

TOWN OF PALM BEACH

Public Works Department

December 4, 2020

Daryll Joyner, Administrator
Water Quality Standards Program
Florida Department of Environmental Protection
2600 Blair Stone Road, Mail Station 6511
Tallahassee, FL 32399-2400

**RE: Proposed Rule Changes to 62-302.530(70), Florida Administrative Code
Florida's Water Quality Standards
Public Comment Submittal Regarding the DRAFT Implementation of the Turbidity
Criterion for Protection of Coral Reef and Hardbottom Communities, dated October 2020**

Dear Mr. Joyner:

This letter is being provided as public comment to the proposed changes to 62.302.530(70), Florida Administrative Code (F.A.C.), regarding turbidity, as you noticed via email on November 12, 2020. The Town of Palm Beach has an extensive roster of professionals to assist with coastal engineering and marine resource assessment monitoring. For the purposes of this proposed language review, assistance in developing the following comments were provided by Michael Jenkins, Ph.D., P.E., Applied Technology & Management, Inc., and Cheryl Miller, Coastal Eco-Group, Inc.

Please consider the following general comments:

- While the intent of the change is to protect coral species that are particularly vulnerable to turbidity impacts, the rule would apply to a broad class of hardbottom communities including those that are specifically adapted to high turbidity conditions. The rule should be narrowly focused on the specific coral species of concern (referenced by specie) and not reference general terms such as "hardbottom" and "coral" as a basis for application.
- The draft continues to reference tidal cycles as a basis for baseline turbidity, largely excluding wave influence, which is the primary contributor to turbidity in the surf zone.
- Compliance sampling relative to corals should occur at the location of the specific resource of concern. The 29 NTU standard should continue to apply relative to the mixing zone (away from resources of concern).

- As proposed, this rule change will drastically increase the costs of beach nourishment construction projects. This impact is contrary to current Florida Statutes (F.S.), specifically 161.088 F.S., which states that beach nourishment projects are in the public interest.

In addition to the general comments above, please consider the specific comments to the draft document. All comments are provided with reference to page number and section number in the draft document, and comments have been enumerated for ease of reference.

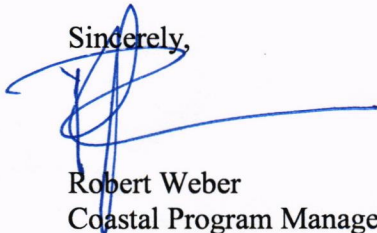
1. Section 1.3 - b, Page 4, Paragraph 1 – The statement regarding where hardbottom communities are found, or have been demonstrated to occur, needs to be refined and potentially shown on a map in more detail than the maps provided. Is it the entire box where hardbottom occurs or defined by the polygons where hardbottom has been mapped (i.e. are the linear sand tracts between the reefs excluded if at a certain buffer distance from reef)? For example, in Southeast Florida would areas of historic nearshore exposure be included even if no hardbottom has been documented there for decades?
2. Section 1.3 - b, Page 4, Paragraph 3 – Question regarding the statement “historically known to support extensive coral reefs and hardbottom coral communities.” - Does this include areas that have historically experienced sand burial (nearshore) and are currently buried?
3. Section 1.4, Page 5, Paragraph 1 - Not all of these species occur in all areas of the FCR. Maybe provide a better description of the ranges of these species within the FCR.
4. Section 1.4, Page 5, Paragraph 1 - Specifically describe the area of the FCR that is critical habitat for *Acropora* spp. - the north end of the FCR is not critical habitat.
5. Section 1.5, Page 7, Paragraph 1 – Please add reference to “gin clear water.”
6. Section 1.5, Page 7, Paragraph 2 – How are historical data used to establish natural background conditions defined? How many samples are sufficient?
7. Section 2.1, Page 8, Paragraph 2 - There should be recognition if the hardbottom occurs within a previously nourished template/ETOF and has been mitigated. Criteria should not apply to mitigated hardbottom.
8. Section 2.1, Page 8, Paragraph 3 – The statement, “This document only affects how background is defined and determined” is important and should be emphasized earlier.
9. Section 2.2, Page 9, Paragraph 2 - Beach Project Implications: a). and b). = Increased costs in the pre-application phase for data analysis and reporting c). = Larger increased costs in the pre-project planning and application phase for baseline station establishment and sampling and associated data analysis and reporting.
10. Section 2.2, Page 9, Paragraph 2- Regarding the statement that permit limits will be more conservative if applicant relies on existing turbidity data – It is not clear how this will affect beach projects. Seems like this is an incentive to get new baseline line data established (option “c” above) and strict permit requirements will be placed when choosing to use historical data.
11. Section 2.2, Page 10, Paragraph 2 - Both these methods (turbidity meter vs. sonde) have disadvantages that may equal out in added costs. Turbidity meter = increased field work and associated costs. Sonde = more expensive in general and QA/QC requirements with calibration can get costly.
12. Section 2.3-1, Page 10, Paragraph 4 - How is this defined? Could be interpreted very broadly or narrowly.

13. Section 2.3-2, Page 10, Paragraph 5 - How is this (seasons) defined? Wet/Dry or Summer/Winter/Spring/Fall? Based on the wording this will be determined by permitting staff on project by project basis?
14. Section 2.3-3, Page 10, Paragraph 6 - Regarding the station samples shall not differ by more than 10 meters - This is the standard margin of error in many GPS devices (Garmin etc.). This will be much easier to accomplish with differential GPS devices.
15. Section 2.3-4, Page 11, Paragraph 1 - Regarding pre-project turbidity samples -Unclear how many are required - at least 4 tidal cycles at each station but how many stations?
16. Section 2.3-6, Page 11, Paragraph 3 - Regarding the statement that pre-project data set requirements are relatively small - "small" is unclear.
17. Section 2.3-6, Page 11, Paragraph 3 - Regarding screening and flagging turbidity results for outliers - This is an increased burden on the applicant.
18. Appendix A - Table A1 - Coral ECA values pertain to us. It seems as though we can use these values rather than establish a baseline for each project? These seem low. Maybe it is worth to collect pre-project samples for each project?

The Town of Palm Beach appreciates the opportunity to review and comment on this important topic. Please note that, while the Town appreciates this opportunity, the review time is too abbreviated to fully address all potential concerns, particularly given the time of year in construction season and compounded by the current pandemic situation.

As always, the Town is grateful for our long-standing partnership with FDEP to provide storm protection through implementation of our Coastal Management Program.

Sincerely,



Robert Weber
Coastal Program Manager

cc: H. Paul Brazil, P.E., Public Works Director
Patricia Strayer, P.E., Town Engineer
Michael Jenkins, Ph.D., P.E., Applied Technology & Management, Inc.
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Pepper Uchino, FSBPA
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Public Works File