision of environmental modifications, durable medical equipment, services to address the temporary loss of support from a caregiver, or special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition. As used in this subparagraph, the term "temporary" means a period of fewer than 12 continuous months; or

(b) A significant increase in the need for services after the beginning of the service plan year that would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy because of substantial changes in the client's circumstances or condition, including, but not limited to, permanent or long-term loss or incapacity of a caregiver, loss of services authorized under the State Plan Medicaid or the school system plan due to a change in age, or a significant change in medical or functional status which requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget. As used in this subparagraph, the term "long-term" means a period of 12 or more continuous months.

(4) Supplemental funding shall be approved if one or more of the requirements of subsection (3) are met and the individual is in one or more of the following situations described in paragraphs (a), (b), (c), (d), (e), (f), and (g) of this subsection; ~~has sought other resources to meet his or her needs; has attempted to adjust his or her existing cost plan to meet his or her health and safety needs; and is seeking services essential to avoiding institutionalization; but he or she requires an increase to his or her current budget allocation to meet his or her health and safety needs.~~ Credible evidence is required to support an individual's meeting the relevant indicators of the situation.

(a) The individual is currently homeless, which includes but is not limited to living in a homeless shelter, or living with relatives in an unsafe environment. Relevant indicators include:

1. Without immediate provision of additional waiver services, the health and safety of the individual are in serious jeopardy;

2. The individual has no shelter available and needs emergency placement by the Agency or another state agency

3. Alternative funding or other federal, state, local, community, and other resources are not available for other placement and services to the individual;

4. The individual temporarily is staying with friends or relatives but residence is not expected to last more than several weeks;

5. The individual's caregiver has no legal obligation to provide shelter to the applicant and the caregiver's commitment to shelter the applicant is low;

6. Factors affecting the individual's safety in the current setting include risk of physical abuse of the individual or risk of insufficient supervision and support;

7. The home has insufficient room to shelter the individual, or the individual must share a room in an inappropriate living arrangement, based on the ages, genders, and conditions of the persons sharing the room;

8. The individual's desire for placement creates a reasonable expectation that the individual will be cooperative with placement;

9. Violence or illegal activities within the individual's current living environment by the individual or others have required the intervention of local or state law enforcement authorities;

10. Complaints of neglect, exploitation, or abuse of the individual to Protective Services, or other adverse environmental conditions affecting the individual, have been investigated and confirmed pursuant to Chapter 39, Part II, or Section 415.104, F.S.; or

11. The individual requires services of greater intensity.

(b) The individual has an increase or onset of behaviors that, without provision of immediate waiver services, may create a life-threatening situation for the individual or others, or that may result in bodily harm to the individual or others requiring emergency medical care from a physician. Relevant indicators include:

1. Without an immediate increase in waiver services, the health and safety of the individual or others in the household is in serious jeopardy;

2. The individual's injury to self or others is frequent or intense;

3. The individual or others are at risk for serious injury or permanent damage;

4. There is documentation of medical treatment for the individual's injury to self or others;

5. No other supports are available to address the individual's behaviors;

6. Other attempted behavioral assessments and interventions have proven ineffective;

7. The relative ages, sexes, and sizes of the aggressor and the subjects of aggression place the subjects of aggression at risk of injury;

8. The caregiver has insufficient ability to control the individual;

9. The ages or disabilities of the individual or caregiver exacerbate the problems;

10. Violence or illegal activity within the individual's current living environment by the individual or others has required the intervention of local or state law enforcement authorities;

11. Complaints of neglect, exploitation, or abuse of the individual, or other adverse environmental conditions affecting the individual have been investigated by Protective Services and confirmed pursuant to Chapter 39, Part II, or Section 415.104, F.S.; or

12. The individual requires services of greater intensity.

(c) The individual's current caregiver is in extreme duress and is no longer able to provide for the applicant's health and safety because of illness, injury, or advanced age. The individual needs immediate waiver services to remain living with the caregiver or to relocate to an alternative living arrangement. Relevant indicators include:

1. Without immediate provision of additional waiver services, the individual's health and safety are in serious jeopardy;

2. Other potential caregivers, such as another parent, stepparent, brother, sister or other relative or person, are unavailable or are unwilling or unable to provide care;

3. The caregiver's physical or mental condition prevents the provision of adequate care;

4. The caregiver is deceased, facing imminent death, or permanently disabled;

5. The caregiver's age impairs the caregiver's ability to provide sufficient care to the individual;

6. The caregiver cannot provide sufficient care because of the age or size of the individual, or the physical, functional, or behavioral demands of the individual;

7. The caregiver's economic situation is unstable and unlikely to improve as a result of the care-giving demands of the individual;

8. The caregiver's obligations to the needs of other dependents prevent the caregiver from providing the individual with adequate care, or the caregiver's obligation of care to the individual places other dependents at risk of insufficient care;

9. Violence or illegal activities within the individual's current living environment by the individual or others has required intervention by local or state law enforcement authorities;

10. Complaints of neglect, exploitation, or abuse of the individual, or other adverse environmental conditions affecting the individual have been investigated by Protective Services and confirmed pursuant to Chapter 39, Part II, or Section 415.104, F.S.; or

11. The individual requires services of greater intensity.

(d) A change in age that will result in a loss of services funded or otherwise provided from sources other than the waiver, such as ~~the State Plan~~ Medicaid ~~State Plan~~ or the school system.

(e) The individual experiences a documented significant change in medical or functional status that would necessitate increased service utilization or a need for a more costly service. Examples of such changes are:

1. A deterioration in medical condition that requires that the individual receive services at a greater intensity or in a different setting to ensure that individual's health or safety; or

2. Onset of a health, environmental, behavioral, or medical condition that requires that the individual receive services at a greater intensity or in a different setting to ensure the individual's health or safety.

(f) The individual has documented serious, acute dental needs requiring prompt attention.

(g) The durable medical equipment used by the individual has reached the end of its useful life or is damaged, or the individual's functional or physical status has changed enough to require the use of waiver-funded durable medical equipment that had not previously been used; and the individual cannot fund the entire amount of the purchase from his or her budget allocation without jeopardizing health and safety.

(5) To ensure that limited supplemental funding is targeted to those individuals most in need:

(a) Whenever an individual requests supplemental funding, a proposed cost plan shall be submitted indicating how the current budget allocation and requested supplemental funds would be used. Documentation of attempts to locate natural or community supports, third-party payers, or other sources of support to meet the individual's health and safety needs must be submitted.

(b) The maximum amount of supplemental funds that may be granted to an individual is that amount required beyond the individual's current budget allocation to meet the ~~individual's health and safety needs of the client; or the client's caregiver, or to ensure public safety.~~ that are not able to be adequately met through other sources of support.

(c) Supplemental funds may be approved for a specific time period and for specific supports and services and, if so, may not be used outside of this time period or for another purpose without agency approval. If after 90 calendar days temporary or one-time supplemental funds have not been used and will not be needed to meet health and safety needs, the authorization for supplemental funds expires.

(d) The services for which the supplemental funding is being specifically requested, ~~as well as all other waiver paid services on the proposed cost plan,~~ must be Medically Necessary and only be for the purpose of meeting health and safety needs.

(e) To avoid risks to health and safety while allowing budget flexibility, individuals shall not receive supplemental funding in situations when the need could be addressed by re-budgeting funds. In those instances, funds shall be re-budgeted from services that have flexibility within their Service Families, and which meet the need for which supplemental funding is requested.

(f) Supplemental funding may not be provided for purposes including: addressing temporary loss of support from a caregiver due to reasons including but not limited to caregiver vacation, ~~general respite needs, or accommodating caregiver work schedules;~~ accommodating a preference for a more intense level of service when a less intense level of service will meet health and safety needs; when an individual has a single incident or a minor change in circumstance which does not jeopardize health and safety; routine dental procedures; solely for the convenience of the caregiver; or due to provider scheduling issues.

(6) If an individual's budget allocation includes additional supplemental funding beyond what was determined by the Allocation Algorithm, and the agency determines that the additional funding is no longer medically necessary, according to these rules, the agency will adjust the individual's budget allocation on a pro-rata basis to the amount actually needed to ensure health and safety.

Rulemaking Authority 393.501(1), 393.0662 FS. Law Implemented 393.0662 FS. History—New _____.

**Section IV
Emergency Rules**

NONE

**Section V
Petitions and Dispositions Regarding Rule
Variance or Waiver**

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-4.010: Sanitation and Safety Requirements

NOTICE IS HEREBY GIVEN that on March 27, 2013, the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for an

Emergency Variance for Subparagraph 3-305.11(A)(2), 2009 FDA Food Code, Paragraph 3-305.14, 2009 FDA Food Code, Paragraph 6-202.15, 2009 FDA Food Code, Paragraph 6-202.16, 2009 FDA Food Code, subsection 61C-4.010(1), Florida Administrative Code and subsection 61C-4.010(6), Florida Administrative Code from Café 100\All Occasions Catering located in St. Petersburg. The above referenced F.A.C. addresses the requirement for proper handling and dispensing of food. They are requesting to dispense bulk potentially hazardous foods other than frankfurters from an open air mobile food dispensing vehicle.

The Division of Hotels and Restaurants will accept comments concerning the Petition for 5 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Lydia.Gonzalez@dbpr.state.fl.us, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

NOTICE IS HEREBY GIVEN that on March 28, 2013, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for PHCC Porter Campus @ Wiregrass. Petitioner seeks an emergency variance of the requirements of ASME A17.1b, Section 2.20.4, 2.18.5, 2.18.5.1 and 8.11.2.1.3(cc)(1) & (3) as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires steel ropes of a minimum diameter of 9.5 mm which poses a significant economic/financial hardship. Any interested person may file comments within 5 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW2013-101).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

NOTICE IS HEREBY GIVEN that on March 28, 2013, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Florida Polytech. Petitioner seeks an emergency variance of the requirements of ASME A17.1b, Section 2.20.4,

2.18.5, 2.18.5.1 and 8.11.2.1.3(cc)(1) & (3) as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires steel ropes of a minimum diameter of 9.5 mm which poses a significant economic/financial hardship. Any interested person may file comments within 5 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW2013-102).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

NOTICE IS HEREBY GIVEN that on March 28, 2013, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Plaza on University, Orlando, FL. Petitioner seeks an emergency variance of the requirements of ASME A17.1b, Section 2.20.4 and 2.24.2.1 as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires the use of a 9.5 mm steel rope and requirement of a metallic sheave which poses a significant economic/financial hardship. Any interested person may file comments within 5 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW2013-103).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice:

On March 28, 2013, the Department issued a Final Order that was in response to a Petition for Variance from Berkley 6545 & Claridge 6546, filed March 6, 2013, and advertised on March 8, 2013 in Vol. 39, No. 47, of the Florida Administrative Register. No comments were received in response to the petition. The Final Order on the Petition for Variance denies the Petitioner a variance from Rule 3.10.4(t) and 3.3.2 ASME A17.3, 1996 edition, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a),

Florida Administrative Code that requires upgrading the elevators stop switch either keyed or behind a locked cover and platform guards because the Petitioner has not demonstrated that the purpose of the rule will be met or that Petitioner would suffer a substantial hardship if required to comply with this rule (VW2013-068).

A copy of the Order or additional information may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice:

On March 28, 2013 the Division issued an order. The Final Order was in response to a Petition for an emergency temporary Variance from Trafalgar Court, filed March 18, 2013, and advertised on March 20, 2013 in Vol. 39, No. 55, of the Florida Administrative Register. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 3.11.3 ASME A17.3, 1996 edition, as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires upgrading the elevators fire fighter service until July 1, 2015 because the Petitioner has demonstrated that the intent of the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW2013-090).

A copy of the Order or additional information may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice:

On March 28, 2013 the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from Florida Dental Implant & Oral Surgery, filed March 18, 2013, and advertised on March 19, 2013 in Vol. 39, No. 54, of the Florida Administrative Register. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 2.18.5.1, 2.20.4, and 8.11.2.1.3(cc)1&3 ASME A17.1b, 2009

edition, as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires suspension and governor ropes be no less than 9.5mm because the Petitioner has demonstrated that the intent of the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW2013-089).

A copy of the Order or additional information may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice:

On March 28, 2013 the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from The Flats at 4200, filed March 18, 2013, and advertised on March 19, 2013 in Vol. 39, No. 54, of the Florida Administrative Register. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 2.18.5.1, 2.20.4, and 8.11.2.1.3(cc)1&3 ASME A17.1b, 2009 edition, as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires suspension and governor ropes be no less than 9.5mm because the Petitioner has demonstrated that the intent of the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW2013-087).

A copy of the Order or additional information may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice: On March 28, 2013 the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from The Florida Winery, filed March 18, 2013, and advertised on March 19, 2013 in Vol. 39, No. 54, of the Florida Administrative Register. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 2.18.5.1, 2.20.4, and 8.11.2.1.3(cc)1&3 ASME A17.1b, 2009 edition, as adopted by Paragraph 61C-5.001(1)(a) Florida

Administrative Code that requires suspension and governor ropes be no less than 9.5mm because the Petitioner has demonstrated that the intent of the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW2013-086).

A copy of the Order or additional information may be obtained by contacting Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice: On March 28, 2013 the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from Santos Isle, filed March 18, 2013, and advertised on March 19, 2013 in Vol. 39, No. 54, of the Florida Administrative Register. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 2.18.5.1, 2.20.4, and 8.11.2.1.3(cc)1&3 ASME A17.1b, 2009 edition, as adopted by Paragraph 61C-5.001(1)(a), Florida Administrative Code that requires suspension and governor ropes be no less than 9.5mm because the Petitioner has demonstrated that the intent of the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW2013-085).

A copy of the Order or additional information may be obtained by contacting Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice: On March 28, 2013 the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from Seminole Heights Library, filed March 18, 2013, and advertised on March 19, 2013 in Vol. 39, No. 54, of the Florida Administrative Register. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 2.18.5.1, 2.20.4, and 8.11.2.1.3(cc)1&3 ASME A17.1b, 2009 edition, as adopted by Paragraph 61C-5.001(1)(a) Florida Administrative Code that requires suspension and governor ropes be no less than 9.5mm because the Petitioner has

demonstrated that the intent of the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW2013-088).

A copy of the Order or additional information may be obtained by contacting Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice: On March 28, 2013 the Division issued an order. The Final Order was in response to a Petition for a temporary Variance for the month of July, 2013 from Tampa Convention Center, filed March 4, 2013, and advertised on March 8, 2013 in Vol. 39, No. 47, of the Florida Administrative Register. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 207.4(b)&(c) ASME A17.1b, 1998 edition, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by Paragraph 61C-5.001(1)(a) Florida Administrative Code that restricts the carrying of passengers on freight elevators because the Petitioner has demonstrated that the intent of the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW2013-063).

A copy of the Order or additional information may be obtained by contacting Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

Section VI

Notices of Meetings, Workshops and Public Hearings

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE NO.: RULE TITLE:

5F-11.001: Definitions

5F-11.004: Bureau of Liquefied Petroleum Gas Inspection Forms

5F-11.005: Lack of Trustworthiness

5F-11.012: Installer Licenses

5F-11.013: Minimum Storage as Relates to Liquefied Petroleum Gas

5F-11.022: Marking of Containers

5F-11.026: Unsafe Container or System

5F-11.029: Inspection of DOT Cylinders

5F-11.034: Transportation of Liquefied Petroleum Gas by Pipeline

5F-11.044: Out-of-gas, Leak Call, and Interrupted Service Procedure

5F-11.045: Dispensing Units

5F-11.047: Connecting or Disconnecting Cylinders, Tanks, or Systems; Notice to Owner; Transportation

5F-11.048: Cylinder Exchange Units

5F-11.060: Documentation of Training, General

5F-11.061: Master Qualifier Examinations; Applicant Qualifications

5F-11.062: Approved Courses of Continuing Education

5F-11.064: Renewal of Qualifier and Master Qualifier Certificates

5F-11.065: Examination Procedures

5F-11.066: Reporting of Qualifier and Master Qualifier Vacancies

5F-11.071: Rate of Assessments; Effective Date

5F-11.072: Payment of Assessments; Penalties

5F-11.078: Facility Inspection Report; Vehicle Inspection Report; Notice of Required Correction; and Failure to Correct.

5F-11.080: Enforcement Actions and Administrative Penalties

5F-11.082: Resolution of Violations, Settlement, and Additional Enforcement Remedies

The Department of Agriculture and Consumer Services announces a workshop to which all persons are invited.

DATE AND TIME: April 22, 2013, 1:00 p.m. - 4:00 p.m.

PLACE: Department of Agriculture and Consumer Services, Eyster Auditorium, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

GENERAL SUBJECT MATTER TO BE CONSIDERED: A rule development workshop will be held on proposed additions/changes to liquefied petroleum gas rules contained in Rule Chapter 5F-11, F.A.C.

A copy of the agenda may be obtained by contacting: Lisa M. Bassett, Chief, Bureau of LP Gas Inspection, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650; (850)921-1600.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Ms. Tianna Baity, Staff Assistant, Bureau of LP Gas Inspection, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650; (850)921-1600. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Lisa M. Bassett, Chief, Bureau of LP Gas Inspection, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, (850)921-1600.

DEPARTMENT OF EDUCATION

Florida School for the Deaf and the Blind

The Florida School for the Deaf and the Blind announces a public meeting to which all persons are invited.

DATE AND TIME: April 19, 2013, 9:00 a.m.

PLACE: Moore Hall Center for Learning Development, Room 126, FSDB Campus, 207 N. San Marco Avenue, St. Augustine, FL 32084

GENERAL SUBJECT MATTER TO BE CONSIDERED: Matters pertaining to the Florida School for the Deaf and the Blind.

A copy of the agenda may be obtained by contacting: Dr. Jeanne G. Prickett, President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St Augustine, FL 32084, (904)827-2210.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Dr. Jeanne G. Prickett, President, at the afore mentioned address. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Dr. Jeanne G. Prickett, President, at the afore- mentioned address.

REGIONAL PLANNING COUNCILS

Withlacoochee Regional Planning Council

The District 5 Local Emergency Planning Committee announces a public meeting to which all persons are invited.

DATES AND TIMES: Training Subcommittee, Wednesday, April 17, 2013, 9:30 a.m.

Local Emergency Planning Committee, Wednesday, April 17, 2013, 10:30 a.m.

PLACE: Withlacoochee Regional Planning Council, 1241 SW 10th Street, Ocala, FL 34471-0323

GENERAL SUBJECT MATTER TO BE CONSIDERED: Chairman report, Committee updates, and other organizational matters regarding the committees.

A copy of the agenda may be obtained by contacting: Michael Arnold at (352)732-1315, ext. 228.

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

REGIONAL PLANNING COUNCILS

Tampa Bay Regional Planning Council

The Tampa Bay Regional Planning Council's Agency on Bay Management announces a public meeting to which all persons are invited.

DATE AND TIME: April 11, 2013, 9:00 a.m.

PLACE: 4000 Gateway Centre Blvd., Suite 100, Pinellas Park, FL 33782

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Agency on Bay Management.

A copy of the agenda may be obtained by contacting: www.tbrpc.org.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 4 days before the workshop/meeting by contacting: Ms. Wren Krahl, (727)570-5151, ext. 22. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Ms. Suzanne Cooper (727)570-5151, ext. 32.

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

The Suwannee River Water Management District announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, April 9, 2013, 9:00 a.m.

PLACE: District Headquarters, 9225 CR 49, Live Oak, FL 32060

GENERAL SUBJECT MATTER TO BE CONSIDERED: Governing Board Meetings to consider District business and conduct public hearings on regulatory and real estate matters.

A copy of the agenda may be obtained by contacting: Lisa Cheshire at (386)362-1001 or (800)226-1066 (Florida only) or on the District's website at www.mysuwanneeriver.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Lisa Cheshire at (386)362-1001 or (800)226-1066 (Florida only). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

SPACE FLORIDA

The Space Florida announces a public meeting to which all persons are invited.

DATE AND TIME: April 26, 2013, 9:00 a.m. - 12:00 Noon EST

PLACE: The Canaveral Port Authority Chambers, 445 Challenger Road, Cape Canaveral, Florida 32920

GENERAL SUBJECT MATTER TO BE CONSIDERED: Cape Canaveral Spaceport Master Plan Public Workshop and Call for Projects.

A copy of the agenda may be obtained by contacting: Linsley Pietsch, lpietsch@spaceflorida.gov.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Linsley Pietsch, lpietsch@spaceflorida.gov. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Linsley Pietsch, lpietsch@spaceflorida.gov.

DEPARTMENT OF MANAGEMENT SERVICES

Commission on Human Relations

The Florida Commission on Human Relations announces a telephone conference call to which all persons are invited.

DATE AND TIME: Wednesday, May 1, 2013, 10:00 a.m. ET

PLACE: Call (888)670-3525 and when prompted, enter pass code 1760507820 followed by the # key.

GENERAL SUBJECT MATTER TO BE CONSIDERED: The purpose of the meeting is for the Commission to vote on the disposition of cases pending before it for decision.

A copy of the agenda may be obtained by contacting: Jim Mallue at (727)570-5151, extension 13 or Jim.Mallue@fchr.myflorida.com.

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Jim Mallue at (727)570-5151, extension 13 or Jim.Mallue@fchr.myflorida.com.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

The Probable Cause Panel of the Construction Industry Licensing Board announces a public meeting to which all persons are invited.

DATE AND TIMES: April 23, 2013, 9:00 a.m. and 10:00 a.m.

PLACE: Department of Business and Professional Regulation, Office of the General Counsel, 1940 N. Monroe Street, Suite 42, Tallahassee, Florida 32399-2202, (850)488-0062

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review complaints in which a determination of the existence of probable cause has already been made.

A copy of the agenda may be obtained by contacting: Paul Richard Waters, Chief Construction Attorney, Department of Business and Professional Regulation, Office of the General Counsel, 1940 N. Monroe Street, Suite 42, Tallahassee, Florida 32399-2202, (850)488-0062.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Paul Richard Waters, Chief Construction Attorney, Department of Business and Professional Regulation, Office of the General Counsel, 1940 N. Monroe Street, Suite 42, Tallahassee, Florida 32399-2202, (850)488-0062. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Paul Richard Waters, Chief Construction Attorney, Department of Business and Professional Regulation, Office of the General Counsel, 1940 N. Monroe Street, Suite 42, Tallahassee, Florida 32399-2202, (850)488-0062.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

The Board of Cosmetology announces a public meeting to which all persons are invited.

DATES AND TIME: July 15-16, 2013, 9:00 a.m.

PLACE: Floridays Resort, 12562 International Drive, Orlando, Florida 32821, (407)238-7700.

GENERAL SUBJECT MATTER TO BE CONSIDERED: General board business.

A copy of the agenda may be obtained by contacting: Board of Cosmetology, 1940 N. Monroe Street, Tallahassee, Florida 32399, (850)487-1395.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Board of Cosmetology, 1940 N. Monroe Street, Tallahassee, Florida 32399, (850)487-1395. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Board of Cosmetology, 1940 N. Monroe Street, Tallahassee, Florida 32399, (850)487-1395.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Geologists

The Board of Professional Geologists announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, April 24, 2013, 9:00 a.m. and Thursday, April 25, 2013, 9:00 a.m.

PLACE: The Department of Business and Professional Regulation, Division of Professions Board Room, 1940 North Monroe Street, Tallahassee, Florida 32399.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Application review and general board business.

A copy of the agenda may be obtained by contacting: Richard Morrison, Executive Director, 1940 North Monroe Street, Tallahassee, Florida 32399.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 days before the workshop/meeting by contacting: Richard Morrison, Executive Director, 1940 North Monroe Street, Tallahassee, Florida 32399. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Richard Morrison, Executive Director, 1940 North Monroe Street, Tallahassee, Florida 32399.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

The Board of Accountancy announces a telephone conference call to which all persons are invited.

DATE AND TIME: Wednesday, May 22, 2013, 9:00 a.m.

PLACE: Teleconference - Conference Number: (888)670-3525; Conference Code: 6144029271

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Committee on Continuing Professional Education will meet to discuss items relating to CPE credits.

A copy of the agenda may be obtained by contacting: Karan Lee, Florida Board of Accountancy, 240 NW 76th Drive, Suite A, Gainesville, FL 32641

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Karan Lee. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Karan Lee.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Department of Environmental Protection announces a public meeting to which all persons are invited.

DATE AND TIME: April 10, 2013, 9:30 a.m.

PLACE: Martin County Commission Chambers, Administrative Center, 1st Floor, 2401 SE Monterey Road, Stuart, Florida 34996

GENERAL SUBJECT MATTER TO BE CONSIDERED: This is a public meeting of interested stakeholders to discuss the St. Lucie River and Estuary Basin Management Action Plan (BMAP). The BMAP is the means for implementation of the adopted Total Maximum Daily Loads (TMDLs). The primary purpose of this meeting is to discuss the draft BMAP document prior to submission for adoption.

A copy of the agenda may be obtained by contacting: Katie Hallas, Watershed Planning and Coordination Section, Florida Department of Environmental Protection, 2600 Blair Stone Road, MS 3565, Tallahassee, Florida 32399-2400 or by e-mail at Katie.Hallas@dep.state.fl.us.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Katie Hallas at (850) 245-8432. If you are hearing

or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Department of Environmental Protection announces a public meeting to which all persons are invited.

DATE AND TIME: April 11, 2013, 9:00 a.m.

PLACE: Marathon Government Center, Board Meeting Room, 2798 Overseas Highway, Marathon, FL 33050

GENERAL SUBJECT MATTER TO BE CONSIDERED: The purpose of the meeting is to update the members of the Canal Restoration Advisory Subcommittee on the progress of ongoing projects and to discuss future actions. The meeting is open to the public.

A copy of the agenda may be obtained by contacting: Gus Rios, Department of Environmental Protection, 2796 Overseas Highway Suite 221, Marathon, FL 33050; (305)289-7081; gus.rios@dep.state.fl.us

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: the person listed above. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

MRGMiami

The Florida Department of Transportation, District Four announces a hearing to which all persons are invited.

DATE AND TIMES: Thursday, April 11, 2013, 5:30 p.m., Formal Presentation at 6:30 p.m. followed by a public comment period.

PLACE: Sheraton Fort Lauderdale Airport & Cruise Port Hotel, 1825 Griffin Road, Dania Beach, Florida 33004

GENERAL SUBJECT MATTER TO BE CONSIDERED: This Hearing is being held to allow interested persons an opportunity to express their views concerning the location, conceptual design, and social, economic, and environmental effects of the proposed improvements to SR 9/I-95 from SR 848 / Stirling Road to north of SR 816 / Oakland Park Boulevard in Broward County (Financial Management Number 429804-1-22-01; Efficient Transportation Decision Making (ETDM) Number 13168). The primary purpose of this project is to enhance operational capacity and relieve congestion along this segment of the SR 9/I-95 Expressway, which extends approximately 9 miles from SR 848/Stirling Road to north of SR 816/Oakland Park Boulevard in Broward County. The study focused on evaluating the addition of tolled Express Lanes in the median of I-95 with opportunities to accommodate regional express bus service.

A copy of the agenda may be obtained by contacting: Ray Holzweiss, Project Manager, Florida Department of Transportation, District Four, 3400 West Commercial Boulevard, Fort Lauderdale, Florida 33309, or ray.holzweiss@dot.state.fl.us.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability or family status.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Mr. Ray Holzweiss at (954)777-4425 or toll free at (866)336-8435, ext. 4425 or by email at ray.holzweiss@dot.state.fl.us. Any persons who require translation services (free of charge) should also contact Ray Holzweiss seven (7) days before the hearing. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Mr. Ray Holzweiss, Project Manager, Florida Department of Transportation, District Four, 3400 West Commercial Boulevard, Fort Lauderdale, Florida 33309, by telephone (954)777-4425 or toll free at (866)336-8435, ext. 4425 or by email at ray.holzweiss@dot.state.fl.us or by visiting the project website, www.95StirlingOakland.com.

If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1 (800)955-8771 (TDD) or 1 (800)955-8770 (Voice).

Southwood Shared Resource Center

The Southwood Shared Resource Center announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, April 8, 2013; 1:00 p.m.

PLACE: SSRC Administrative Offices, Conference Room 101, 2002 Old St. Augustine Road, Building C, Tallahassee, FL; conference call: (888)670-3525; participant passcode: 7934058106#.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular monthly meeting of the SSRC Finance and Budget Workgroup.

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

A copy of the agenda may be obtained by contacting: Rick Mitchell, (850)488-9895, rick.mitchell@ssrc.myflorida.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Rick Mitchell, (850)488-9895,

rick.mitchell@ssrc.myflorida.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Rick Mitchell, (850)488-9895, rick.mitchell@ssrc.myflorida.com.

**Section VII
Notices of Petitions and Dispositions
Regarding Declaratory Statements**

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares and Mobile Homes

NOTICE IS HEREBY GIVEN that the Division of Florida Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation, State of Florida, has received the petition for declaratory statement from Paul J. Boudreaux, In Re: Whispering Waters Association, Docket No. 2013013575, filed on March 27, 2013. The petition seeks the agency's opinion as to the applicability of Section 718.116(10), Florida Statutes as it applies to the petitioner.

Whether Whispering Waters Condominium Association, Inc. may return the excess special assessment funds to the prior owners who paid the assessment or to the current owners of the unit under Section 718.116(10), Florida Statutes.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Robin McDaniel, Division Clerk, at Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2217; (850)717-1424; robin.mcdaniel@myfloridalicense.com.

Please refer all comments to: Janis Sue Richardson, Chief Assistant General Counsel, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2202. Responses, motions to intervene, or requests for an agency hearing, §120.57(2), Fla. Stat., must be filed within 21 days of this notice.

**Section VIII
Notices of Petitions and Dispositions
Regarding the Validity of Rules**

Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

NONE

Notice of Disposition of Petition for Administrative Determination have been filed by the Division of Administrative Hearings on the following rules:

NONE

**Section IX
Notices of Petitions and Dispositions
Regarding Non-rule Policy Challenges**

NONE

Section X
Announcements and Objection Reports of
the Joint Administrative Procedures
Committee

NONE

Section XI
Notices Regarding Bids, Proposals and
Purchasing

DEPARTMENT OF AGRICULTURE AND CONSUMER
SERVICES

Office of Energy

COMPRESSED NATURAL GAS SCHOOL BUS
GRANT PROGRAM

The Florida Department of Agriculture and Consumer Services (FDACS) is seeking grant applications from Florida school districts relating to the purchase of equipment for the conversion of or for the incremental cost difference of purchasing a new compressed natural gas (CNG) school bus as compared to the purchase of a new, regular diesel school bus. It is anticipated that approximately \$1.2 million will be available for the CNG School Bus Grant Program. FDACS may have the option to allocate additional funds to the Program, subject to availability. For matching funds, the minimum allowable amount for an application to be eligible for consideration for award shall be 25% of the total project costs. In addition, matching funds must be expended in concurrence with grant funds.

Grant applications and instructions may be obtained on the internet at <http://www.freshfromflorida.com/offices/energy/>. Grant applications must be received by Monday, July 1, 2013, at 5 p.m. Eastern Standard Time in order to be considered.

FDACS reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA during the application period. If such an action occurs, FDCAS will post revisions to the NOFA on its website, <http://www.freshfromflorida.com/offices/energy/>.

JACKSONVILLE PORT AUTHORITY
INVITATION TO BID

INVITATION FOR BIDS

Upgrade Backreach – Trolley Girder Connection (Hanjung
Cranes)

Blount Island Marine Terminal

JAXPORT PROJECT NO.: B2013-03

JAXPORT CONTRACT NO.: EQ-1427

Sealed bids will be received by the Jacksonville Port Authority until 2:00 p.m. (EST), Thursday, April 25, 2013, at which time they shall be opened in the Public Meeting Room of the Port Central Office Building, 2831 Talleyrand Avenue, Jacksonville, Florida, for Upgrade Backreach - Trolley Girder Connection (Hanjung Cranes).

All bids must be submitted in accordance with specifications and drawings for Contract No. EQ-1427, which may be examined in the Procurement Department of the Jacksonville Port Authority, located on the third floor of the Port Central Office Building, 2831 Talleyrand Avenue, Jacksonville, Florida 32206. (Please telephone (904)357-3017 for information.)

A MANDATORY PRE-BID CONFERENCE AND SITE VISIT WILL BE HELD ON TUESDAY, APRIL 9, 2013, AT 10:00 AM (EST), AT THE BLOUNT ISLAND MARINE TERMINAL, ACCESS CONTROL BUILDING, 2ND FLOOR, 9620 DAVE RAWLS BLVD, JACKSONVILLE, FL 32226.

IF YOU PLAN TO ATTEND, YOU MUST CALL (904)357-3017 TO HAVE YOUR NAME ADDED TO THE SHUTTLE BUS ROSTER. SHUTTLE BUS WILL PICK UP BIDDERS IN THE VISITOR PARKING LOT OUTSIDE

THE BIMT TERMINAL. THIS IS A RESTRICTED TERMINAL AND YOU MUST BE ON THE BUS ROSTER TO ENTER THE TERMINAL.

IT IS MANDATORY THAT THE BIDDER SHALL ACKNOWLEDGE THE INCLUSION OF ALL ADDENDA ON THE BID FORM, FORM FB. ACKNOWLEDGEMENT SHALL BE MADE BY INITIALS AND DATE. FAILURE TO ACKNOWLEDGE ALL ADDENDA SHALL RESULT IN REJECTION OF THE BID.

PLEASE VISIT [HTTP://WWW.JAXPORT.COM/ABOUT/PROJECTS.CFM](http://www.jaxport.com/about/projects.cfm) OR CALL THE PROCUREMENT DEPARTMENT AT (904)357-3017, PRIOR TO THE BID OPENING TO DETERMINE IF ANY ADDENDA HAVE BEEN RELEASED ON THIS CONTRACT.

Bid and contract bonding are required.

This project will be funded 50/50 by JAXPORT funds and a State of Florida grant program.

Section XII Miscellaneous

EXPRESSWAY AUTHORITIES

Orlando-Orange County Expressway Authority

NOTICE

Under the provisions of Section 121.055 Florida Statutes, the Orlando-Orange County Expressway Authority intends to designate the position of Director of Toll Operations and the position of Director of Engineering in the Senior Management Service Class.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Office of the Secretary

Florida State Clearinghouse

The state is coordinating reviews of federal activities and federally funded projects as required by Section 403.061(40), F.S. This includes Outer Continental Shelf activities and other actions subject to federal consistency review under the Florida Coastal Management Program. A list of projects, comments deadlines and the address for providing comments are available at: <http://appprod.dep.state.fl.us/clearinghouse/>. For information, call (850)245-2161. This public notice fulfills the requirements of 15 CFR 930.

Section XIII
Index to Rules Filed During Preceding Week

NOTE: The above section will be published on Tuesday beginning October 2, 2012, unless Monday is a holiday, then it will be published on Wednesday of that week.
