

May 18, 2021

Ms. Avril Wood-McGrath
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

RE: Florida Department of Environmental Protection's (DEP) proposed revisions to Florida's water quality standards under the Triennial Review

Dear Ms. Wood-McGrath:

Thank you for the opportunity to participate in DEP's Triennial Review of Florida's water quality standards. Please find below comments and requests provided on behalf of Miami-Dade County organized by Chapter.

Chapter 62-302, F.A.C.:

- As stated in the Coral Turbidity Criterion Technical Support Document, stressors affecting coral health include suspended sediments or turbidity; the document recognizes that these stressors are not synonymous. Because impacts to coral reefs are not limited to those from turbidity, addition of a turbidity criterion alone without also implementing criterion for suspended solids that can cause sedimentation and physical impacts to reefs beyond light attenuation associated with turbidity, is lacking.
 - We recommend, in addition to the proposed amended turbidity criteria provided below, a standard similar to the state of Tennessee's efforts as noted in the Coral Turbidity Criterion Technical Support Document which states in part, "There shall be no turbidity, total suspended solids, or color in such amounts or of such character that will materially affect fish and aquatic life." It is recommended that the following standard be included in addition to implementation of a turbidity standard: *There shall be no turbidity, total suspended solids, or color in such amounts or of such character that will materially affect water quality, fish, or aquatic life.* The technical support document notes the two stressors (i.e., turbidity and sedimentation) and their impacts, stating that "Stress from elevated suspended sediments, turbidity, and reduced water clarity have been shown to cause significant adverse effects on coral and hardbottom ecosystems globally and in Florida waters. The source of the sediment may be related to natural processes or anthropogenic activities." However, DEP is only proposing criteria to address one of the two stressors (turbidity), the stressor that more directly addresses light attenuation and is not proposing to address suspended solids that may also physically impact coral health and that may be related to anthropogenic activities regulated by the state. We therefore recommend that DEP also include criteria for suspended solids.
 - Proposed amended turbidity criteria: *Turbidity shall not be increased above background, not to exceed 29 NTUs, within areas of the state where coral reef or hardbottom communities are currently found or have been demonstrated to have occurred since November 28, 1975. The best scientific information available to the Department shall be utilized to evaluate this criterion. To evaluate this criterion, background conditions shall take into account the natural variability of turbidity levels, not to exceed 29 NTU.* We propose deletion of the language stricken above, as "background" inherently

accounts for natural variability in the absence of the proposed activity, with existing state definition of "background" accounting for "...the condition of waters in the absence of the activity...."; therefore, the proposed language is redundant. Furthermore, water quality parameters are generally compared to background conditions. It is unclear why specifically noting that background turbidity measurements for coral protection must take into account "natural variability" when such a statement is not noted elsewhere in this body of water quality standards.

- As stated in 62-302.800(2)(c)2: "The assessment of aquatic toxicity shall show that physical and chemical conditions at the site alter the toxicity or bioavailability of the compound in question...." The chemical and physical conditions that can contribute to toxicity include but are not limited to parameters intentionally being deemed not applicable in the proposed revised language: "The provisions in this subparagraph are not applicable to nutrients, nutrient response variables, dissolved oxygen, alkalinity, specific conductance, transparency, turbidity, biological integrity, iron, or pH." We do not concur with this proposed language and recommend it be deleted, allowing the original language to remain because it is our understanding that these parameters may affect the toxicity of other compounds. In addition, please provide Miami-Dade County with clarification as to whether the state intended to convey that such parameters do not affect toxicity and therefore are not applicable.
- We concur with adding the following language to Bacteriological Quality – *Escherichia coli* Bacteria (6)(b) and *Enterococci* Bacteria (6)(c) in the table titled *Criteria for Surface Water Quality Classifications*- "If there are fewer than 5 samples in a month for a given location, the TPTV is assessed as a single sample maximum." This provides much needed clarification regarding limits for single sample or one-time sample results as well as results from fewer than five samples in a month for a given location.

Chapter 62-303, F.A.C.:

- As stated in the language proposed per 62-303.450(5)(a), we acknowledge the value of employing a method to obtain a statistically significant trend for a given nutrient or nutrient response and further acknowledge that employing the use of the Mann-Kendall Trend Test can provide valuable information that can inform management decisions with regard to whether a waterbody needs to be added to the Verified List. However, it is critical to note that the absence of a statistically significant increasing trend would not necessarily confirm that waters are not impaired or likely to become impaired. Values vary year to year and can exceed the criterion such that an increasing trend indicating significance cannot necessarily be perceived. Waterbodies with values above the criterion but without a statistically significant trend may still be impaired or become impaired, and the proposed language would not address impacts to surface waters when criteria are exceeded, albeit not always in an increasing, statistically significant manner. Furthermore, we do not concur with the proposed addition of 62-303.450(5)(b), which is required to be satisfied in addition to (5)(a) in order for a waterbody to be added to the Verified List. The proposed language of 62-303.450(5)(b) requires that the slope over the most recent 7.5 years expressed in units per year is at least 20% of the difference between the current levels and the applicable numeric nutrient criterion for that parameter. We propose that the language reflect "or" instead of "and" when relating 62-303.450(5)(a) and (5)(b), not requiring that both be met in order for a waterbody to be included on the Verified List. The proposed language suggests that in addition to demonstrating statistical significance using the Mann-Kendall Trend Test, the waterbody can withstand an increase in loading or concentration of a parameter above what is established as a numeric nutrient criterion. This can be a problem for estuaries like Biscayne Bay that have numeric nutrient criteria where established criteria are not necessarily exceeded more than once in three years but are likely impaired as evidenced by extreme events such as fish kills and seagrass loss. Additionally, the following language is proposed to be stricken from 62-303.450(5): "... the Department shall analyze the potential risk of nonattainment of the narrative nutrient criteria in paragraph 62-302.530(47)(b), F.A.C...." We do not concur with striking this language. Please provide Miami-Dade County with clarification as to why the existing language is being stricken, and whether DEP proposes to no longer analyze the potential risk of nonattainment of narrative water quality standards.

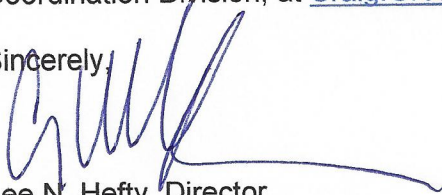
- Please provide Miami-Dade County with clarification regarding the language proposed per 62-303.350(6) as provided below in the draft document: "(6) The assessment of nutrient criteria expressed as a salinity or specific conductance dependent equation shall be based on salinity or specific conductance measurements taken at the same station and time as the applicable nutrient concentration samples...." Specifically, please provide an explanation as to how this assessment method is applied as well as if and how this method would be applied to Biscayne Bay.
- We are concerned and do not concur with the deletion of the following language in 62-303.150: "The Study List also addresses increasing nutrient or nutrient response variable trends in waterbodies." Increasing nutrient trends or nutrient response trends is likely one of the contributing causes of substantial seagrass loss in Biscayne Bay as well as turbidity and other issues as a result. The Study List should continue to address nutrient issues in waterbodies as stated in this Chapter and we recommend retaining this language.

Chapter 62-4.242, F.A.C.:

- We do not concur with the proposed weakening of the antidegradation permitting requirements by the addition of 62-4.242(2)(a)2.c. This would allow "environmental restoration and enhancement projects" that do not meet the requirements of either 62-4.242(2)(a)2.a. or 2.b. It is imperative that current water quality protections continue to apply even to projects that are intended to restore or enhance the environment.

Thank you for the opportunity to participate in the process of DEP's Triennial Review of Florida's water quality standards. We respectfully request an extension of time to review information DEP provides to us in response to the information requested above. Please let us know if you have any questions, and please direct responses to the abovementioned requests to Mr. Craig Grossenbacher, Chief of RER DERM's Water Resources Coordination Division, at Craig.Grossenbacher@miamidade.gov or via phone at 305-372-6522.

Sincerely,



For: Lee N. Hefty, Director
Division of Environmental Resources Management

c: Environmental Protection Agency Region IV
Biscayne National Park
South Florida Water Management District
DEP Biscayne Bay Aquatic Preserves