



FLORIDA SHORE & BEACH PRESERVATION ASSOCIATION

A League of Cities and Counties on Beach and Coastal Issues

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TO: Kaitlyn Sutton, FDEP

FROM: Pepper Uchino

DATE: November 22nd, 2019

RE: FDEP Draft Revisions to Rule 62-302, F.A.C. and Draft Implementation of the Turbidity Criterion

The Florida Shore and Beach Preservation Association respectfully submits the following comments regarding the draft turbidity criterion and the associated draft implementation document for the protection of coral reef and hardbottom communities that were presented as part of the Florida Department of Environmental Protection's Triennial Review of Florida's Water Quality Standards.

While we largely support and agree that there is justification for revisiting turbidity standards and implementation and fully support protecting coral reefs and hardbottom communities, our organization has significant questions and concerns regarding the draft proposed changes and how they will affect beach restoration projects. In general, we believe the proposed changes are unclear, confusing, restrictive, onerous, will potentially have significant economic consequences to many beach projects in a large portion of the state, and will not necessarily be more protective of the natural resources. We are confident you will receive detailed comments from our member local governments whose projects will be impacted, as well as from technical experts in the field that manage beach restoration projects. While we won't repeat each individual comment, we urge you to seriously consider their detailed technical comments and questions. We instead offer the following overriding questions and comments for your consideration:

1. Where will these turbidity standards apply? Beyond the Florida Reef Tract, the draft rule states, "or other areas of the state where coral reef and hardbottom communities are currently found." Furthermore, the implementation document states, "where coral and hardbottom communities are known to occur or potentially occur" which encompasses coastal areas from Manatee to Brevard Counties. What is the threshold and proximity to a beach project for determining whether hardbottom occurs or potentially occurs? Is there justification for this rule change north of the Florida Reef Tract, specifically reef communities that are accustomed to higher wave energy, burial, and turbidity? How will the

Department consider areas of hard bottom habitat that is naturally adaptable to high wave energy and turbidity? What if hardbottom is already mitigated for via artificial reef?

2. The timing and methods for measuring background are burdensome, confusing and not realistic in project implementation. For example, “pre-project baseline conditions shall be established no more than three months before beginning of the project.” Not only is this impossible given permitting and bidding timelines, but it won’t necessarily represent “natural” conditions at the time of construction. Beach restoration permits are sought at least a year in advance of anticipated construction, and beach restoration permits have a 15-year life. How will these baseline conditions be integrated into a permit? In addition, these background baseline conditions will likely be unknown at the time of bidding, which also occurs more than three months before the project.
3. The methodology for determining background seems skewed and does not seem that it will lead to a true natural background given the restrictions on timing and weather conditions. How will the Department determine that the background data collection occurred “when weather conditions remain relatively uniform?” The Department does acknowledge that projects can span multiple seasons with mention of additional “season specific” turbidity limits, which only creates more confusion.
4. The field collection process is somewhat confusing and time-consuming, and there are technical questions and practical concerns regarding actual implementation. These questions include “reference” vs “baseline” stations, location of the pre-project baseline stations, and the practicalities of a 10 m horizontal accuracy.
5. It is apparent that the methodology will result in compliance levels lower and potentially much lower than the current 29 NTU limit. The change will affect numerous projects around the state. As a result, there will be very real ramifications to beach restoration project costs, both because of the NTU restriction and because of the risk related to project unknowns. Dredging contractors will have to account for inevitable, possibly lengthy, and unknown shutdowns. This “idle” time with unknown timelines have the potential to impact Florida’s beach projects by multi-millions of dollars per year. Our technical project experts estimate that the costs just to establish background on all projects (approx 20) each year could be on the order of close to \$1 million per year. The cost, per project, for project shut-down time when the lower turbidity limit is exceeded, could be on the order of \$500k per project, or \$10 million for all projects each year. In turn, and in addition, if projects take much longer to construct because of down time, this will impact (and for some delay) the number of projects that can be built each year given dredging equipment constraints. Dredging contractors may also have to mobilize more than once per project, with mobilization fees on the order of \$4 million per event.
6. Was historic permit-required project turbidity monitoring data considered as part of the development of this methodology and process? The Department has a wealth of monitoring data at its disposal. The Department should also consider applying these criteria in a handful

of test case projects to determine the practicalities of implementation, costs, and effectiveness.

In summary, we strongly urge the Department to take the appropriate time to seriously consider the comments on the draft turbidity rule and implementation document and revisit these changes – with additional and timely stakeholder and expert input, which seems to have been left out of the development of the current proposal. We are not suggesting that turbidity standards associated with beach restoration projects must remain the same. However, we believe that further consideration must be given to the development of the methods to determine project-specific turbidity limits before they are written as rule. Any proposed changes will warrant a full cost/benefit analysis before consideration of such changes. FSBPA is fully prepared to assist the department to secure the most accurate and timely cost information associated with beach nourishment projects.

Finally, it must be noted that the opportunity for public comment at the end of the November 4th webinar was abruptly cut short. Following the public in-person comment period, the meeting organizer opened public comment from the phone. However, the organizer failed to mention how we were to unmute our phone lines. Within what seemed like seconds, assuming there was no one left on the phone, the organizer then hastily ended the workshop/call. As the only workshop with phone access, there were participants – including us – disappointed that we lost the opportunity to comment, especially after such a long workshop.