

**CHAPTER 62-303**  
**IDENTIFICATION OF IMPAIRED SURFACE WATERS**

**PART I**

- 62-303.100 Scope and Intent
- 62-303.150 Relationships Among Planning, Study and Verified Lists
- 62-303.200 Definitions
- 62-303.300 Methodology to Develop the Planning List

**PART II**

- 62-303.310 Evaluation of Aquatic Life Use Support
- 62-303.320 Exceedances of Aquatic Life-Based Water Quality Criteria
- 62-303.330 Biological Assessment
- 62-303.340 Toxicity (Repealed)
- 62-303.350 Assessments of Numeric Interpretations of Narrative Nutrient Criteria
- 62-303.351 Nutrients in Freshwater Streams
- 62-303.352 Nutrients in Freshwater Lakes
- 62-303.353 Nutrients in Estuaries and Open Coastal Waters
- 62-303.354 Nitrate-nitrite in Freshwater Spring Vents

**PART III**

- 62-303.360 Primary Contact and Recreation Use Support
- 62-303.370 Fish and Shellfish Consumption Use Support
- 62-303.380 Drinking Water Use Support and Protection of Human Health
- 62-303.390 The Study List
- 62-303.400 Methodology to Develop the Verified List
- 62-303.410 Determination of Aquatic Life Use Support
- 62-303.420 Aquatic Life-Based Water Quality Criteria Assessment
- 62-303.430 Biological Impairment
- 62-303.440 Toxicity (Repealed)
- 62-303.450 Assessments of Numeric Interpretations of Narrative Nutrient Criteria

**PART IV**

- 62-303.460 Primary Contact and Recreation Use Support
- 62-303.470 Fish and Shellfish Consumption Use Support
- 62-303.480 Drinking Water Use Support and Protection of Human Health
- 62-303.500 Prioritization
- 62-303.600 Evaluation of Pollution Control Mechanisms
- 62-303.700 Listing Cycle

**PART V**

- 62-303.710 Format of Verified List and Verified List Approval
- 62-303.720 Delisting Procedure
- 62-303.810 Impairment of Interstate and Tribal Waters (Repealed)

**PART I**  
**GENERAL**

**62-303.100 Scope and Intent.**

(1) This chapter establishes a methodology to identify surface waters of the state that will be included on the state's planning list of waters that will be assessed pursuant to subsections 403.067(2) and (3), Florida Statutes (F.S.). It also establishes a methodology to identify impaired waters based on representative data that will be included on the state's verified list of impaired waters, for which the Department will calculate Total Maximum Daily Loads (TMDLs), pursuant to subsection 403.067(4), F.S., and which will be submitted to the United States Environmental Protection Agency (EPA) pursuant to paragraph 303(d)(1) of the Clean Water Act (CWA).

(2) Subsection 303(d) of the CWA and Section 403.067, F.S., describe impaired waters as those not meeting applicable water quality standards, which is a broad term that includes designated uses, water quality criteria, the Florida antidegradation policy, and

moderating provisions. However, as recognized when the water quality standards were adopted, many water bodies naturally do not meet one or more established water quality criteria at all times, even though they meet their designated use. It is not the intent of this chapter to include waters that do not meet otherwise applicable water quality criteria solely due to natural conditions or physical alterations of the water body not related to pollutants. Similarly, it is not the intent of this chapter to include waters where designated uses are being met and where water quality criteria exceedances are limited to those parameters for which permitted mixing zones or other moderating provisions (such as site-specific alternative criteria) are in effect. Waters that do not meet otherwise applicable water quality standards due to natural conditions or to pollution not related to pollutants shall be noted in the state's water quality assessment prepared under subsection 305(b) of the CWA [305(b) Report].

(3) This chapter is intended to evaluate attainment of water quality standards as set forth in Chapter 62-302, F.A.C., for the purposes of identifying water bodies or segments for which TMDLs will be established. It is the intent of this chapter to establish requirements that would apply solely for purposes of assessment and listing under CWA sections 303(d) and 305(b). However, it is not the intent of this chapter to establish requirements for other purposes under Florida law. In cases where this chapter relies on numeric indicators of ambient water quality as part of the methodology for determining whether existing narrative criteria are being met, these numeric values are intended to be used only in the context of developing a planning list and identifying an impaired water pursuant to this chapter. As such, exceedances of these numeric values shall not, by themselves, constitute violations of Department rules that would warrant enforcement action.

(4) Nothing in this rule is intended to limit any actions by federal, state, or local agencies, affected persons, or citizens pursuant to other rules or regulations.

(5) Pursuant to Section 403.067, F.S., impaired waters shall not be listed on the verified list if reasonable assurance is provided that, as a result of existing or proposed technology-based effluent limitations and other pollution control programs under local, state, or federal authority, they will attain water quality standards in the future and reasonable progress towards attainment of water quality standards will be made by the time the next 303(d) list is scheduled to be submitted to EPA.

*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.*

#### **62-303.150 Relationships Among Planning, Study and Verified Lists.**

(1) The Department shall follow the methodology in Part II to develop a planning list and Part III to develop a study list pursuant to subsection 403.067(2), F.S. As required by subsection 403.067(2), F.S., the planning list and the study list shall not be used in the administration or implementation of any regulatory program. The planning list shall be submitted to EPA for informational purposes only. Waters on this planning list will be assessed pursuant to Section 403.067(3), F.S., as part of the Department's watershed management approach. During this assessment, the Department shall determine whether the waterbody is impaired and whether the impairment is due to pollutant discharges using the methodology in Part IV. In cases where a waterbody on the planning list is determined to be impaired but the Department cannot determine the cause of the impairment, the waterbody shall be placed on a study list for further analysis to determine the causative pollutant(s) or other factors contributing to the impairment. The study list also addresses increasing nutrient trends in waterbodies. The Department shall only place a waterbody on the verified list if pollutant loading or concentrations cause or contribute to nonattainment of water quality standards. The resultant verified list of impaired waters, which is the list of waters for which TMDLs will be developed by the Department pursuant to Section 403.067(4), F.S., will be adopted by Secretarial Order and will be subject to challenge under Sections 120.569 and 120.57, F.S. Once adopted, the list will be submitted to the EPA pursuant to paragraph 303(d)(1) of the Federal Clean Water Act.

(2) Consistent with state and federal requirements, opportunities for public participation, including workshops, meetings, and periods to submit comments on draft lists, will be provided as part of the development of planning, study, and verified lists.

*Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Repromulgated 1-2-07, Amended 7-2-12.*

#### **62-303.200 Definitions.**

As used in this chapter:

(1) "Biological Health Assessment" shall mean one of the following aquatic community-based biological evaluations: Stream Condition Index (SCI), Lake Vegetation Index (LVI), or Shannon-Weaver Diversity Index.

(2) "BioRecon" shall mean a biological assessment that measures stream health in predominantly freshwaters using benthic macroinvertebrates, performed and calculated using the Standard Operating Procedures (SOP) for the BioRecon in the document

titled *BRN 1000: Biological Reconnaissance Field Method* (DEP-SOP-003/11 BRN 1000), dated 10-24-11, which is incorporated by reference herein. Copies of the SOP 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) "Clean techniques" shall mean those applicable field sampling procedures and analytical methods referenced in "Method 1669: Sampling Ambient Water for Trace Metals at EPA Water Quality Criteria Levels, July 1996, USEPA, Office of Water, Engineering and Analysis Division, Washington, D.C.," which is incorporated by reference. Copies of the procedures and methods 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.

(4) "Department" or "DEP" shall mean the Florida Department of Environmental Protection.

(5) "Designated use" shall mean the present and future most beneficial use of a body of water as designated by the Environmental Regulation Commission by means of the classification system contained in Chapter 62-302, F.A.C.

(6) "Estuary" shall mean predominantly marine regions of interaction between rivers and nearshore ocean waters, where tidal action and river flow mix fresh and salt water. Such areas include bays, mouths of rivers, and lagoons.

(7) "Impaired water" shall mean a waterbody or waterbody segment that does not meet its applicable water quality standards as set forth in Chapters 62-302 and 62-4, F.A.C., as determined by the methodology in Part IV of this chapter, due in whole or in part to discharges of pollutants from point or nonpoint sources.

(8) "Lake" shall mean a lentic fresh waterbody with a relatively long water residence time and an open water area that is free from emergent vegetation under typical hydrologic and climatic conditions. Aquatic plants, as defined in subsection 62-340.200(1), F.A.C., may be present in the open water. Lakes do not include springs, wetlands, or streams (except portions of streams that exhibit lake-like characteristics, such as long water residence time, increased width, or predominance of biological taxa typically found in non-flowing conditions).

(9) "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 in the document titled *LVI 1000: Lake Vegetation Index Methods* (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.

(10) "Nuisance species" shall mean species of flora or fauna whose noxious characteristics or presence in sufficient number, biomass, or areal extent may reasonably be expected to prevent, or unreasonably interfere with, a designated use of those waters.

(11) "Open coastal waters" shall mean all gulf or ocean waters that are not classified as estuaries or open ocean waters.

(12) "Nutrient" shall mean total nitrogen (TN), total phosphorus (TP), or their organic or inorganic forms.

(13) "Nutrient response variable" shall mean a biological variable, such as chlorophyll *a*, biomass, or structure of the phytoplankton, periphyton or vascular plant community, that responds to nutrient load or concentration in a predictable and measurable manner. For purposes of interpreting paragraph 62-302.530(47)(b), F.A.C., Dissolved oxygen (DO) shall also be considered a nutrient response variable if it is demonstrated for the waterbody that DO conditions result in biological imbalance and the DO responds to a nutrient load or concentration in a predictable and measurable manner.

(14) "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) The Panhandle West region consists of the Perdido Bay Watershed, Pensacola Bay Watershed, Choctawhatchee Bay Watershed, St. Andrew Bay Watershed, and Apalachicola Bay Watershed.

(b) The Panhandle East region consists of the Apalachee Bay Watershed, and Econfinia/Steinhatchee Coastal Drainage Area.

(c) The North Central region consists of the Suwannee River Watershed and an area in Alachua County stream to sink region affected by the Hawthorne Formation.

(d) The West Central region consists of the Peace, Myakka, Hillsborough, Alafia, Manatee, Little Manatee River Watersheds, Sarasota/Lemon Bay Watershed and small, direct Tampa Bay tributary watersheds south of the Hillsborough River Watershed.

(e) The Peninsula region consists of the Waccasassa Coastal Drainage Area, Withlacoochee Coastal Drainage Area, Crystal/Pithlachascotee Coastal Drainage Area, small, direct Tampa Bay tributary watersheds west of the Hillsborough River Watershed, small, direct Charlotte Harbor tributary watersheds south of the Peace River Watershed, Caloosahatchee River Watershed, Estero Bay Watershed, Imperial River Watershed, Kissimmee River/Lake Okeechobee Drainage Area, Loxahatchee/St. Lucie Watershed, Indian River Watershed, Daytona/St. Augustine Coastal Drainage Area, St. John's River Watershed, Nassau Coastal Drainage Area, and St. Mary's River Watershed.

(f) The South Florida region consists of those areas south of the Peninsula region, such as the Cocohatchee River Watershed, Naples Bay Watershed, Rookery Bay Watershed, Ten Thousand Islands Watershed, Lake Worth Lagoon Watershed, Southeast Coast – Biscayne Bay Watershed, Everglades Watershed, Florida Bay Watershed, and the Florida Keys.

A map of the Nutrient Watershed Regions 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.

(15) "Open ocean waters" means all surface waters extending seaward from the most seaward natural 90-foot (15-fathom) isobath. Contour lines may be determined from National Oceanic and Atmospheric Administration Charts.

(16) "Physical alterations" shall mean human-induced changes to the physical structure of the waterbody.

(17) "Planning list" shall mean the list of surface waters or segments for which assessments will be conducted to evaluate whether the water is impaired and a TMDL is needed, as provided in subsection 403.067(2), F.S.

(18) "Pollutant" shall be as defined in subsection 502(6) of the CWA. Characteristics of a discharge, including dissolved oxygen, pH, or temperature, shall also be defined as pollutants if they result or may result in the potentially harmful alteration of downstream waters.

(19) "Pollution" shall be as defined in subsection 502(19) of the CWA and subsection 403.031(2), F.S.

(20) "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  $\mu\text{mhos/cm}$ .

(21) "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  $\mu\text{mhos/cm}$ .

(22) "Reference water" means a waterbody that exhibits a range of physical, chemical and biological characteristics approximating the natural background conditions of the same, or similar, type of waterbody within an ecologically similar region. A reference water may be representative of the water quality and structure and function of biological communities of natural background conditions even if there is evidence of limited human disturbance in the waterbody or watershed, as long as anthropogenic sources do not produce a significant measurable or predicted effect on the parameter of concern in the waterbody.

(23) "Secretary" shall mean the Secretary of the Florida Department of Environmental Protection.

(24) "Shannon-Weaver Diversity Index" shall mean: negative summation (from  $i=1$  to  $s$ ) of  $(n_i/N) \log_2 (n_i/N)$  where  $s$  is the number of species in a sample,  $N$  is the total number of individuals in a sample, and  $n_i$  is the total number of individuals in species  $i$ .

(25) "Spill" shall mean a short-term, unpermitted discharge to surface waters, not to include sanitary sewer overflows or chronic discharges from leaking wastewater collection systems.

(26) "Spring vent" shall mean a location where groundwater flows out of a natural, discernable opening in the ground onto the land surface or into a predominantly fresh surface water.

(27) "Stream" shall mean a predominantly fresh surface waterbody that flows in a defined channel with banks. Streams do not include wetlands or portions of streams that exhibit lake characteristics (e.g., long water residence time, increased width, and predominance of biological taxa typically found in non-flowing conditions).

(28) "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.

(29) “Study list” shall mean the list of surface waters or segments, as identified in Rule 62-303.390, F.A.C., that do not attain surface water quality standards, but the cause of nonattainment is unknown and requires further study to identify the cause of nonattainment, or exhibit a clear adverse trend in nutrients or nutrient response variables where a site specific numeric interpretation has not been established pursuant to paragraph 63-302.531(2)(a), F.A.C.

(30) “Surface water” means those waters of the State upon the surface of the earth to their landward extent, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth’s surface.

(31) “Total Maximum Daily Load” (TMDL) for an impaired waterbody or waterbody segment shall mean the sum of the individual wasteload allocations for point sources and the load allocations for nonpoint sources and natural background. Prior to determining individual wasteload allocations and load allocations, the maximum amount of a pollutant that a waterbody or waterbody segment can assimilate from all sources without exceeding water quality standards must first be calculated. A TMDL shall include either an implicit or explicit margin of safety and a consideration of seasonal variations.

(32) “Verified list” shall mean the list of impaired water bodies or segments for which TMDLs will be calculated, as provided in subsection 403.067(4), F.S., and which will be submitted to EPA pursuant to paragraph 303(d)(1) of the CWA.

(33) “Water quality criteria” shall mean elements of State water quality standards, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports the present and future most beneficial uses.

(34) “Water quality standards” shall mean standards composed of designated present and future most beneficial uses (classification of waters), the numerical and narrative criteria, including Site Specific Alternative Criteria, applied to the specific water uses or classification, the Florida antidegradation policy, and the moderating provisions, such as variances, mixing zone rule provisions, or exemptions.

(35) “Water segment” shall mean a portion of a waterbody that the Department will assess and evaluate for purposes of determining whether a TMDL will be required. Water segments previously evaluated as part of the Department’s 1998 305(b) Report are depicted in the map titled “Water Segments of Florida,” which is incorporated by reference.

(36) “Waters” shall be those surface waters described in Section 403.031(13), F.S.

*Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Amended 6-5-06, 12-11-06, 7-2-12.*

#### **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**

#### **62-303.310 Evaluation of Aquatic Life Use Support.**

A Class I, II, or III water shall be placed on the planning list for assessment of aquatic life use support (propagation and maintenance of a healthy, well-balanced population of fish and wildlife) if, based on sufficient quality and quantity of data, it:

- (1) Exceeds applicable aquatic life-based thresholds as outlined in Rule 62-303.320, F.A.C.,
- (2) Does not meet Biological Health Assessment thresholds for its waterbody type as outlined in Rule 62-303.330, F.A.C., or
- (3) Exceeds nutrient impairment thresholds as outlined in Rule 62-303.350, F.A.C.

*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.*

#### **62-303.320 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% or more of the samples do not meet the applicable criteria with a minimum of an 80% 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% confidence level for the given sample size using the binomial distribution.

Table 1: Planning List

Minimum number of samples not meeting an applicable water quality criterion needed to put a water on the planning list with at least 80% confidence.					
Sample sizes		Are listed if they have at least this # of samples that do not meet a criterion	Sample sizes		Are listed if they have at least this # of samples that do not meet a criterion
From	To		From	To	
10	15	3	256	264	31
16	23	4	265	273	32
24	31	5	274	282	33
32	39	6	283	292	34
40	47	7	293	301	35
48	56	8	302	310	36
57	65	9	311	320	37
66	73	10	321	329	38
74	82	11	330	338	39
83	91	12	339	348	40
92	100	13	349	357	41
101	109	14	358	367	42
110	118	15	368	376	43
119	126	16	377	385	44
127	136	17	386	395	45
137	145	18	396	404	46
146	154	19	405	414	47
155	163	20	415	423	48
164	172	21	424	432	49
173	181	22	433	442	50
182	190	23	443	451	51
191	199	24	452	461	52
200	208	25	462	470	53
209	218	26	471	480	54
219	227	27	481	489	55
228	236	28	490	499	56
237	245	29	500	500	57
246	255	30			

(2) The Department’s Florida Storage and Retrieval (FLASTORET) database, or its successors, shall be the primary source of data used for determining whether samples do not meet water quality criteria. As required by subsection 62-40.540(3), F.A.C., the Department, other state agencies, the Water Management Districts, and local governments collecting surface water quality data in Florida shall enter the data into FLASTORET within one year of collection. Other sampling entities that want to ensure their data will be considered for evaluation should ensure their data are entered into FLASTORET. The Department shall consider data submitted to the Department from other sources and databases if the data meet the sufficiency and data quality requirements of this section.

(3) Unless information presented to the Department demonstrates otherwise, data older than ten years at the time the water

segment is proposed for listing on the planning list are not representative of current conditions and shall not be used to develop planning lists, except to evaluate historical trends in chlorophyll a or TSIs. Any determinations by the Department to use data older than 10 years shall be documented, and the documentation shall include the basis for the decision that the data are representative of current conditions. Further, more recent data shall take precedence over older data if:

(a) The newer data indicate a change in water quality and this change is related to changes in pollutant loading to the watershed or improved pollution control mechanisms in the watershed contributing to the assessed area, or

(b) The Department determines that the older data do not meet the data quality requirements of this section or are no longer representative of the water quality of the segment. The Department shall note for the record that the older data were excluded and provide details about why the older data were excluded.

(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 whether the samples are collected at different locations within the segment.

(a) 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) Samples collected within 200 meters of each other will be considered the same station or location, unless there is a tributary, an outfall, or significant change in the hydrography of the water.

(c) Samples collected from different stations within a water segment shall be assessed as separate samples even if collected at the same time.

(d) In making the determination to list water segments, the Department shall consider ambient background conditions, including seasonal and other natural variations.

Table 2. Acutely Toxic Levels for Parameters with Aquatic Life-Based Criteria			
Parameter	Units	Freshwater Value	Marine Value
Aldrin	ug/L	3	1.3
Aluminum	ug/L	750	N/A
Arsenic	ug/L	340	69
Cadmium	ug/L	$\exp((1.0166 * (\ln H)) - 3.924)$	40
Chlordane	ug/L	2.4	0.09
Chlorine	ug/L	19	13
Chromium III	ug/L	$\exp((0.8190 (\ln H)) + 3.7256)$	N/A
Chromium VI	ug/L	16	1100
Copper	ug/L	$\exp((0.9422 * (\ln H)) - 1.700)$	5.8
Cyanide	ug/L	22	1
DDT	ug/L	1.1	0.13
Dieldrin	ug/L	0.24	0.71
Endosulfan	ug/L	0.22	0.034
Endrin	ug/L	0.086	0.037
Heptachlor	ug/L	0.52	0.053
Lead	ug/L	$\exp((1.273 (\ln H)) - 1.460)$	221
Lindane	ug/L	0.95	0.16
Nickel	ug/L	$\exp((0.8460 (\ln H)) + 2.255)$	75
Parathion	ug/L	0.065	N/A
Pentachlorophenol	ug/L	$\exp(1.005 (\text{pH}) - 4.869)$	13
Selenium	ug/L	N/A	290

Silver	ug/L	$\exp((1.72(\ln H))-6.59)$	2.2
Toxaphene	ug/L	0.73	0.21
Zinc	ug/L	$\exp((0.8473(\ln H))+0.884)$	95

(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. 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.

(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 Rule 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) Values that exceed possible physical or chemical measurement constraints (pH greater than 14, for example) or that represent data transcription errors shall be excluded from the assessment. Outliers identified through statistical procedures shall be evaluated to determine whether they represent valid measures of water quality. If the Department determines that they are not valid, they shall be excluded from the assessment. However, the Department shall note for the record that the data were excluded and explain why they were excluded.

(8) The Department shall consider all readily available water quality data collected and analyzed in accordance with Chapter 62-160, F.A.C. If requested, the sampling agency must provide to the Department all of the data quality assessment elements listed in Table 2 of the Department's Guidance Document "Data Quality Assessment Elements for Identification of Impaired Surface Waters" (DEP EAS 01-01, April 2001), which is incorporated by reference.

(9) For the assessment of metals criteria,

(a) Surface water data for mercury shall be collected and analyzed using clean sampling and analytical techniques, and

(b) The corresponding hardness value shall be required for freshwater metals criteria that are hardness dependent. If the ambient hardness value is less than 25 mg/L as CaCO<sub>3</sub>, then a hardness value of 25 will be used to calculate the criteria. If data are not used due to sampling or analytical techniques or because hardness data were not available, the Department shall note for the record that data were excluded and explain why they were excluded.

(10) Surface water data with values below the applicable practical quantification limit (PQL) or method detection limit (MDL) shall be assessed in accordance with paragraphs 62-4.246(6)(b)-(d) and subsection (8), F.A.C.

(a) If sampling entities want to ensure that their data will be considered for evaluation, they should review the Department's list of approved MDLs and PQLs developed pursuant to Rule 62-4.246, F.A.C., and, if available, use approved analytical methods with MDLs below the applicable water quality criteria. If there are no approved methods with MDLs below a criterion, then the method with the lowest MDL should be used. Analytical results listed as below detection or below the MDL shall not be used for developing planning lists if the MDL was above the criteria and there were, at the time of sample collection, approved analytical methods with MDLs below the criteria on the Department's list of approved MDLs and PQLs.

(b) If appropriate analytical methods were used, then data with values below the applicable MDL will be deemed to meet the applicable water quality criterion and data with values between the MDL and PQL will be deemed to be equal to the MDL.

(11) It should be noted that the data requirements of this rule constitute the minimum data set needed to assess a water segment for impairment. Agencies or groups designing monitoring networks are encouraged to consult with the Department to determine the sample design appropriate for their specific monitoring goals.

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

### **62-303.330 Biological Assessment.**

(1) Biological data must meet the requirements of subsections (3) and (8) in Rule 62-303.320, F.A.C.

(2) Biological Health Assessments used to evaluate predominantly fresh water streams and lakes under this rule shall include the Stream Condition Index (SCI) the Lake Vegetation Index (LVI), and the Shannon-Weaver Diversity Index. BioRecons can also be used to evaluate predominantly fresh water streams under this rule. Because these Biological Health Assessment procedures



require specific training and expertise, persons conducting a BioRecon, SCI or LVI must comply with the quality assurance requirements of Chapter 62-160, F.A.C. (including adherence to *Sampling and Use of the Stream Condition Index (SCI) for Assessing Flowing Waters: A Primer* (DEP-SAS-001/11), which was incorporated by reference in subsection 62-303.200(29), F.A.C., and *Sampling and Use of the Lake Vegetation Index (LVI) for Assessing Lake Plant Communities in Florida: A Primer* (DEP-SAS-002/11), which was incorporated by reference in subsection 62-303.200(9), F.A.C.), attend at least eight hours of Department field training and pass a Department field audit that verifies the sampler follows the applicable SOPs, as set forth in Chapter 62-160, F.A.C., before their Biological Health Assessment data will be considered valid for use under this rule.

(3) A water segment shall be included on the planning list if it meets any of the following conditions:

(a) One of the two most recent Shannon-Weaver Diversity Index (subsection 62-302.530(10), F.A.C.) scores is less than 75 percent of the value from an appropriate control site.

(b) One of the two most recent Stream Condition Index scores is:

1. A score of < 35; or

2. A 20 point reduction from the historic maximum value if the historic maximum value SCI is above 64.

(c) One of the two most recent BioRecon scores is  $\leq 4$ .

(d) One of the two most recent Lake Vegetation Index scores is:

1. A score < 43; or

2. A 20 point reduction from the historic maximum value if the historic maximum value LVI is above 78.

(4) The “historic maximum value” shall be the highest mean of any three consecutive, temporally independent Stream Condition Index (SCI) scores or Lake Vegetation Index (LVI) scores at the same location that are collected prior to the most recent sample being considered for evaluation with this provision. To qualify as temporally independent samples, each Biological Health Assessment shall be conducted at least three months apart. Biological Health Assessments collected at the same water segment less than three months apart shall be considered one sample, with the mean value used to represent the sampling period.

(5) Other information relevant to the biological health of the water segment, including toxicity tests and information about alterations in the type, nature, or function of a waterbody, shall also be considered when assessing aquatic life use support.

*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.*

#### **62-303.340 Toxicity.**

(1) All toxicity tests used to place a water segment on a planning list shall be based on surface water samples in the receiving water body and shall be conducted and evaluated in accordance with Chapter 62-160, F.A.C., and subsections 62-302.200(1) and (4), F.A.C., respectively.

(2) Water segments with two samples indicating acute toxicity within a twelve month period shall be placed on the planning list. Samples must be collected at least two weeks apart over a twelve month period, some time during the ten years preceding the assessment.

(3) Water segments with two samples indicating chronic toxicity within a twelve month period shall be placed on the planning list. Samples must be collected at least two weeks apart, some time during the ten years preceding the assessment.

*Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02.*

#### **62-303.350 Assessments of Numeric Interpretations of Narrative Nutrient Criteria.**

(1) The nutrient impairment thresholds identified in Rules 62-303.351 through 62-303.354, F.A.C., shall be the primary means for assessing whether a water should be assessed further for nutrient impairment. Other information indicating an imbalance in flora or fauna due to nutrient enrichment, such as algal blooms or mats, excessive nuisance macrophyte growth, decrease in the distribution (either in density or areal coverage) of seagrasses or other submerged aquatic vegetation, adverse changes in algal species composition, and excessive diel oxygen swings, shall also be considered for placing waters on the planning list.

(2) To be used to determine whether a waterbody should be assessed further for nutrient enrichment,

(a) Data must meet the requirements of subsections (2)-(4), (7), and (8) in Rule 62-303.320, F.A.C.;

(b) To calculate an annual geometric mean for TN, TP or chlorophyll *a*, there shall be at least four temporally-independent samples per year with at least one sample collected between May 1 and September 30 and at least one sample collected during the other months of the calendar year. To be treated as temporally-independent, samples must be collected at least one week apart; and

(c) To be assessed under this Chapter, except for data used to establish historical chlorophyll *a* levels, chlorophyll *a* data shall

be determined using Department-approved methods as measured according to the DEP document titled, "Applicability of Chlorophyll *a* Methods" (DEP-SAS-002/10), dated October 24, 2011, 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 shall be corrected for or free from the interference of pheophytin.

*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.*

#### **62-303.351 Nutrients in Freshwater Streams.**

A stream or stream segment shall be included on the planning list for nutrients if:

- (1) The applicable numeric interpretation of the narrative nutrient criterion established in subsection 62-302.531(2), F.A.C., is exceeded;
- (2) For streams meeting the definition in subsection 62-302.200(36), F.A.C., the nutrient thresholds in subparagraph 62-302.531(2)(c)2., F.A.C., are exceeded and insufficient Biological Health Assessment data are available to fully assess achievement of the nutrient provisions in subparagraph 62-302.531(2)(c)1., F.A.C.;
- (3) Algal mats or blooms are present in sufficient quantities to pose a nuisance or hinder reproduction of a threatened or endangered species;
- (4) Annual geometric mean chlorophyll *a* concentrations are greater than 20 ug/l; or
- (5) There is a statistically significant increasing trend in the annual geometric means at the 95 percent confidence level in TN, TP or chlorophyll *a* over the planning period using a Mann's one-sided, upper-tail test for trend, as described in Nonparametric Statistical Methods by M. Hollander and D. Wolfe (1999 ed.), pages 376 and 724, which are incorporated by reference herein. Copies of these pages 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.

*Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Repromulgated 1-2-07, 7-2-12.*

#### **62-303.352 Nutrients in Freshwater Lakes.**

Lakes or lake segments 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;
- (2) Algal mats or blooms are present in sufficient quantities to pose a nuisance or hinder reproduction of a threatened or endangered species; or
- (3) There is a statistically significant increasing trend in the annual geometric means at the 95 percent confidence level in TN, TP, or chlorophyll *a* over the planning period using a Mann's one-sided, upper-tail test for trend, as described in Nonparametric Statistical Methods by M. Hollander and D. Wolfe (1999 ed.), pages 376 and 724, which were incorporated by reference in Rule 62-303.351, F.A.C.

*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.*

#### **62-303.353 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) Their annual geometric mean chlorophyll *a* for any year is greater than 11 ug/l,
- (3) Algal mats or blooms are present in sufficient quantities to pose a nuisance or hinder reproduction of a threatened or endangered species, or
- (4) There is a statistically significant increasing trend in the annual geometric means at the 95 percent confidence level in TN, TP, or chlorophyll *a* over the planning period using a Mann's one-sided, upper-tail test for trend as described in Nonparametric Statistical Methods by M. Hollander and D. Wolfe (1999 ed.), pages 376 and 724, which were incorporated by reference in subsection 62-303.351(5), F.A.C.

*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.*

#### **62-303.354 Nitrate-nitrite in Freshwater Spring Vents.**

A spring vent in predominantly fresh waters shall be included on the planning list for nitrate-nitrite if:

- (1) The numeric interpretation of the narrative nutrient criterion established in subsection 62-302.531(2), F.A.C., is exceeded;
- (2) Algal mats or blooms are present in sufficient quantities to pose a nuisance or hinder reproduction of a threatened or endangered species; or
- (3) There is a statistically significant increasing trend in the annual geometric means at the 95 percent confidence level in nitrate-nitrite over the planning period using a Mann's one-sided, upper-tail test for trend.

*Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 7-2-12.*

### **PART III THE STUDY LIST**

#### **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 daily samples, or
  - (b) The water segment includes a bathing area that was closed by a local health Department or county government for more than one week or more than once during a calendar year based on bacteriological data, or
  - (c) The water segment includes a bathing area for which a local health Department or county government has issued closures, advisories, or warnings totaling 21 days or more during a calendar year based on bacteriological data, or
  - (d) The water segment includes a bathing area that was closed or had advisories or warnings for more than 12 weeks during a calendar year based on previous bacteriological data or on derived relationships between bacteria levels and rainfall or flow, or
  - (e) The water segment includes a sampling location that has one or more monthly geometric mean values above the monthly geometric mean fecal coliform or enterococci criterion during the planning period. To calculate a monthly geometric mean, there shall be at least ten samples collected within that month, with at least one sample from each full week of the month, or
- (2) When evaluating a water segment for bacteriological quality under paragraph (1)(a), the criterion used for fecal coliforms shall be that the Most Probable Number (MPN) or Membrane Filter (MF) shall not exceed 400 counts per 100 ml.
- (3) For data collected after August 1, 2000, the Florida Department of Health (DOH) database shall be the primary source of data used for determining bathing area closures.
- (4) Advisories, warnings, and closures based on red tides, rip tides, sharks, hurricanes, or short-term releases of pollutants, such as sewage spills that have been repaired and medical wastes, shall not be included when assessing recreation use support. However, the Department shall note for the record that data were excluded and explain why they were excluded.

*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 daily samples, or
- (2) There is either a limited or no consumption fish consumption advisory, issued by the DOH, or other authorized governmental entity, in effect for the water segment, or
- (3) For Class II waters, the water segment includes an area that is classified by the Department of Agriculture and Consumer Services' Shellfish Environmental Assessment Section (SEAS) in one of the following shellfish harvesting classifications:
  - (a) Restricted or conditionally restricted,
  - (b) Conditionally approved, excluding any areas for which SEAS identified only wildlife as the potential source of bacteriological contamination for the shellfish harvesting area, or
  - (c) Prohibited, unless the prohibited classification is precautionary and not based on water quality data.

(4) For Class II waters, the water segment includes a sampling location that has a median fecal coliform MPN value that exceeds 14 counts per 100 ml for the planning period. To calculate a median value for a sampling location, there shall be at least 10 samples collected during the planning period.

(5) When evaluating a water segment for bacteriological quality under subsection (1), the criterion in subsection 62-302.530(6), F.A.C., used for fecal coliform shall be that the MPN shall not exceed 43 counts per 100 ml.

*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 drinking water use support if:

(a) There is a sufficient number of samples from the water segment that do not meet the applicable Class I water quality criteria 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 daily samples, or

(b) A public water system demonstrates to the Department that either:

1. Treatment costs to meet applicable drinking water criteria have increased by at least 25% to treat contaminants that exceed Class I criteria or to treat blue-green algae or other nuisance algae in the source water, or

2. The system has changed to an alternative supply because of additional costs that would be required to treat their surface water source.

(c) The water segment includes a sampling location that has one or more monthly geometric mean values above the monthly geometric mean fecal coliform criterion during the planning period. To calculate a monthly geometric mean value for a sampling location, there shall be at least five samples collected within that month, with at least one sample from each full week of the month.

(2) When determining increased treatment costs described in paragraph (b), costs due solely to new, more stringent drinking water requirements, inflation, or increases in costs of materials shall not be included.

(3) A water shall be placed on the planning list for assessment of the threat to human health if:

(a) For human health-based criteria expressed as 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.

(4) When evaluating a water segment for bacteriological quality under paragraph (1)(a), the criterion used for fecal coliforms shall be that the MPN or MF shall not exceed 400 counts per 100 ml.

*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 III THE STUDY LIST**

#### **62-303.390 The Study List.**

(1) The Study List contains waters where evidence indicates nonattainment of water quality standards, but the Department does not have enough information to determine the causative pollutant(s) and therefore cannot determine the appropriate remedy, and waters where a site specific numeric interpretation has not been established pursuant to paragraph 62-302.531(2)(a), F.A.C., and there is a clear adverse trend in nutrients or nutrient response variables. Causes of nonattainment can include excess pollutant loading or concentrations, habitat or hydrologic alterations, or natural conditions. Waters that do not attain water quality standards due to natural conditions pursuant to paragraph 62-303.420(1)(b), F.A.C., shall not be added to the Study List. To conform to the expectations of Section 303(d) of the Federal Clean Water Act and federal regulations at 40 C.F.R. 130.7(b), waters and associated parameters identified in the Study List will be submitted to EPA as water quality limited segments. However, pursuant to paragraph 403.067(2)(a), F.S., the Study List cannot be used in the administration or implementation of any regulatory program. A TMDL shall not be established for a waterbody placed on the Study List pursuant to subsection 62-303.390(2), F.A.C., until such time as it is placed on the verified list pursuant to Part IV of this Chapter.

(2) A Class I, II, or III water shall be placed on the study list if:

(a) For waters with a statistically-significant increasing trend in TN, TP, nitrate-nitrite, or chlorophyll *a* pursuant to subsection 62-303.351(5), 62-303.352(3), 62-303.353(4), or 62-303.354(3), F.A.C., the Department confirms there is:

1. A statistically-significant (at the 95 percent confidence level) temporal trend in the annual geometric means after controlling for or removing the effects of confounding variables, such as climatic and hydrologic cycles, seasonality, quality assurance issues, and changes in analytical methods or method detection limits; and

2. A reasonable expectation that the water will become impaired within 10 years, taking into consideration the current concentrations of nutrients or nutrient response variables and the slope of the trend.

(b) A waterbody segment does not achieve the Biological Health Assessment provisions in Rule 62-303.430, F.A.C., but a cause has not been identified;

(c) A waterbody segment is verified as not meeting the dissolved oxygen criterion pursuant to Part IV of this Chapter, but a cause has not been identified;

(d) A waterbody segment where pollution control mechanisms are in place or planned that meet the requirements of Rule 62-303.600, F.A.C., except that there is uncertainty when water quality standards will be attained and the waterbody segment requires additional study; or

(e) For streams meeting the definition in subsection 62-302.200(36), F.A.C., the nutrient thresholds in subparagraph 62-302.531(2)(c)2., F.A.C., are exceeded based on data from the last 7.5 years and insufficient Biological Health Assessment, chlorophyll *a*, or other response variable data are available to fully assess achievement of the nutrient provisions in paragraph 62-302.531(2)(c), F.A.C. A TMDL shall not be established for the waterbody prior to the collection of additional response variable data and the conclusion of the next assessment cycle.

(3) Waters that fall under paragraph 62-303.390(2)(a), F.A.C., and do not have a site specific numeric interpretation of the narrative pursuant to paragraph 62-302.351(2)(a), F.A.C., shall be removed from the Study List upon development of a site-specific interpretation of the narrative nutrient criteria for the waterbody. Those waters subject to a site specific interpretation of the narrative that meet the provisions of subparagraph 62-303.390(2)(a)1., F.A.C., will be reevaluated by the Department to determine whether adjustments are necessary to provide for the attainment and maintenance of water quality standards in downstream waterbodies.

(4) For waters that fall under paragraph 62-303.390(2)(b), F.A.C., above, a stressor identification study shall be conducted to identify the causative pollutant(s) or other factor(s) responsible for nonattainment. A stressor identification study includes collection and analysis of physical, chemical, and biological data necessary to determine the causative pollutant(s) or other factor(s) causing nonattainment.

(5) It is the Department's goal to collect the additional data needed for waters on the Study List as part of its watershed management approach, with the data collected during either the same cycle that the water is initially listed on the study list or during the subsequent cycle.

*Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 7-2-12.*

#### **62-303.400 Methodology to Develop the Verified List.**

(1) Waters shall be verified as being impaired if they meet the requirements for the planning list in Part II and the additional requirements of Rules 62-303.420-480, F.A.C. A water body that fails to meet the minimum criteria for surface waters established in Rule 62-302.500, F.A.C.; any of its designated uses, as described in this part; or applicable water quality criteria, as described in this part, shall be determined to be impaired.

(2) Additional data and information collected after the development of the planning list will be considered when assessing waters on the planning list, provided it meets the requirements of this chapter. In cases where additional data are needed for waters on the planning list to meet the data sufficiency requirements for the verified list, it is the Department's goal to collect this additional data as part of its watershed management approach, with the data collected during either the same cycle that the water is initially listed on the planning list (within 1 year) or during the subsequent cycle (six years).

(3) Unless information presented to the Department demonstrates otherwise, data more than 7.5 years old at the time the water segment is proposed for listing on the verified list are not representative of current conditions and shall not be used except to evaluate historical trends in chlorophyll *a* or TSIs. Any determinations by the Department to use data older than 7.5 years shall be documented, and the documentation shall include the basis for the decision.

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

#### **62-303.410 Determination of Aquatic Life Use Support.**

Failure to meet any of the metrics used to determine aquatic life use support listed in Rules 62-303.420-450, F.A.C., shall constitute

verification that there is an impairment of the designated use for propagation and maintenance of a healthy, well-balanced population of fish and wildlife.

*Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Repromulgated 1-2-07.*

#### PART IV THE VERIFIED LIST

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

(1) The Department shall reexamine the data used in Rule 62-303.320, F.A.C., to determine whether water quality criteria are met.

(a) If values exceeding the criteria are not due to pollutant discharges or reflect natural background conditions, including seasonal or other natural variations, the water shall not be listed on the verified list. In such cases, the Department shall note for the record why the water was not listed and provide the basis for its determination that the exceedances were not due to pollutant discharges.

(b) If the Department has information suggesting that the values not meeting the dissolved oxygen (DO) criterion are due to natural background conditions, it is the Department's intent to support that conclusion through the use of Biological Health Assessment procedures referenced in Rule 62-303.330, F.A.C. The waterbody or segment shall not be included on the verified list for DO if two or more temporally independent Biological Health Assessments indicate the waterbody supports the protection and maintenance of a healthy, well-balanced population of fish and wildlife. In addition, the Biological Health Assessments shall be conducted in the same waterbody segment, or for streams, in the adjacent downstream waterbody segment where the water quality samples were taken. These Biological Health Assessments shall be conducted on the same day or after the water quality samples were collected.

(2) If the water was listed on the planning list and there were insufficient data from the last five years preceding the planning list assessment to meet the data distribution requirements of subsection 62-303.320(4), F.A.C., and to meet a minimum sample size for verification of twenty samples, additional data will be collected as needed to provide a minimum sample size of twenty. Once these additional data are collected, the Department shall re-evaluate the data using the approach outlined in subsection 62-303.320(1), F.A.C., but using Table 3, and place waters on the verified list when 10% or more of the samples do not meet the applicable criteria, with a minimum of a 90% confidence level using a binomial distribution. The Department shall limit the analysis to data collected during the five years preceding the planning list assessment and the additional data collected pursuant to this paragraph. For sample sizes greater than 500, the Department shall calculate the number of samples not meeting the criterion that are needed for the given sample size using the binomial distribution.

Table 3: Verified List

Minimum number of samples not meeting an applicable water quality criterion needed to put a water on the Verified list with at least 90% confidence.					
Sample sizes		Are listed if they have at least this # of samples that do not meet a criterion	Sample sizes		Are listed if they have at least this # of samples that do not meet a criterion
From	To		From	To	
20	25	5	254	262	33
26	32	6	263	270	34
33	40	7	271	279	35
41	47	8	280	288	36
48	55	9	289	297	37
56	63	10	298	306	38
64	71	11	307	315	39
72	79	12	316	324	40
80	88	13	325	333	41

89	96	14
97	104	15
105	113	16
114	121	17
122	130	18
131	138	19
139	147	20
148	156	21
157	164	22
165	173	23
174	182	24
183	191	25
192	199	26
200	208	27
209	217	28
218	226	29
227	235	30
236	244	31
245	253	32

334	343	42
344	352	43
353	361	44
362	370	45
371	379	46
380	388	47
389	397	48
398	406	49
407	415	50
416	424	51
425	434	52
435	443	53
444	452	54
453	461	55
462	470	56
471	479	57
480	489	58
490	498	59
499	500	60

(3) If the waterbody was placed on the planning list based on worst case values used to represent multiple samples taken during a four day period, the Department shall evaluate whether the worst case value should be excluded from the analysis pursuant to subsections (4) and (5). If the worst case value should not be used, the Department shall then re-evaluate the data following the methodology in subsection 62-303.420(2), F.A.C., using the more representative worst case value or, if all valid values are below acutely toxic levels, the median value.

(4) If the waterbody was listed on the planning list based on samples that do not meet water quality criteria for metals, the metals data shall be excluded if it is determined that the quality assurance requirements of subsection 62-303.320(8), F.A.C., were not met or that the sample was not collected and analyzed using clean techniques, if the use of clean techniques is appropriate. The Department shall re-evaluate the remaining valid data using the methodology in subsection 62-303.420(2), F.A.C., excluding any data that cannot be validated.

(5) Values that exceed possible physical or chemical measurement constraints (pH greater than 14, for example) or that represent data transcription errors, outliers the Department determines are not valid measures of water quality, water quality criteria exceedances due solely to violations of specific effluent limitations contained in state permits authorizing discharges to surface waters, water quality criteria exceedances within permitted mixing zones for those parameters for which the mixing zones are in effect, and water quality data collected following contaminant spills, discharges due to upsets or bypasses from permitted facilities, or rainfall in excess of the 25-year, 24-hour storm, shall be excluded from the assessment carried out under this rule. However, the Department shall note for the record that the data were excluded and explain why they were excluded.

(6) Once the additional data review is completed pursuant to subsections (1) through (5), the Department shall re-evaluate the data and shall include waters on the verified list that meet the criteria in subsection 62-303.420(2) or paragraph 62-303.320(6)(b), F.A.C.

(7) Notwithstanding the requirements of subsection (2), water segments shall also be included on the verified list if, based on representative data collected and analyzed in accordance with Chapter 62-160, F.A.C.:

(a) There are less than twenty samples, but there are five or more samples that do not meet an applicable water quality criterion based on data from at least five temporally independent sampling events, or

(b) Scientifically credible and compelling information regarding the magnitude, frequency, or duration of samples that do not meet an applicable water quality criterion provides overwhelming evidence of impairment. Any determinations to list waters based on this provision shall be documented, and the documentation shall include the basis for the decision.

(c) For any water chemistry data used to list waters under this paragraph, the Department shall include in the administrative record all of the applicable data quality assessment elements listed in Table 2 of the Department's Guidance Document "Data

Quality Assessment Elements for Identification of Impaired Surface Waters” (DEP EAS 01-01, April 2001).

*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.*

#### **62-303.430 Biological Impairment.**

(1) All Biological Health Assessments used to list a water on the verified list shall be conducted and interpreted in accordance with Chapter 62-160, F.A.C., including Department-approved Standard Operating Procedures and the Department documents, *Sampling and Use of the Stream Condition Index (SCI) for Assessing Flowing Waters: A Primer* (DEP-SAS-001/11), which was incorporated by reference in subsection 62-303.200(29), F.A.C., and *Sampling and Use of the Lake Vegetation Index (LVI) for Assessing Lake Plant Communities in Florida: A Primer* (DEP-SAS-002/11), which was incorporated by reference in subsection 62-303.200(9), F.A.C. To be used for placing waters on the verified list, any Biological Health Assessments conducted before the adoption of applicable SOPs for such Biological Health Assessments as part of Chapter 62-160, F.A.C., shall substantially comply with the subsequent SOPs. Biological Health Assessments conducted during conditions inconsistent with the applicable primer shall be excluded from the assessment.

(2) If the water was listed on the planning list based on Biological Health Assessment results, the water shall be determined to be biologically impaired if any of the following conditions occur:

(a) The average score of at least two temporally independent Biological Health Assessments is below 40 for the SCI or if either of the two most recent SCI scores is less than 35, or 43 for the LVI. If there are only two Biological Health Assessments and the difference between the two scores is greater than 20 points, then an additional SCI or LVI shall be required and the average of all three scores shall be used.

(b) The historic maximum SCI value, as defined in subsection 62-303.330(4), F.A.C., is above 64 and the average of the two most recent independent SCI scores is 20 or more points below the historic maximum value.

(c) The historic maximum value LVI, as defined in subsection 62-303.330(4), F.A.C., is above 78 and the average of the two most recent independent LVI scores is 20 or more points below the historic maximum value.

(d) The average score of at least two temporally independent Shannon-Weaver Diversity Indices is less than 75 percent of the average score from an appropriate control site, pursuant to subsection 62-302.530(10), F.A.C.

(3) If the water was listed on the planning list based on BioRecon data, two or more temporally independent SCIs shall be conducted. If the water segment was listed on the planning list based on other information specified in subsection 62-303.330(5), F.A.C., indicating biological impairment, two or more temporally independent Biological Health Assessments appropriate for the waterbody type shall be conducted in the waterbody segment to verify whether the water is impaired. If available, the Department shall consider other scientifically credible biological assessment methods in predominantly marine waters to verify that the water is biologically impaired. Results from these biological assessments shall be evaluated in accordance with subsection 62-303.430(2), F.A.C., as applicable.

(4) If a waterbody was listed on the planning list based on failure of the Shannon-Weaver Diversity Index under subsection 62-302.530(10), F.A.C., a minimum of two Biological Health Assessments shall be conducted in accordance with the methodology in Rule 62-303.330, F.A.C., to verify whether the water is impaired. If an SCI or LVI is not applicable for the waterbody type, then the Biological Health Assessment shall be the Shannon-Weaver Diversity Index or other scientifically credible method.

(5) Following verification that a waterbody is biologically impaired, a waterbody shall be included on the verified list for biological impairment if:

(a) There are water quality data reasonably demonstrating the particular pollutant(s) causing the impairment and the concentration of the pollutant(s); and

(b) One of the following demonstrations is made:

1. If there is a numeric criterion for the specified pollutant(s) in Chapter 62-302, F.A.C., but the criterion is met, an identification of the specific factors that reasonably demonstrate why the numeric criterion is not adequate to protect water quality and how the specific pollutant is causing the impairment, or

2. If there is not a numeric criterion for the specified pollutant(s) in Chapter 62-302, F.A.C., an identification of the specific factors that reasonably demonstrate how the particular pollutant(s) are associated with the observed biological effect. If the numeric interpretation of the narrative nutrient criterion in paragraph 62-302.531(2)(c), F.A.C., is exceeded, then nutrients shall be identified



as the causative pollutant unless a stressor identification study links the adverse biological effects to causal factor(s) other than nutrients.

(6) If a waterbody is verified as biologically impaired, but a causative pollutant has not been identified, the waterbody shall be included on the study list.

*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.*

#### **62-303.440 Toxicity.**

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

#### **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(1), 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) If the waterbody was listed on either the planning or study list for nutrient enrichment based on other information indicating an imbalance in flora or fauna, as provided in subsection 62-303.350(1), 62-303.351(3), 62-303.352(2) or 62-303.353(3), F.A.C., the Department shall verify the imbalance before placing the water on the verified list for impairment due to nutrients and shall provide documentation supporting the imbalance in flora or fauna.

(3) If the waterbody was listed on the planning list based on subsections 62-303.351(1), 62-303.352(1), 62-303.353(1), or 62-303.354(1), F.A.C., upon confirming the imbalance of flora or fauna based on the last 7.5 years of data, the Department shall place the waterbody on the verified list for exceedances of the narrative nutrient criteria in paragraph 62-302.530(47)(b), F.A.C.

(4) If the waterbody was listed on the study list for an adverse trend in nutrient response variables pursuant to paragraph 62-303.390(2)(a), F.A.C., the Department shall analyze the potential risk of nonattainment of the narrative nutrient criteria at paragraph 62-302.530(47)(b), F.A.C. This analysis shall take into consideration the current concentrations of nutrient response variables, the slope of the trend, and the potential sources of nutrients (natural and anthropogenic). If there is a reasonable expectation that the waterbody will become impaired within 5 years, the Department shall place the waterbody on the verified list to develop a TMDL that establishes a numeric interpretation pursuant to paragraph 62-302.531(2)(a), F.A.C.

(5) The thresholds for impairment due to nutrients in paragraph 62-302.531(2)(c) and subsections 62-303.351(4) and 62-303.353(1), F.A.C., are not required to be used during development of wasteload allocations or TMDLs where a site-specific interpretation of the narrative nutrient criterion in paragraph 62-302.530(47)(b), F.A.C., is established.

(6) When assessing waters for nutrient impairment, the Department shall evaluate whether the data were collected under extreme climatic conditions, such as floods, droughts, and hurricanes. When assessing estuary specific numeric interpretations of the narrative nutrient criterion in Rule 62-302.532, F.A.C., the Department shall also evaluate whether the current ambient monitoring network is representative of the network that was the basis for the numeric interpretation of the narrative nutrient criterion in Rule 62-302.532, F.A.C. The Department will consider this information when developing the final verified list and shall not list waters as impaired based solely on extreme climatic conditions or changes in the monitoring network.

*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.*

## **PART V MISCELLANEOUS PROVISIONS**

### **62-303.460 Primary Contact and Recreation Use Support.**

(1) The Department shall review the data used by the DOH as the basis for bathing area closures, advisories or warnings and verify that the values exceeded the applicable DOH thresholds and the data meet the requirements of Chapter 62-160, F.A.C. If the segment is listed on the planning list based on bathing area closures, advisories, or warnings issued by a local health department or county government, closures, advisories, or warnings based on red tides, rip tides, sewer line breaks, sharks, medical wastes, hurricanes, or other factors not related to chronic discharges of pollutants shall not be included when verifying primary contact and recreation use support. The Department shall then re-evaluate the remaining data using the methodology in paragraph 62-303.360(1)(c), F.A.C. Water segments that meet the criteria in paragraph 62-303.360(1)(c), F.A.C., shall be included on the verified list.

(2) If the water segment was listed on the planning list due to samples that do not meet water quality criteria for bacteriological quality, the Department shall, to the extent practical, evaluate the source of bacteriological contamination and shall verify that the impairment is due to chronic discharges of human-induced bacteriological pollutants before listing the water segment on the verified list. The Department shall take into account the proximity of municipal stormwater outfalls, septic tanks, and domestic wastewater facilities when evaluating potential sources of bacteriological pollutants. For water segments that contain municipal stormwater outfalls, the impairment documented for the segment shall be presumed to be due, at least in part, to chronic discharges of bacteriological pollutants. The Department shall then re-evaluate the data using the methodology in subsection 62-303.320(1), F.A.C., excluding any values that are elevated solely due to wildlife, or for enterococci in coastal recreational waters, adjusting the values based on the human health-related risk factors for wildlife-based enterococci upon meeting the relevant requirements of 40 CFR 131.41(c)(2).

(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 daily samples, or

(b) There are one or more exceedances of a bacteriological water quality criterion expressed as a monthly geometric mean during the verified period. To assess the monthly data for a sampling location, there shall be at least ten samples collected within that month, with at least one sample from each full week of the month.

(4) When evaluating a water segment for bacteriological quality under paragraph 62-303.460(3)(a), F.A.C., the criterion used for fecal coliforms shall be that the Most Probable Number (MPN) or Membrane Filter (MF) shall not exceed 400 counts per 100 ml.

(5) When assessing waters pursuant to paragraphs 62-303.460(3)(a) and (b), F.A.C., the Department shall evaluate whether the samples are representative and are not biased toward collecting samples at times either under the influence of wet weather conditions or absent the influence of wet weather conditions. Representative sampling generally reflects a consistent number of samples evenly spaced over regular intervals. Any determinations to exclude waters based on this provision shall be documented, and the documentation shall include the basis for the decision.

*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) In order to be used under this part, the Department shall review the data used by the DOH as the basis for fish consumption advisories and determine whether it meets the following requirements:

(a) The advisory is based on the statistical evaluation of fish tissue data from at least twelve fish collected from the specific water segment or water body to be listed,

(b) The data are collected in accordance with DEP SOP FS6000 (General Biological Tissue Sampling) and FS 6200 (Finfish Tissue Sampling), which are incorporated by reference, the sampling entity has established Data Quality Objectives (DQOs) for the sampling, and the data meet the DQOs, and

(c) There are sufficient data or other information from within the last 7.5 years that would support the continuation of the advisory. The Department shall document any decision to list waters with advisories older than 7.5 years, including the data supporting the continuation of the advisory or information demonstrating that older data are representative of current conditions.

(2) Waters with advisories determined to meet the requirements of this section or waters where scientifically credible and compelling information meeting the requirements of Chapter 62-160, F.A.C., indicates the applicable human health-based water quality criteria are not met shall be listed on the verified list. Any determinations to list waters based on this provision shall be documented, and the documentation shall include the basis for the decision.

(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 daily samples, or

(b) The water segment includes a sampling location that has a median fecal coliform MPN value that exceeds 14 counts per 100 ml for the verified period. To calculate a median value for a sampling location, there shall be at least 20 samples collected during the verified period.

(4) Waters that qualify for placement on the planning list based on shellfish harvesting classification information shall be verified as impaired for fecal coliforms.

*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 expressed as maximums, water segments that meet the requirements in subsection 62-303.420(7), F.A.C., or

(2) For human health-based criteria expressed as annual averages, water segments that have an annual average that exceeds the applicable criterion.

(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 daily samples, or

(b) There are one or more exceedances of a bacteriological water quality criterion expressed as a monthly geometric mean during the verified period. To assess the monthly data for a sampling location there shall be at least five samples collected within that month, with at least one sample from each full week of the month.

*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.*

#### **62-303.500 Prioritization.**

(1) When establishing the TMDL development schedule for water segments on the verified list of impaired waters, the Department shall prioritize impaired water segments according to the severity of the impairment and the designated uses of the segment, taking into account the most serious water quality problems; most valuable and threatened resources; and risk to human health and aquatic life. Impaired waters shall be prioritized as high, medium, or low priority.

(2) The following waters shall be designated high priority:

(a) Water segments where the impairment poses a threat to potable water supplies or to human health.

(b) Water segments where the impairment is due to a pollutant regulated by the CWA and the pollutant has contributed to the decline or extirpation of a federally listed threatened or endangered species, as indicated in the Federal Register listing the species.

(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 that are listed only due to exceedances of the dissolved oxygen criteria.

(c) Water segments that were not on a planning list of impaired waters, but which were identified as impaired during the second phase of the watershed management approach and were included in the verified list, unless the segment meets the criteria in subsection (2) for high priority.

(4) All segments not designated high or low priority shall be medium priority and shall be prioritized based on the following factors:

(a) The presence of Outstanding Florida Waters.

(b) The presence of water segments that fail to meet more than one designated use.

(c) The presence of water segments with greater than twenty-five percent of the samples not meeting an applicable water quality criterion or alternative threshold with a minimum of a 90 percent confidence level.

(d) The presence of water segments that exceed more than one applicable water quality criteria.

(e) Administrative needs of the TMDL program, including meeting a TMDL development schedule agreed to with EPA, basin priorities related to following the Department's watershed management approach, and the number of administratively continued permits in the basin.

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

#### **62-303.600 Evaluation of Pollution Control Mechanisms.**

(1) Upon determining that a water body is impaired, the Department shall evaluate whether existing or proposed technology-based effluent limitations and other pollution control programs under local, state, or federal authority are sufficient to result in the attainment of applicable water quality standards.

(2) If, as a result of the factors set forth in subsection (1), the water segment is expected to attain water quality standards in the future and is expected to make reasonable progress towards attainment of water quality standards by the time the next 303(d) list is scheduled to be submitted to EPA, the segment shall not be listed on the verified list. The Department shall document the basis for its decision, noting any proposed pollution control mechanisms and expected improvements in water quality that provide reasonable assurance that the water segment will attain applicable water quality standards.

*Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Repromulgated 1-2-07.*

#### **62-303.700 Listing Cycle.**

The Department shall, to the extent practical, develop basin-specific verified lists of impaired waters as part of its watershed management approach, which rotates through the State's surface water basins on a five year cycle. At the end of the first phase of the cycle, which is designed to develop a preliminary assessment of the basin, the Department shall update the planning list for the basin and shall include the planning list in the status report for the basin, which will be noticed to interested parties in the basin. If the specific pollutant causing the impairment in a particular water segment is not known at the time the planning list is prepared, the list shall provide the basis for including the water segment on the planning list. In these cases, the pollutant and concentration causing the impairment shall be identified before the water segment is included on the verified list to be adopted by Secretarial Order. During the second phase of the cycle, which is designed to collect additional data on waters in the basin, interested parties shall be provided the opportunity to work with the Department to collect additional water quality data. Alternatively, interested parties may develop proposed water pollution control mechanisms that may affect the final verified list adopted by the Secretary at the end of the second phase. To ensure that data or information will be considered in the preliminary basin assessment, it must be submitted to the Department or entered into FLASTORET or, if applicable, the DOH database no later than September 30 during the year of the assessment.

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

#### **62-303.710 Format of Verified List and Verified List Approval.**

(1) The Department shall follow the methodology established in this chapter to develop basin-specific verified lists of impaired water segments. The verified list shall specify the pollutant or pollutants causing the impairment and the concentration of the pollutant(s) causing the impairment. If the water segment is listed based on numeric water quality criteria, then the verified list shall provide the applicable criteria. However, if the listing is based on narrative or biological criteria, or impairment of other designated uses, and the water quality criteria are met, the list shall specify the concentration of the pollutant relative to the water quality criteria and explain why the numerical criterion is not adequate.

(2) Segments impaired for pollutants that are no longer legally allowed to be used or discharged shall not be placed on the verified list because the TMDL will be zero for the pollutant.

(3) For waters impaired for dissolved oxygen, the Department shall identify the pollutants causing or contributing to the impairment and list both the pollutant and dissolved oxygen on the verified list. If the factor(s) causing the impairment cannot be identified, the water shall be placed on the study list.

(4) For waters impaired by nutrients, the Department shall identify whether nitrogen or phosphorus, or both, are the limiting nutrients for the verified period, and specify the limiting nutrient(s) in the verified list.

(5) The verified list shall also include the priority and the schedule for TMDL development established for the water segment, as required by federal regulations.

(6) The verified list shall also note any waters that are being removed from the current planning list and any previous verified list for the basin.

(7) The verified basin-specific 303(d) list shall be approved by order of the Secretary.

*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.*

#### **62-303.720 Delisting Procedure.**

(1) Waters on planning or study lists developed under this chapter that are verified to not be impaired during development of the verified list shall be removed from the State's planning or study list. Once a waterbody segment is verified to not be impaired pursuant to Part IV of this chapter, the data used to place the waterbody on the planning or study list shall not be the sole basis for listing that waterbody segment on future planning lists.

(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) For waters listed due to failure to meet aquatic life use support based on water quality criteria or due to threats to human health based on single sample water quality criteria, the water shall be delisted when:

1. The number of samples that do not meet an applicable water quality criterion due to pollutant discharges is less than or equal to the number listed in Table 4 for the given sample size, with a minimum sample size of 30. Waters shall be delisted when 10% or less of the samples do not meet the applicable criterion with a minimum of a 90% confidence level using a binomial distribution, or

2. Following implementation of pollution control activities that are expected to be sufficient to result in attainment of applicable water quality standards, evaluation of new data indicates the water no longer meets the criteria for listing established in Rule 62-303.420, F.A.C., or

3. Following demonstration that the water was inappropriately listed due to flaws in the original analysis, evaluation of available data indicates the water does not meet the criteria for listing established in Rule 62-303.420, F.A.C. New data evaluated under subparagraph 62-303.720(2)(a)1., F.A.C., must meet the following requirements:

a. They must include samples collected during similar conditions (same seasons and general flow conditions) that the data previously used to determine impairment were collected, with no more than 50% of the samples collected in any one quarter,

b. The sample size must be a minimum of 30 samples, and

c. The data must meet the requirements of subsections 62-303.320(4), (6) and (7), F.A.C.

(b) For waters listed due to failure to meet aquatic life use support based on biological data, the waterbody shall be delisted when the two most recent independent Biological Health Assessments 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. For streams, the new data must be SCIs unless the SCI is not appropriate for the waterbody type, in which case the new data

shall consist of the Shannon-Weaver Diversity Index.

2. The Biological Health Assessments must be conducted during similar conditions (same seasons and general flow conditions) under which the previous Biological Health Assessments used to determine impairment were collected.

3. The data must meet the requirements of subsections 62-303.330(1) and (2), F.A.C.

(c) For waters listed due to fish consumption advisories, the water shall be delisted following the lifting of the advisory or when data complying with paragraphs 62-303.470(1)(a) and (b), F.A.C., demonstrate that the continuation of the advisory is no longer appropriate.

(d) For waters listed due to their shellfish bed management classification, the water shall be delisted upon reclassification of the shellfish harvesting area to approved, or for conditionally approved areas, when the only source identified by SEAS for the harvesting area is wildlife.

(e) For waters listed due to bathing area closure or advisory data, the water shall be delisted if the bathing area does not meet the listing thresholds in subsection 62-303.360(1), F.A.C., for five consecutive years.

(f) For waters listed based on impacts to potable water supplies, 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) For waters listed pursuant to paragraph 62-303.460(3)(b), 62-303.470(3)(b), or 62-303.480(3)(b), F.A.C., the water shall be delisted when:

1. The criteria applicable to those sections are met for three consecutive years and there are sufficient new data available to calculate monthly values for at least the same seasons in which the exceedances occurred, or

2. Following a demonstration that the water was inappropriately listed due to flaws in the original analysis, including the use of a non-representative sample set.

(h) For waters listed pursuant to paragraph 62-303.460(3)(a), 62-303.470(3)(a), or 62-303.480 (3)(a), F.A.C., the water shall be delisted upon meeting the delisting provisions in paragraph 62-303.720(2)(a), F.A.C.

(i) For waters listed based on a human health-based annual average criterion, the water shall be delisted when the annual average concentration is less than the criterion for three consecutive years.

(j) For waters listed based on nutrient impairment, the waterbody shall be delisted if it does not meet the listing thresholds in Rule 62-303.450, F.A.C., for three consecutive years, or it is demonstrated to not exceed the narrative nutrient criteria at paragraph 62-302.530(47)(b), F.A.C., pursuant to the provisions of subsection 62-303.450(3), F.A.C.

(k) For any listed water, the water shall be delisted if, following a change in approved analytical procedures, criteria, or water quality standards, evaluation of available data indicates the water no longer meets the applicable criteria for listing.

(l) For waters listed based on paragraph 62-303.420(7)(b), F.A.C., or subsection 62-303.470(3), F.A.C., the waterbody shall be delisted if the Department determines the waterbody is no longer impaired, based on scientifically credible and compelling information comparable in quantity and quality to the information used to make the initial listing decision. Any determinations to delist waters based on this provision shall be documented, and the documentation shall include the basis for the decision.

Table 4. Delisting						
Maximum number of samples that do not meet an applicable water quality criterion allowable to DELIST with at least 90% confidence.						
Sample Sizes		Maximum # of Samples not meeting a criterion allowable for delisting		Sample sizes		Maximum # of Samples not meeting a criterion allowable for delisting
From	To			From	To	
30	37	0		279	289	21
38	51	1		290	300	22
52	64	2		301	311	23

65	77	3		312	323	24
78	90	4		324	334	25
91	103	5		335	345	26
104	115	6		346	356	27
116	127	7		357	367	28
128	139	8		368	378	29
140	151	9		379	389	30
152	163	10		390	401	31
164	174	11		402	412	32
175	186	12		413	423	33
187	198	13		424	434	34
199	209	14		435	445	35
210	221	15		446	456	36
222	232	16		457	467	37
233	244	17		468	478	38
245	255	18		479	489	39
256	266	19		490	500	40
267	278	20				

(m) For waters listed pursuant to paragraph 62-303.320(6)(b), F.A.C., the water shall be delisted when the applicable criteria are met for at least three consecutive years and there are new data available for the same seasons in which the previous exceedances occurred.

(n) For waterbodies listed on the verified list, the water shall be delisted from the verified list and added to the study list when subsequent analysis demonstrates that the cause of the impairment was incorrect or otherwise demonstrates that a TMDL is not appropriate.

(3) Any delisting of waters from the verified list shall be approved by order of the Secretary at such time as the requirements of this section are met.

*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.*

#### **62-303.810 Impairment of Interstate and Tribal Waters.**

*Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.062, 403.067 FS. History—New 6-10-02, Repromulgated 1-2-07, Repealed 2-23-12.*