

Florida Department of Environmental Protection
Environmental Resource Permitting
Via email to: WQEA_2023@floridadep.gov

Re: Chapter 62-332, F.A.C., Water Quality Enhancement Area Rulemaking

To Whom It May Concern,

Please accept the following as St. Johns RIVERKEEPER'S (SJRK) formal public comment to the above referenced Rulemaking.

62-332.200 Definitions:

1. **62-332.200(10) - "Target Waterbody"** means the Hydrologic Unit Code ("HUC") 12 subwatershed that contains the **Credit Purchaser's project**. As currently drafted, this section does not specify whether the phrase "Credit Purchaser's project" in the "Target Waterbody" refers to a) the enhancement project or b) the project that requires the mitigation.
 - a. We suggest adding a new definition for "Credit Purchaser's project" making this delineation more explicit.
2. **62-332.200(17) - Perpetual Management Phase:** As currently drafted, the Rule fails to specify how often (if at all) the WQEAs are inspected during the Perpetual Management Phase. It also fails to notate what, if any, reimbursements are to be made to DEP as the agency incurs costs associated with inspection.
 - a. We suggest adding text to this section that specifies the following:
 - i. "Perpetual water quality improvements and land management activities shall be implemented, maintained, **and inspected** in accordance with the WQEA permit and this rule."

62-332.300 General Requirements:

1. As currently drafted, this section does not specify whether a minimum or maximum acreage exists for a WQEA. We recommend adding a section that references both a minimum and maximum acreage.
2. **62-332.300(5) - "No portion of a WQEA shall be authorized to meet the mitigation, water quality treatment, or compensatory requirements of any other permit or regulatory program, except for BMAPs and RAPs and as otherwise authorized in this chapter."**
 - a. We support this language to prohibit "double dipping" and the dilution of ecological benefit.

3. **62-332.300(7)** - “WQEAs may not be established on lands purchased for conservation pursuant to the Florida Forever Act or the Florida Preservation 2000 Act.”
 - a. We suggest adding that “WQEAs may not be established on lands purchased for conservation pursuant to the Florida Forever Act, the Florida Preservation 2000 Act, **or Chapter 259, Florida Statutes.**” This encompasses the broader body of Florida law that governs the acquisition, ownership, management, and protection of conservation lands after they are purchased.
4. **62-332.300(9)** “...The agency **will** approve the use of enhancement credits if the agency receives a request for the use of enhancement credits and the applicant reasonably assures the agency through modeling, **or other evaluations**, or a combination thereof, that such use will not cause or contribute to a violation of water quality standards.”
 - a. Consider revising “**will**” to “**may**”
 - b. We recommend either 1) revising “**or other evaluations**” to reference more specific examples, analytical tools, etc. or 2) revising (9) to read “or other evaluations more specifically outlined in this Rule”

62-332.400 Establishment of Enhancement Credits

1. **62-332.400 (3)**: ...“If the WQEA is located within a BMAP or adopted RAP, the Owner must use the most recent numerical models or analytical tools **used for that BMAP or RAP...**”
 - a. **As currently drafted, this language would allow out of date models or analytical tools**, as long as they are the most recent models used in a specific BMAP or RAP. This creates the potential for using outdated information when newer tools are available, and sets a bad precedent. For example, *the 2025 Lower St. Johns River Mainstem BMAP continues to rely on the original modeling framework developed for the 2008 BMAP and TMDL, while the basin-wide model update is not scheduled for completion until 2028.*
 - b. **We request the following revisions to ensure that the model or analytical tool used is appropriate for determining the pollutant loading reductions for the proposed WQEA:**
 - i. **Strike 62-332.400(3) entirely, and revise (4) as follows:** Regardless of whether the WQEA is located within a BMAP or adopted RAP, the Owner must either:
 1. Use a standard numerical model or analytical tool that has been approved by the Department or
 2. Propose and submit a numerical model or analytical tool for the Department review and approval for the proposed WQEA.

62-332.500 Service Area and Enhancement Credit Locational Valuation Factor Adjustments

1. **62-332.500(6)(c)(1):** “The Transport Factor shall be calculated as $TF = 1/(1-Attens)$, where Attens is the attenuation between the WQEA’s point of discharge and the Credit Purchaser’s point of discharge.”
 - a. What does the “Credit Purchaser’s point of discharge” mean? Does it mean the point of discharge at the Credit Purchaser’s project?

62-332.530 Perpetual Protection of Water Quality Enhancement Areas.

1. As currently drafted, the Rule fails to specify how often (if at all) the WQEAs are inspected during the Perpetual Management Phase. It also fails to notate what, if any, reimbursements are to be made to DEP as the agency incurs costs associated with inspection.
 - a. We suggest adding a new Section (9) that specifies the following:
 - b. “In addition to conditions requiring emergent inspection, WQEAs will be regularly inspected every two (2) years by the Department. Access to the real property shall be provided to the Department during regular business hours. Reimbursement for site inspection shall be made in accordance with section 550 (13) herein.”

62-332.550 Financial Responsibility

1. **62-332.550 (3)(h):** “If the Owner fails to restore the WQEA in accordance with the Permit within a reasonable period of time to its functioning condition prior to the catastrophic event, the Owner shall be in material noncompliance with the WQEA Permit.”
 - a. The above section fails to state with specificity what constitutes a reasonable period of time in which to restore the WQEA. Leaving this timeframe ambiguous creates lack of clarity and enforceability. **We recommend replacing “within a reasonable time period” with “within ninety (90) days”.**
2. **62-332.550(13)(d) - Cost Estimate, Perpetual Management Phase:** Considering that management is to be conducted in perpetuity, it is advisable that DEP have their inspection fees be reimbursed in perpetuity as well, rather than being wrapped into a one-time permit fee.
 - a. **We recommend that this section be revised to add recurring DEP inspection costs, including but not limited to staff time, expert assessment, lab fees, and travel.** This will help the Department maintain the budget and staff necessary for required inspections.

GENERAL QUESTIONS:

1. Is there an existing Master List of models that would be considered sufficient for determining the fate & transport of pollutants? It would be extremely helpful to have a Resources section that lists the descriptions and capabilities of different numerical models, such as ArcNLET, WAM, CaMPSim-3D, WAVE, etc.
2. Does FDEP have the personnel available to process and review these additional applications?

St. Johns RIVERKEEPER thanks the Department for continually and diligently working to improve the health of our watershed for current and future generations, and for the opportunity to provide public comment on this Rulemaking. You may reach out with questions or feedback to myself, or Zoe Tressel.

Sincerely,



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