

May 31, 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 hearings held May 14-16, 2019, which presented an overview of potential 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. Our comments are generally supportive of the Department's approach towards updating human health criteria and the proposed repeal of the marine iron standard, but we express concerns about the potential narrative standard for turbidity.

FPPAEA is the State trade association for Florida's Forest Products Industry, representing pulp, paper, packaging, and wood products manufacturers, and forest landowners. 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.

At the hearing in Tallahassee of May 14, 2019, the Department explained that updates to human health water quality criteria ("HHC") would not occur in this triennial cycle. According to the Department, the delay would allow the Department to complete a study to better establish the amount of fish consumed in Florida on a per capita basis. We believe a properly conducted study is critical to the scientific validity of any future HHC and appreciate the Department's thoughtful approach. As you are undoubtedly aware FPPAEA opposed the most recent HHC because, among other reasons, we did not accept the science supporting the Department's proposed fish consumption rate, which we asserted was likely too high. The lack of any consensus about the fish consumption rate is underscored by other challenges to the same HHC rule by the Seminole Tribe of Florida and the City of Miami, both of whom

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maintained that the fish consumption rate relied upon by the Department was too low. Only a rigorous and well-conducted study combined with a scientifically valid species apportionment is likely to resolve this dispute. We commend the Department for undertaking the study and are encouraged by the Department's current methodical approach. We hope there will be an opportunity to review and comment on the proposed methodology.

The other advantage in a delay to revisiting HHC is that it allows the Department to consider EPA's policies contained in the approvals of human health criteria for the States of Idaho and Washington.

We also support the planned repeal of the marine Iron standard. 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."

Finally, we want to express concerns about the Department's apparent plan to apply a narrative turbidity standard in freshwater. 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. 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. Some common understanding might ultimately be resolved in a given situation about what constitutes "normal" in this context, but likely only after costly third-party litigation.

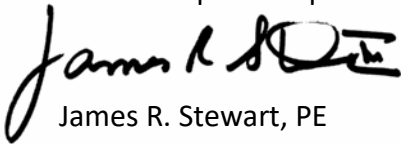
Equally problematic is the lack of any clear reason to apply this standard in freshwater. While the Department explained that the current numeric standard may not sufficiently protect corals and other marine hard-bottom ecosystems, no reason has been given to extend this narrative criteria to freshwater, or even marine regions that lack coral and hard-bottom ecosystems.

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.

Also, at this time the Association generally supports other revisions put forth by the Department in the hearings.

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.

A handwritten signature in black ink, appearing to read "James R. Stewart". The signature is stylized with a large, flowing "J" and a distinct "S" at the end.

James R. Stewart, PE
Executive Director

cc: Greg Munson, Gunster Law
FPPAEA Board Members