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October 9, 2024

Mr. John Coates
Florida Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, FL 32399-3000

Transmitted via email: WQEA_2023@FloridaDEP.gov

RE: Draft Rule 62-332, Florida Administrative Code

Dear Mr. Coates:

Resource Environmental Solutions, LLC (RES) is pleased to provide comments to the Florida Department of Environmental Protection (FDEP) regarding the Draft Rule: Chapter 62-332, F.A.C., pertaining to Water Quality Enhancement Areas (WQEA) and Chapter 62-306, F.A.C. pertaining to Water Quality Credit Trading (WQCT) program published on July 30, 2024

As FDEP continues to review and develop the rules to administer these programs, it is important for the department to consider the unique role of all stormwater management / compliance options and to provide clear guidance on the applicability of each program relative to the entity or applicant seeking to meet their regulatory obligations.

Each program provides a valuable option to developers across the state but has limited applicability based on the underlying statutes and regulations. Without clear delineation between these programs, investment in the restoration of large-scale water quality projects could be delayed due to confusion from buyers or the inappropriate use of certain "credits".

Regional Stormwater Management Systems (RSMS)¹

Regional systems can provide a cost-effective solution to many commercial and residential developers. Per the Chapter 62-330, F.A.C., Environmental Resource Permit Applicant's Handbook Volume I, section 9.7.3, the applicability of an RSMS is determined by the term "drainage area" which is limited "to the land or development that is served by or contributes stormwater to the regional system," (pg. 97). Furthermore, these systems are:

designed, constructed, operated, and maintained to collect convey, store, absorb, inhibit, treat, or harvest stormwater to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from multiple parcels and projects within the drainage area served by the regional system, (pg. 97).

This approach should be interpreted to limit the applicability of a RSMS to only onsite or adjacent parcels that can demonstrate a direct connection to the RSMS prior to discharging to the regional system, and is subject to RSMS having appropriate allocation. The RSMS does not have statutory authority to generate or sell an annual or perpetual credit.

¹ "Environmental Resource Permit Applicant's Handbook Volume I," June 28, 2024.

https://www.sfwmd.gov/sites/default/files/documents/swerp_applicants_handbook_vol_i.pdf



Water Quality Enhancement Area²

A WQEA is intended to satisfy environmental resource permit (ERP) applicants with a perpetual offset to assist in meeting the net improvement standard required by Chapter 62-330, F.A.C., Environmental Resource Permit Applicant's Handbook. The service area should be limited by the "geographic area in which the water quality enhancement area could reasonably be expected to address adverse impacts," (373.4134, F.S.). WQEAs are meant to be offsite, regional solutions to satisfy multiple ERP applicants within a watershed.

Water Quality Credit Trading

Credits under this program are limited to entities with a load or wasteload allocation in a basin management action plan (BMAP) or regional assurance plans (RAPs). The duration of these trades is on an annual basis and not applicable to permanent offset requirements under an ERP.

Below is a summary overview of a broad grouping of potential buyers and the applicability of each of the programs.

BUYERS	RSMS	WQEA	WQCT
ERP Applicant - With directly connected SWM prior to discharging to Regional System	YES	YES	NO
ERP Applicant - Not directly connected to SWM prior to discharging to Regional System	NO	YES	NO
BMAP/RAP - Entity with Load Allocation	NO	YES	YES
BMAP/RAP - Entity with Wasteload Allocation	NO	YES	YES

*SWM – Stormwater Management

To attract investment in the development of a vibrant market with high-quality, durable environmental projects and meaningful competition for buyers, the applicability of these "credits" must be correctly identified and only utilized within narrowly authorized circumstances.

Thank you for your consideration of our comments and we look forward to working with FDEP to finalize

Sincerely,

Justin Freedman | General Manager, Florida
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² Water Quality Enhancement Area, 373.4143, F.S (2024).

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.4134.html