



**ENVIRONMENTAL PROTECTION AND GROWTH MANAGEMENT DEPARTMENT
ENVIRONMENTAL PLANNING AND COMMUNITY RESILIENCE DIVISION**

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November 19, 2019

Kaitlyn Sutton
2600 Blair Stone Road
Mail Station 6511
Tallahassee, FL 32399-2400

Dear Ms. Sutton,

To supplement agency comment provided at the November 6, 2019 Workshop in Fort Lauderdale, please accept the following comments on behalf of Broward County in response to the proposed revisions to the turbidity criterion in subsection 62-302.530 (70), Florida Administrative Code (F.A.C.). As previously stated, Broward County supports revisiting current turbidity standards for coral reef protection. However, the County is opposed to the current Draft Implementation of the Turbidity Criterion for the Protection of Coral Reef and Hardbottom Communities (Draft Rule) by the Florida Department of Environmental Protection (FDEP). The Draft Rule proposes to revise project turbidity limits to those encountered during sampling of still water conditions. These turbidity limits do not account for seasonal variability and will create significant risk to the County's permitting process and contractors during bidding and construction of projects. This risk can be expected to significantly increase the cost of coastal projects without corresponding benefits.

While the Draft Rule proposes consideration of the natural variability in turbidity levels, the guidance substantially biases the data towards unnaturally calm conditions with artificially low turbidity levels based on the following:

- Sampling must be done when weather conditions remain relatively uniform throughout a tidal cycle.
- Applicants must avoid sampling when weather fronts are moving through the area or when wind speed or direction is expected to change significantly.
- Data collected during these periods of "changing or extreme weather conditions" shall not be used.
- Clarification of these weather events or conditions would be required as they are not defined.
- Standards must be assessed over three (3) tidal cycles, at a minimum.
- The proposed method for establishing background conditions is defined as incorporating natural variability. However, if any outliers are found within the dataset, guidance requires removal of these prior to establishment of turbidity standards. Removal of these datapoints specifically excludes natural variability from the data set.

There is also concern about the pre-project baseline not being established no more than 3 months prior to beginning a project. For purposes of bidding and awarding a project, this is impossible.

The construction contract must include the allowable limits of turbidity, and the contract must be solicited for bid more than three months before construction is to begin; and, the work to prepare the construction contract (and cost estimates, etcetera) must begin several months before the solicitation. In all, the key particulars of a project, such as the turbidity allowances, must be known at least 9 months in advance of the beginning of construction, at minimum. Additionally, the field data have to be collected, analyzed, coordinated with FDEP, with subsequent modification of the permit. Based upon the complexity of this task, the total process alone could entail 5 months, which would be outside the 3-month window.

The proposed changes would significantly increase project costs, temporary shutdowns, and the time required to complete a project. Based upon an industry analysis, it is reasonably expected that the minimum probable cost of establishing the baseline turbidity criterion for the affected projects would be between \$890,000 and \$1,128,000 per year. Construction shut-downs and schedule delays would increase significantly because of practical difficulty in operating below potentially impractical turbidity compliance levels, as demonstrated by existing data. The probable occurrences, risk and costs of dredge shut-down from turbidity exceedances must be anticipated by the contractor in his bid – based upon the project details, contract requirements, and maximum turbidity thresholds allowed by the permit. The contractor's actual cost of anticipated shut-downs and delays from turbidity exceedance is folded within the fixed and/or unit costs of the contract bid. This cost is not less than \$5000 per hour at year-2020 levels – or more realistically it is on the order of at least \$5,800 per hour, which is the probable actual minimum cost to the contractor (and the construction contract) in 2020. Furthermore, the delays related to turbidity related shut-downs would cascade to subsequent projects (forcing their delay or cancellation) and/or result in increased need to construct outside the current environmental windows.

Additionally, extensive time, money, and effort has been expended by Broward County, state and federal agencies relating to the Sand Bypass and the federally authorized Port Everglades Deepening and Widening Project. A change to the criteria for such projects could devastate established timelines and may prevent feasibility. Current turbidity standards should remain in place during the final permitting of these projects.

The turbidity criterion for corals will affect dredging, beach nourishment, resiliency and other projects. Implementation of this protocol could impose frequent shut down of coastal construction projects and idle time, resulting in significantly higher costs and extensive delays in construction timelines. **Broward County supports a more protective turbidity standard for coral reef protection, but recommends the State lead a multi-year study and evaluation of seasonal turbidity to develop proposed seasonal standards, inclusive of a more complete range of natural variability, and based upon established science.** We appreciate your consideration of the above comments and recommendations and look forward to working with the State on this important matter.

Sincerely,



Jennifer L. Jurado, Ph.D.
Chief Resilience Officer and Division Director
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