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To: [WQEA 2023](#)
Cc: [John Maehl](#); [James Gorton](#)
Subject: Water Quality Enhancement Area Rulemaking - HB 965
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EXTERNAL MESSAGE

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Thank you for allowing Martin County this opportunity to review and comment on the newly drafted 62-332.200(4). This rule allows the County to target areas where additional water quality treatment would benefit our water resources, the St. Lucie River and the Indian River Lagoon. The following are our comments on this new rule:

1. Section 62-332.200(4), Line 46, does the definition of “special district” include “community development districts”? This rule seems to only allow this activity to be performed by governmental entities to server governmental entities. A community development district (CDD) is formed under F.S. 190 and are considered “special districts” under the Florida Department of Commerce. These districts are often formed by private companies. By including these entities into the activity, a CDD could sell additional credits from their master system to a municipality. Is this the Department’s intent?
2. Section 62-332.200(8), Lines 55-57 define “Water Quality Enhancement Areas” (WQEA) as a “natural system”. Lines 48-50 defines “natural system” to mean a man-made or altered ecological system supporting aquatic and wetland-dependent natural resources, including fish, aquatic and wetland-dependent wildlife habitats. The WQEA definition should include “best management proactive for stormwater treatment” (BMP) since BMPs are wet and dry retention/detention systems that reduce nutrients and pollutants as defined in Lines 32-35 unless it is not the Department’s intent to use these systems yet 62-332.400(4)(c) mentions performances of BMPs in the credit generation. Please include BMP in the definition of WQEA.
3. Section 62-332.200(10), the definition of the “water quality enhancement service area” is unclear. It defines that the limited geographic area of hydrologically connected downstream waters. Should this be defined as upstream waters. Also, when looking at credit reductions, typically it is the flow upstream of the WQEA that is being treated. Should the area be the upstream area from the discharge point, or would it be defined as the impaired watershed as defined in the BMAP or RAP?
4. Section 62-332.300(2), states that waterbodies should not be designed to prevent fluctuating water levels. I am unsure that there are any waterbodies that wouldn’t have fluctuating water levels. Please clarify the intent of this requirement.
5. Section 62-332.300(4), “pre-development” needs to be defined. When the BMAP or RAP are developed, they define the year of the land use that they use to determine the load reductions. “Pre-development” should be associated with the BMAP or RAP year of definition unlike the Statewide Rule which is using the time of application.
6. Section 62-332.300(7), Line 93-94 says that the governmental entity has to provide reasonable assurance of meeting department rules for design and construction. I believe the intent of the statement is that the applicant must demonstrate that it has at its best tried to

meet the department rules and has demonstrated a need to purchase WQEA credit. The way this is written indicates that the entity is meeting the rules and therefore would not need to purchase the credit.

7. Section 62-332.400(d), please provide definition for “pollution control activities”.
8. Section 62-332.500(3) says that the project should be downstream of the WQEA. Does this defeat the purpose of the WQEA of treating the water if the project is downstream of it? Line 194 says the project has to be upstream.
9. Section 62-332.500(3)(c), Line 193, please explain what “total impacts” means.
10. Section 62-332.600(11), Line 253 states that a governmental entity may use WQEA for its own water quality needs however it can’t sell credits for third parties. Does this mean that the WQEA must be used only for credits and cannot serve 2 purposes. If there is excess water quality volume, can a government sell that?
11. Section 62-332.700(2) and (3) mention monitoring requirements. Monitoring ever 2 weeks flow and water quality in the perpetuity of the project is extreme and costly. Can there be monitoring points or periods to reduce these requirements. For example, maybe conduct the monitoring the first year, the fifth year, and the tenth year to gage performance. This would be consistent with the lifespan of a BMP.
12. Section 62-332.900(1)(a), since the owner is a governmental entity, will the department be looking for a designated account that finances the WQEA? Please explain.
13. Section 62-332.900(4), there is mention of land use changes. Can a WQEA be designated conservation land? For example, a governmental entity purchases a agricultural piece of land and changes it to conservation. Can those credits be used for selling?
14. Are credits a one-time purchase or does the purchaser pay an annual amount? There are annual expenses for maintaining the WQEAs.

Should you have any questions or need any additional information, please let me know.

Thanks.



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