

November 22, 2019

Kaitlyn Sutton

Florida Department of Environmental Protection

2600 Blair Stone Road, MS 6511

Tallahassee, FL 32399-2400

Via E-mail: Kaitlyn.sutton@FloridaDEP.gov

Dear Ms. Sutton:

On behalf of Florida Pulp and Paper Association Environmental Affairs ("FPPAEA" or "the Association"), thank you for the opportunity to submit comments related to the recent Triennial Review workshops held November 4-7, 2019, which presented an overview of proposed updates to state water quality standards as part of the Triennial Review. We appreciate the hard work and dedication of you and others at the Florida Department of Environmental Protection (the "Department") behind this comprehensive update.

FPPAEA is the State trade association for Florida's Forest Products Industry, representing the manufacture of pulp, paper, and packaging. The Forest Products Industry is ranked in the top 5 manufacturing sector employers for both number of jobs and employee compensation. The industry is also Florida's leading manufacturer in sustainability and providing green jobs. The industry employs over 30,000 Floridians in high-paying jobs, leads the way on recycling and renewable energy generation, and sustainably manages Florida's forests. FPPAEA member mills are located throughout North Florida and, as entities heavily regulated by the Department, we have a significant interest in changes to water quality standards.

The Association would like to provide substantive comments on two proposed standards; (1) the narrative turbidity standard that applies to all fresh and marine waters in Florida and (2) the adoption of EPA's 2019 recommended standards for Microcystins and Cylindrospermopsin. Our comments are arranged by topic below.

Narrative Turbidity Standards for All Florida Waters

The Association wants to express concerns about the Department's apparent plan to apply a narrative turbidity standard in freshwater and non-hardbottom marine waters. According to the Department's presentation, it is considering adding the following narrative standard in addition to the existing numeric standard for turbidity:

"nor shall turbidity levels be increased to levels that negatively affect designated uses or result in increased sedimentation or reduced light transmission to the point that normal growth, function, reproduction, or recruitment of aquatic life is impaired."

As written, this language raises significant questions of interpretation. For example, this language would appear to open regulated entities to third-party challenges asserting that any increase, even if de minimis, will negatively affect a designated use, or result in “increased sedimentation” once the substances causing turbidity settle to the water bottom. Similarly, it will not always or even usually be clear what constitutes “normal” growth, function, reproduction, or recruitment. Normality would seem likely to vary by species and location.

The Department recognized the natural variability and background levels of turbidity in proposing the criterion for corals, hard bottom and worm rock communities. If the Department is going to move forward with a narrative standard for all other waters, the standard should also reflect that turbidity levels are naturally variable and have background levels not influenced by anthropogenic activity.

Overall, the proposed narrative standard is very vague. It is so vague, in fact, that it will not allow regulated entities to accurately determine whether they are in compliance with the new standard.

Equally problematic is the lack of any clear reason to apply this standard in freshwater or marine waters without coral. While we appreciate the Department’s candid acknowledgement that more work remained to be done on the technical support document to provide such a justification, we are troubled by the fact that the same language for the narrative standard was previously offered and no revisions were subsequently made to the language or the pertinent portions of the technical support document, despite comments and concerns from FPPAEA and other entities.

The persistence of the narrative turbidity standard without any support in the technical support document could raise questions about the Department’s motivation for including the narrative standard. At a minimum to resolve this issue, the Department should provide that justification in a revised technical support document comfortably in advance of another round of workshops to allow meaningful review. Better still, we hope the Department will reconsider and abandon the use of a narrative criteria for turbidity in freshwater and marine regions without coral or hard-bottom ecosystems.

Water Quality Criteria or Swimming Advisories for Microcystins and Cylindrospermopsin

The Association has concerns about adopting EPA’s 2019 recommended criteria for Microcystins and Cylindrospermopsin at this time. The Association has three primary concerns on the adoption of these standards.

First, the adoption of EPA’s 2016 recommendations for Microcystins and Cylindrospermopsin is not based on the most current science that was the basis of EPA’s revised and more suitable criteria proposed in May 2019. In its fact sheet published in May 2019, EPA states that “(T)hese recommended AWQC/SA accurately reflect the latest scientific knowledge on the potential human health effects from recreational exposure to these two

cyanotoxins.”(emphasis added) In developing these criteria, EPA relied on the existing peer-reviewed science demonstrating the harmful human health effects resulting from exposure to these toxins. The Association does not support the adoption of older criteria based on older and insufficient science.

Second, the underlying science that provides a clear cause-effect relationship between a causal pollutant and the exceedance of the Microcystins and Cylindrospermopsin standards is not well developed or understood at this time. The adoption of EPA’s recommended standards as recreational water quality criterion becomes problematic when assessing the water for NPDES permitting and determining the impaired status without this clear cause-effect relationship.

Third, in its fact sheet published in May 2019, the “EPA recommends that when more than three excursions occur within a recreational season and that pattern reoccurs in more than one year, it is an indication the water quality has been or is becoming degraded and a water body may not be supporting the recreational use. EPA expects states and authorized tribes to indicate the number of years the pattern of degradation can occur and not impair the recreational use.” The EPA defined excursion as exceedance of the criterion in the water column during a 10-day assessment period. Prior to adopting these criterion, the Association would like to request that FDEP develop and adopt sampling and analytical methods and also provide implementing guidance in how the exceedance of these standards, in magnitude, duration and frequency, might result in the water body being listed as impaired on the Department’s 303(d) list.

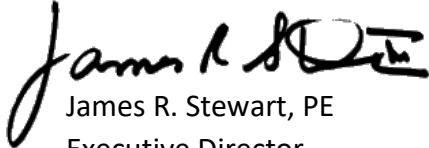
As the Association previously commented, we support the repeal of the iron standard for predominately marine waters. The EPA currently does not have a recommended standard for iron in marine waters and in review of several other jurisdictions considering a criterion for iron in marine waters, the conclusion reached was that there is not sufficient science to support such a standard. In its March 2008 Overview Report on ambient aquatic guidelines for iron, the Ministry of Environment for Province of British Columbia concludes the following;

“Water quality guidelines to protect marine life and other water uses such as wildlife, agriculture (i.e., livestock watering and irrigation), drinking water and recreational were not recommended because relevant data were not available from the literature.”

Also, the Association continues to support other revisions put forth by the Department in the November 2019 workshops. The Association recommends additional public workshops prior to moving forward on the complex issues discussed above.

Thank you for your attention to our comments. If you have any questions regarding our comments, please do not hesitate to contact me. I can be reached by telephone at (813) 215-8856 or by email at rstewart@fppaea.org. Thank you for your time and attention to our concerns.

Best Regards,
Florida Pulp and Paper Association EA, Inc.



James R. Stewart, PE
Executive Director

cc: Greg Munson, Gunster Law
FPPAEA Board Members