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. 37 No. 45, November 10, 2011 issue of the Florida Administrative Weekly.

The changes are made in response to written and oral comments from the Joint Administrative Procedures Committee and the public, non-substantive corrections of technical errors, or as the result of staff recommendations that were discussed at an adoption hearing held on December 8, 2011. The proposed rule has changed so that when it is adopted it will read:


As used in this chapter:

(1) through (16) No change.

(17) “Lake Vegetation Index (LVI)” shall mean a Biological Health Assessment that measures lake biological health in predominantly freshwaters using aquatic and wetland plants, performed and calculated using the Standard Operating Procedures for the LVI (DEP-SOP-003/11 LVI 1000) and the methodology in Sampling and Use of the Lake Vegetation Index (LVI) for Assessing Lake Plant Communities in Florida: A Primer (DEP-SAS-002/11), both dated 10-24-11, which are incorporated by reference herein. Copies of the documents 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.

(18) No change.

(19) “Natural background” shall mean the condition of waters in the absence of man-induced alterations based on the best scientific information available to the Department. The establishment of natural background for an altered waterbody may be based upon a similar unaltered waterbody, or on historical pre-alteration data, paleolimnological examination of sediment cores, or examination of geology and soils. When determining natural background conditions for a lake, the lake’s location and regional characteristics as described and depicted in the U.S. Environmental Protection Agency document titled Lake Regions of Florida (EPA/R-97/127, dated 1997, U.S. Environmental Protection Agency, National Health and Environmental Effects Research Laboratory, Corvallis, OR), which is incorporated by reference herein, shall also be considered. The lake regions in this document are grouped according to ambient total phosphorus and total nitrogen concentrations in the following lake zones:

   (a) The TP1 phosphorus zone consists of the USEPA Lake Regions 65-03, and 65-05.

   (b) The TP2 phosphorus zone consists of the USEPA Lake Regions 75-04, 75-09, 75-14, 75-15 and 75-33.

   (c) The TP3 phosphorus zone consists of the USEPA Lake Regions 65-01, 65-02, 75-01, 75-03, 75-05, 75-11, 75-12, 75-16, 75-19, 75-20, 75-23, 75-24, 75-27, 75-32 and 76-03.

   (d) The TP4 phosphorus zone consists of the USEPA Lake Regions 65-04, 75-02, 75-06, 75-08, 75-10, 75-13, 75-17, 75-21, 75-22, 75-26, 75-29, 75-31, 75-34, 76-01 and 76-02.

   (e) The TP5 phosphorus zone consists of the USEPA Lake Regions 75-18, 75-25, 75-35, 75-36 and 76-04.
(f) The TP6 phosphorus zone consists of the USEPA Lake Regions 65-06, 75-07, 75-28, 75-30 and 75-37.

(g) The TN1 phosphorus zone consists of the USEPA Lake Region 65-03.

(h) The TN2 phosphorus zone consists of the USEPA Lake Regions 65-05 and 75-04.

(i) The TN3 phosphorus zone consists of the USEPA Lake Regions 65-01, 65-02, 65-04, 75-01, 75-02, 75-03, 75-09, 75-11, 75-20, 75-23, 75-33 and 76-03.

(j) The TN4 phosphorus zone consists of the USEPA Lake Regions 65-06, 75-05, 75-06, 75-10, 75-12, 75-13, 75-14, 75-16, 75-17, 75-18, 75-19, 75-21, 75-22, 75-24, 75-26, 75-27 and 75-29, 75-31, 75-32, 75-34 and 76-02.

(k) The TN5 phosphorus zone consists of the USEPA Lake Regions 75-07, 75-08, 75-25, 75-28, 75-30, 75-35, 75-36, 75-37, 76-01 and 76-04.

The Lake Regions document 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.

(20) through (24) No change.

(25) “Nutrient Watershed Region” shall mean a drainage area over which the nutrient thresholds in paragraph 62-302.531(2)(c), F.A.C., apply.

(a) through (f) No change.

A map of the Nutrient Watershed Regions, dated October 17, 2011, is incorporated by reference herein and 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.

(26) through (35) No change.

(36) “Stream” shall mean, for purposes of interpreting the narrative nutrient criterion in paragraph 62-302.530(47)(b), F.A.C., under paragraph 62-302.531(2)(c), F.A.C., a predominantly fresh surface waterbody with perennial flow in a defined channel with banks during typical climatic and hydrologic conditions for its region within the state. During periods of drought, portions of a stream channel may exhibit a dry bed, but wetted pools are typically still present under these conditions. Streams do not include;

(a) Non-perennial water segments where fluctuating hydrologic conditions, including periods of desiccation, typically result in the dominance of wetland and/or terrestrial taxa (and corresponding reduction in obligate fluvial or lotic taxa), wetlands, or portions of streams that exhibit lake characteristics (e.g., long water residence time, increased width, or predominance of biological taxa typically found in non-flowing conditions), or tidally influenced segments that fluctuate between predominantly marine and predominantly fresh waters during typical climatic and hydrologic conditions; or

(b) Ditches, canals and other conveyances, or segments of conveyances, that are man-made, or predominantly channelized or predominantly physically altered; and

1. Are primarily used for water management purposes, such as flood protection, stormwater management, irrigation, or water supply; and
2. Have marginal or poor stream habitat or habitat components, such as a lack of habitat or substrate that is biologically limited, because the conveyance has cross sections that are predominantly trapezoidal, has armored banks, or is maintained primarily for water conveyance.

(37) “Stream Condition Index (SCI)” shall mean a Biological Health Assessment that measures stream biological health in predominantly freshwaters using benthic macroinvertebrates, performed and calculated using the Standard Operating Procedures for the SCI in the document titled SCI 1000: Stream Condition Index Methods (DEP-SOP-003/11 SCI 1000) and the methodology in Sampling and Use of the Stream Condition Index (SCI) for
Assessing Flowing Waters: A Primer (DEP-SAS-001/11), both dated 10-24-11, which are incorporated by reference herein. Copies of the documents 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. For water quality standards purposes, the Stream Condition Index shall not apply in the South Florida Nutrient Watershed Region.

(38) through (44) No change.

62-302.531 Numeric Interpretations of Narrative Nutrient Criteria.

(1) No change.

(2) The narrative water quality criterion for nutrients in paragraph 62-302.530(47)(b), F.A.C., shall be numerically interpreted for both nutrients and nutrient response variables in a hierarchical manner as follows:

(a) Where a site specific numeric interpretation of the criterion in paragraph 62-302.530(47)(b), F.A.C., has been established by the Department, this numeric interpretation shall be the primary interpretation. If there are multiple interpretations of the narrative criterion for a waterbody, the most recent interpretation established by the Department shall apply. A list of the site specific numeric interpretations of paragraph 62-302.530(47)(b), F.A.C., 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.

1. The primary site specific interpretations are as follows:
   a. through c. No change.
   d. Other site specific interpretations for one or more nutrients or nutrient response variables that are formally established by rule or final order by the Department, such as a Reasonable Assurance Demonstration pursuant to Rule 62-303.600, F.A.C., or Level II Water Quality Based Effluent Limitations (WQBEL) established pursuant to Rule 62-650.500, F.A.C. To be recognized as the applicable site specific numeric interpretation of the narrative nutrient criterion, the interpretation must establish the total allowable load or ambient concentration for at least one nutrient that results in attainment of the applicable nutrient response variable that represents achievement of the narrative nutrient criterion for the waterbody. A site specific interpretation is also allowable where there are documented adverse biological effects using one or more Biological Health Assessments, if information on chlorophyll $a$ levels, algal mats or blooms, nuisance macrophyte growth, and changes in algal species composition indicate there are no imbalances in flora and a stressor identification study demonstrates that the adverse biological effects are not due to nutrients.

2. No change.

(b) through (c) No change.

(3) Except for data used to establish historical chlorophyll $a$ levels, chlorophyll $a$ data assessed under this Chapter shall be measured according to the DEP document titled “Applicability of Chlorophyll $a$ Methods” (DEP-SAS-002/10), dated October 24, 2011, which is incorporated by reference herein. Copies of the chlorophyll $a$ document 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. Chlorophyll $a$ data collected after [effective date] shall be corrected for or free from the interference of phaeophytin.

(4) through (8) No change.

an integrated, comprehensive and consistent manner. Accordingly, these rules shall be effective only if EPA approves these rules in their entirety, concludes rulemaking that removes federal numeric nutrient criteria in response to the approval, and determines, in accordance with 33 U.S.C. § 1313(c)(3), that these rules sufficiently address EPA’s January 14, 2009 determination. If any provision of these rules is determined to be invalid by EPA or in any administrative or judicial proceeding, then the entirety of these rules shall not be implemented. Rule 62-302.531, F.A.C., shall not be implemented until it is approved in its entirety pursuant to 40 C.F.R. § 131.21 and 33 U.S.C. § 1313(c). If any provision of Rule 62-302.531, F.A.C., is later determined invalid, then the entirety of Rule 62-302.531, F.A.C., shall not be implemented.

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.

<table>
<thead>
<tr>
<th>Estuary</th>
<th>Total Phosphorus</th>
<th>Total Nitrogen</th>
<th>Chlorophyll a</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Clearwater Harbor/St. Joseph Sound</td>
<td>Annual geometric mean values 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.</td>
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<tr>
<td>1. through 3. No change.</td>
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<tr>
<td>(b) Tampa Bay</td>
<td>Annual totals for nutrients and annual arithmetic means for chlorophyll a, 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.</td>
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<tr>
<td>1. through 8. No change.</td>
<td></td>
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<tr>
<td>(c) Sarasota Bay</td>
<td>Annual geometric mean values for nutrients and annual arithmetic means for chlorophyll a, 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.</td>
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<td>1. through 5. No change.</td>
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<tr>
<td>(d) Charlotte Harbor/Estero Bay</td>
<td>Annual arithmetic mean values for nutrients and annual arithmetic means for chlorophyll a, 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.</td>
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<tr>
<td>1. through 9. No change.</td>
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<tr>
<td>(e) through (h) No change.</td>
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<tr>
<td>(i) Sarasota Bay</td>
<td>For TN, the annual geometric mean target is calculated from monthly arithmetic mean color by region and season. Annual geometric means that shall not be exceeded more than</td>
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</tbody>
</table>
once in a three year period. The Sarasota Bay regions are defined as north (Manatee County) and south (Sarasota County). The wet season for Sarasota Bay is defined as July through October and the dry season is defined as all other months of the year. The seasonal region targets are calculated using monthly color data and shall be calculated as follows:

\[
\begin{align*}
NW_i &= \ln\left(\frac{13.35-(0.32\times CN_i)}{3.58}\right) \\
ND_i &= \ln\left(\frac{10.39-(0.32\times CN_i)}{3.58}\right) \\
SW_i &= \ln\left(\frac{8.51-(0.32\times CS_i)}{3.58}\right) \\
SD_i &= \ln\left(\frac{5.55-(0.32\times CS_i)}{3.58}\right)
\end{align*}
\]

Where,

\(NW_i\) is the TN target for \(i\)th month calculated for the north region during the wet season
\(ND_i\) is the TN target for \(i\)th month calculated for the north region during the dry season
\(SW_i\) is the TN target for \(i\)th month calculated for the south region during the wet season
\(SD_i\) is the TN target for \(i\)th month calculated for the south region during the dry season

\(CN_i\) is the arithmetic mean color during the \(i\)th month within the north region
\(CS_i\) is the arithmetic mean color during the \(i\)th month within the south region

The annual TN target is calculated as the geometric mean of all monthly regional and season targets as follows:

\[
\text{Annual TN Target} = \left(\sqrt[12]{NW_1 \times ND_1 \times SW_1 \times SD_1}\right)
\]

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.

(j) No change.

(2) Estuarine and marine areas are delineated in the eight maps of the Florida Marine Nutrient Regions, all dated 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) The Department shall establish by rule or final order estuary specific numeric interpretations of the narrative nutrient criteria for TN and TP for Perdido Bay, Pensacola Bay (including Escambia Bay), St. Andrews Bay, Choctawhatchee Bay, and Apalachicola Bay by June 30, 2013, subject to the provisions of Chapter 120, F.S. The Department shall establish by rule or final order the estuary specific numeric interpretation of the narrative nutrient criteria for TN and TP for the remaining estuaries by June 30, 2015, subject to the provisions of Chapter 120, F.S. This subsection 62-302.532(3), F.A.C., shall not be implemented until Rule 62-302.531, F.A.C., is approved in its entirety pursuant to 40 C.F.R. § 131.21 and 33 U.S.C. § 1313(c). If any provision of Rule 62-302.531, F.A.C., is later determined invalid, then this subsection shall not be implemented.

62-302.800 Site Specific Alternative Criteria.
(3) Type III Site Specific Alternative Criteria (SSAC) for Nutrients: Upon petition by an affected person or upon initiation by the Department, the Department shall establish, by Secretarial Order, site specific numeric nutrient criteria when an affirmative demonstration is made that the proposed criteria achieve the narrative nutrient criteria in paragraph 62-302.530(47)(b), F.A.C., and are protective of downstream waters. Public notice and an opportunity for public hearing shall be provided prior to adopting any order establishing alternative criteria under this subsection.

(a) The Department shall establish a Type III SSAC if all of the following conditions are met:
1. No change.
2. The petitioner provides sufficient data to characterize water quality conditions, including temporal variability, that are representative of the biological data used to support the SSAC. The water quality data shall be collected in the same waterbody segment as the biological monitoring stations and at a frequency and duration consistent with the study design concepts described in the document titled Development of Type III Site Specific Alternative Criteria (SSAC) for Nutrients (DEP-SAS-004/11), dated October 24, 2011, which is incorporated by reference herein. Copies of this document 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. Water quality data associated with extreme climatic conditions, such as floods, droughts, and hurricanes, shall be excluded from the analysis.
3. No change.
(b) No change.
(4) through (6) No change.