

## Section V

### Petitions and Dispositions Regarding Rule Variance or Waiver

#### DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN that on December 22, 2011, the Florida Division of Emergency Management, received a petition for Terra Ceia Bay Clubhouse and Golf LLC. Petitioner seeks a waiver of the requirements of Chapter 252.85, Sections (4) and (5), Florida Statutes, adopted by Rules 9G-14.004 and 9G-14.005, Florida Administrative Code, that requires payment of late fees and penalties which pose a significant economic/financial hardship. Petitioner has satisfied the reporting requirements. Any interested person may file comments within 15 days of the publication of this notice with: Mindy Dowling, Bureau of Preparedness, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mindy Dowling, Bureau of Preparedness, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN that on December 22, 2011, the Division of Emergency Management, received a petition for Stanley Black & Decker. Petitioner seeks a waiver of the requirements of Chapter 252.85, Sections (4) and (5), Florida Statutes, adopted by Rules 9G-14.004 and 9G-14.005, Florida Administrative Code, that requires payment of late fees and penalties which pose a significant economic/financial hardship. Petitioner has satisfied the reporting requirements. Any interested person may file comments within 15 days of the publication of this notice with: Mindy Dowling, Bureau of Preparedness, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mindy Dowling, Bureau of Preparedness, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

#### DEPARTMENT OF LAW ENFORCEMENT

NOTICE IS HEREBY GIVEN that on December 29, 2011, the Criminal Justice Standards and Training Commission, received a petition for a permanent waiver of subsection 11B-27.00212(14), F.A.C., from Sweetwater Police Department on behalf of 65 officers for the 2008 (7/1/2006 – 6/30/2008) reporting period. subsection 11B-27.00212(14), F.A.C., requires officers to requalify with a firearm every two years on a course of fire mandated by Commission rule and supervised by a CJSTC-certified firearms instructor. The petition supports the requested waiver by stating that the 65 officers at issue did successfully complete the course of fire, however, some of the instructors supervising the requalifications did not use the required course of fire and

some officers who did shoot the proper course of fire did not have CJSTC 86A forms reflecting that fact inserted into their training records. Petitioner states that the officers will suffer a substantial hardship if their certifications are rendered inactive as a result of this situation. Petitioner further states that it would violate the principles of fairness to fail to recognize that the 65 officers did successfully complete the requirement simply because they either did not shoot the required course of fire or their successful completion of the required course of fire was not memorialized on a CJSTC 86A form for the 2008 mandatory firearms requalification cycle.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302 or by telephoning (850)410-7676.

NOTICE IS HEREBY GIVEN that on December 29, 2011, the Criminal Justice Standards and Training Commission, received a petition for a permanent waiver of subsection 11B-27.00212(14), F.A.C., from Belleview Police Department on behalf of ten officers for the 2008 (7/1/2006 – 6/30/2008) mandatory firearms requalification reporting period and an additional five officers for the 2010 (7/1/2008 – 6/30/2010) mandatory firearms requalification reporting period. subsection 11B-27.00212(14), F.A.C., requires officers to requalify with a firearm every two years on a course of fire mandated by Commission rule and supervised by a CJSTC-certified firearms instructor. The petition supports the requested waiver by stating that the officers at issue attempted to comply, but the instructors who supervised their requalification shoots were not CJSTC-certified firearms instructors. Petitioner states that the officers will suffer a substantial hardship if their certifications are rendered inactive as a result of this situation. Petitioner further states that it would violate the principles of fairness to fail to recognize that all of the officers did successfully complete the requirement but were supervised by non-CJSTC-certified firearms instructors.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302 or by telephoning (850)410-7676.

NOTICE IS HEREBY GIVEN that on December 29, 2011, the Criminal Justice Standards and Training Commission, received a petition for a permanent waiver of paragraph 11B-35.001(9)(b), F.A.C., from Sarasota Criminal Justice Academy on behalf of three course participants. The three course participants commenced an Advanced Training Course on September 28, 2009, the same day that paragraph 11B-35.001(9)(b), F.A.C., changed a passing score from 75% to 80% for CJSTC-certified courses. The three participants scored 79% on their end-of-course examinations, which would

have been a passing score the day before the course commenced, but was no longer because of the rule change. The Petitioner requests that the Commission grant the three participants a permanent waiver of paragraph 11B-35.001(9)(b), F.A.C., in order for their scores to be considered passing scores for the Advanced Training Course, Interviews and Interrogations, beginning September 28, 2009, and ending October 2, 2009.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302 or by telephoning (850)410-7676.

NOTICE IS HEREBY GIVEN that on December 29, 2011, the Criminal Justice Standards and Training Commission, received a petition for a permanent waiver of subsection 11B-27.00212(14), F.A.C., from Palm Beach Police Department on behalf of 48 officers for the 2008 (7/1/2006 – 6/30/2008) reporting period. subsection 11B-27.00212(14), F.A.C., requires officers to requalify with a firearm every two years on a course of fire mandated by Commission rule and supervised by a CJSTC-certified firearms instructor. The petition supports the requested waiver by stating that the 48 officers at issue did successfully complete the course of fire, however, the instructors supervising the requalifications were not CJSTC-certified firearms instructors. Petitioner states that the officers will suffer a substantial hardship if their certifications are rendered inactive as a result of this situation. Petitioner further states that it would violate the principles of fairness to fail to recognize that the officers did successfully complete the requirement simply because non-CJSTC-certified firearms instructors supervised the 2008 mandatory firearms requalifications for the 48 officers.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302 or by telephoning (850)410-7676.

NOTICE IS HEREBY GIVEN that on December 29, 2011, the Criminal Justice Standards and Training Commission, received a petition for a permanent waiver of subsection 11B-27.00212(6), F.A.C., from Palm Beach County Sheriff's Office on behalf of one deputy. The deputy had been on active military leave and upon his discharge and resumption of deputy status, his active military notation in ATMS was not removed. The deputy completed 40 hours of mandatory retraining by his mandatory retraining due date of June 30, 2011, however, it was not discovered until his incorrect status as active military was discovered in November of 2011, that he had not completed three required courses. subsection 11B-27.00212(6), F.A.C., requires officers to complete 40 hours of mandatory retraining every four years, including certain mandatory courses. The deputy completed the three

required courses within a week of the problem being discovered. The petition supports the requested waiver by stating that the officers at issue had 40 hours of mandatory retraining, but, because his status was not accurately reflected in ATMS, his training officer did not know the deputy needed three more mandatory courses until after the mandatory retraining due date. Petitioner states that the officer will suffer a substantial hardship if his certifications (law enforcement and correctional) are rendered inactive as a result of this situation. Petitioner further states that it would violate the principles of fairness to fail to recognize that all of the officer did successfully complete the 40 hour requirement but was incorrectly advised as to the need for the three other mandatory courses as a result of his status in ATMS.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302 or by telephoning (850)410-7676.

#### **DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

NOTICE IS HEREBY GIVEN that on December 27, 2011, the Department of Business and Professional Regulation, received a petition for Variance from Requirement of Signature on Invoice or Sales Ticket by the Vendor or Authorized Agent at Time of Delivery of the Merchandise Covered by the Invoice as required in Fla. Administrative Rules 61A-4.043(5)(b), (c) and 61A-4.045(2)(d).

A copy of the Petition for Variance or Waiver may be obtained by contacting: R. Kathleen Brown-Blake, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202.

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on December 28, 2011 the Division issued an order. The Final Order was in response to a Petition for emergency Variance from College Studios in Gainesville, FL, filed December 5, 2011, and advertised in Vol 37, No 50, of the Florida Administrative Weekly. 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 Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires upgrading the elevators for firefighters' emergency operations until January 31, 2013 because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2011-398).

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.

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on December 28, 2011 the Division issued an order. The Final Order was in response to a Petition for Variance from Vanity in Orlando, FL, filed November 23, 2011, and advertised in Vol 37, No 49, of the Florida Administrative Weekly. 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 and 2.20.1 ASME A17.1, 2005 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 a 9.5 mm steel rope and a metallic sheave because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2011-389).

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.

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on December 19, 2011 the Division issued an order. The Final Order was in response to a Petition for Variance from St. Joseph's Hospital in Tampa, filed November 29, 2011, and advertised in Vol 37, No 49, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 2.7.3.3, ASME A17.1, 2005 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 permanent, fixed, noncombustible ladder or stair access to machinerooms because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2011-390).

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.

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on December 19, 2011 the Division issued an order. The Final Order was in response to a Petition for Variance from Osprey Lodge in Tavares, FL, filed November 17, 2011, and advertised in Vol 37, No 48, of the Florida Administrative Weekly. 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 and 2.20.1 ASME A17.1, 2005 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 suspension be provided by steel wire ropes and governor ropes be no less than 9.5 mm because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2011-384).

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.

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on December 19, 2011 the Division issued an order. The Final Order was in response to a Petition for Variance from Millenia 700 in Orlando, FL, filed November 17 2011, and advertised in Vol 37, No 48, of the Florida Administrative Weekly. 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 and 2.20.1 ASME A17.1, 2005 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 suspension be provided by steel wire ropes and governor ropes be no less than 9.5 mm because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2011-385).

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.

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on December 19, 2011 the Division issued an order. The Final Order was in response to a Petition for Variance from Wild Oak Bay Vista II in Bradenton, FL, filed November 18, 2011, and advertised in Vol 37, No 48, of the Florida Administrative Weekly. 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 Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires upgrading the elevators for firefighters' emergency operations until December 31, 2013 because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2011-386).

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.

NOTICE IS HEREBY GIVEN that on December 21, 2011, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for West Coast Vista in Indian Rocks Beach, FL. Petitioner seeks an emergency variance of the requirements of ASME A17.1, Section 2.7.3 and 2.12.6.1 as adopted by Chapter 30, Section 3001.2 Florida Building Code and Rule 3006.1, Florida Building Code as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires permanent unobstructed means of access to elevator machine rooms and overhead equipment spaces and hoistway door unlocking device on each landing 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 (VW 2011-423).

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.

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on December 29, 2011 the Division issued four orders. The Final Orders were in response to Petitions for emergency Variance from Bethesda Memorial Hospital in Boynton Beach, filed December 7, 2011, and advertised in Vol 37, No 51, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Orders on the Petitions for Variance grant the Petitioner variances from Rules 2.1.1.3, 2.7.6, 2.20.1 and 2.20.9 ASME A17.1, 2005 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 a machine room and wire ropes because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with these rules (VW 2011-402, VW 2011-403, VW 2011-404 & VW 2011-405).

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.

The Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants hereby gives notice on December 9, 2011 the Division of Hotels and Restaurants received a Petition for an Emergency Variance for paragraph 61C-1.004(1)(a), Florida Administrative Code and Paragraph 5-202.11(A), 2001 FDA Food Code from Houlihan's #525 located in Kissimmee. The above referenced

F.A.C. addresses the requirement that each establishment have an approved plumbing system installed to transport potable water and wastewater. They are requesting to utilize holding tanks to provide potable water and to collect wastewater at the omelette station handwash sink.

The Petition for this variance was published in Vol. 37, No. 51 on December 23, 2011. The Order for this Petition was signed on December 29, 2011 and after a complete review of the variance request, the Division finds that the application of this Rule will create a financial hardship to the food service establishment. Furthermore, the Division finds that the Petitioner meets the burden of demonstrating that the underlying statute has been achieved by the Petitioner ensuring the wastewater holding tanks for the omelette station handwash sink are emptied at a frequency as to not create a sanitary nuisance; and potable water provided must come from an approved source and be protected from contamination during handling. The Petitioner shall also ensure that the handwash sink is provided with hot and cold running water under pressure; soap, approved hand drying device and a handwashing sign.

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

NOTICE IS HEREBY GIVEN that on December 27, 2011, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Republic Parking System Downtown Parking Facility in Tallahassee, FL. Petitioner seeks an emergency variance of the requirements of an unspecified Section of A17.1, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires elevator pits be kept free of standing water. 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 (VW 2011-424).

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.

NOTICE IS HEREBY GIVEN that on December 28, 2011, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Tallahassee-Leon County Civic Center in Tallahassee, FL. Petitioner seeks an emergency variance of the requirements of ASME A17.1, Section 303.3d as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires a shut-off valve in the machine room 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 (VW 2011-425).

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

NOTICE IS HEREBY GIVEN that on December 28, 2011, the 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), 2001 FDA Food Code, Paragraph 3-305.14, 2001 FDA Food Code, Paragraph 6-202.15, 2001 FDA Food Code, Paragraph 6-202.16, 2001 FDA Food Code, subsection 61C-4.010(1), Florida Administrative Code, and subsection 61C-4.010(6), Florida Administrative Code from Lily's Catering located in Orlando. 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 HEALTH

NOTICE IS HEREBY GIVEN that on December 22, 2011, the Board of Medicine, received a petition for waiver or variance filed by Charles R. Stark, M.D., from subsection 64B8-9.0131(6), F.A.C., with regard to the CME in pain management required by the rule. Comments on this petition should be filed with the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3053, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Joy A. Tootle, Executive Director, Board of Medicine, at the above address, or telephone (850)245-4131.

#### DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE IS HEREBY GIVEN that on December 6, 2012, the Department of Children and Families, received a petition for waiver of subsection 65C-15.017(3), Florida Administrative Code, from Place of Hope and Jerris Gay. Subsection

65C-15.017(3), F.A.C. requires staff performing casework services shall have a bachelor's degree in social work or related area of study from an accredited college or university.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Agency Clerk, Department of Children and Families, 1317 Winewood Blvd. Bldg. 2, Room 204, Tallahassee, FL 32399-0700.

## Section VI Notices of Meetings, Workshops and Public Hearings

### DEPARTMENT OF STATE

The **Friends of Mission San Luis** announces a public meeting to which all persons are invited.

DATE AND TIME: January 23, 2012, 8:30 a.m.

PLACE: Mission San Luis

GENERAL SUBJECT MATTER TO BE CONSIDERED: NOTICE OF CORRECTION: The FOMSL Governance Committee will meet to discuss board development at 8:30 a.m., prior to the Executive Committee meeting.

A copy of the agenda may be obtained by contacting: Cookie Stevens at (850)245-6388 or Cookie.Stevens@dos.myflorida.com.

The Florida **Department of State, Division of Library and Information Services**, announces a meeting of the State Library Council Governmental Affairs Subcommittee via conference call. All persons are invited.

NOTE: This meeting was originally scheduled for Monday, January 16, 2012. Below please find updated meeting information.

DATE AND TIME: Monday, January 23, 2012, 8:15 a.m. – 8:30 a.m. EST

PLACE: Archives Conference Room, Division of Library and Information Services, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: The State Library Council Governmental Affairs Subcommittee will review and discuss matters and issues related to the programs and/or activities of the Division of Library and Information Services. Subject matter may include issues that have local or statewide impact on the Division and/or the services it provides to Florida's citizens, and strategies to promote the Division's values and work.

For additional information, contact: Judith Ring, Division Director, at (850)245-6600.