



The Wetlandsbank™ Company LLC

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June 10, 2026

Timothy Rach
John Coates
Mr. Borja Crane-Amores
Florida Department of Environmental Protection

RE: The Wetlandsbank Company, LLC Comments Regarding Rulemaking on Chapter 62-332, F.A.C. pertaining to Water Quality Enhancement Areas (WQEAs)

Dear Mr. Coates, Mr. Rach and Mr. Crane-Amores

The Wetlandsbank Company, LLC (“TWBC”) appreciates the opportunity to provide comments to the Florida Department of Environmental Protection (DEP) regarding Draft Rule Chapter 62-332, Florida Administrative Code on Water Quality Enhancement Areas.

TWBC supports the use of WQEAs to provide offsite compensatory treatment under Section 373.4134, Florida Statutes (F.S.) As requested, TWBC developed a red-line version of the rule with our suggested modifications. Comments are also included in bullets on specific language.

This letter summarizes some of TWBC’s broad areas of concern.

I. DEP’s RULE MUST BE CONSISTENT WITH STATUTORY LANGUAGE

DEP must take care to assure that proposed language is not inconsistent with statutory language. In some places, DEP’s proposed language also exceeds its rule making authority. TWBC’s red line revisions note the specific language that is either inconsistent with the statute or exceeds the statutory authority.

II. THERE IS NO STATUTORY AUTHORITY FOR A LOCATION VALUE FACTOR

In SB 848, the Legislature discusses the service area by specifically referencing a HUC 8. The Legislature, however, did not provide authority for the use of a location value factor (“LVF”). By contrast, for mitigation banking, the legislature provided specific language and authority for the use of a proximity factor. If the legislature intended for a LVF to be used in this rule, the legislature would have included language in the statute, just as they did for the mitigation bank proximity factor. We therefore request that DEP look to the legislature’s intent on service areas set forth in SB 848, which relies upon HUC 8s.

Additionally, other compensatory treatment options are not subject to a LVF. WQEAs should not be penalized by stricter requirements from the imposition of a LVF.

III. THE PENDING MITIGATION BANK RULE SHOULD BE THE VEHICLE TO ADDRESS FINANCIAL ASSURANCE

The financial assurance rule requirements are being addressed as part of the current DEP mitigation bank rule development. Delay in WQEA rule adoption will occur if DEP attempts to address this controversial subject in this rule. DEP initiated rule development in 2022 on mitigation bank financial assurances, and has a legislative mandate to complete rule development by June 2023. (See 373.41365, Fla. Stat.) However, controversy remains on the rule language. Addressing financial assurances in two separate rules creates the potential for inconsistent results. Therefore, we request the section on financial assurances be removed, and the applicant required to comply with Rule 62-342.700, F.A.C., as amended in DEP’s current rule development docket.

The one exception is that endowments must be addressed in this rule, since they are not provided for in Rule 62-342.700, F.A.C. There is no rationale for limiting the endowment sponsors to non-profit entities. We therefore request that this restriction be removed in favor of simply making their operations subject to federal or state regulations and review. This is the standard in the current standard in Rule 62-342.700, F.A.C.

IV. COMPLIANCE SHOULD BE BASED ON AVERAGE ANNUAL DATA RATHER THAN ANNUAL DATA

Rainfall may significantly vary in Florida, with drought conditions in certain years. During drought years, the WQEA will treat a lesser volume of water. At the same time, the credit purchaser will also be discharging a lesser volume. Therefore, the WQEA should not be penalized by drought conditions, and the treatment provided by the WQEA should be reviewed instead on an average annual basis.

V. CLARIFICATION OF WORKSHOP REMARK

DEP’s answer to a question posed at the workshop, pertaining to Section 373.4134(3)(e), F.S. was that local government land cannot be used as a WQEA for sale to third parties.

The proposed rule language is consistent with the statute, but the interpretation expressed at the workshop was not. Subsection 373.4134(3)(e), F.S. states:

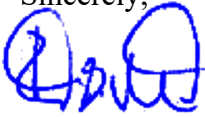
(e) A governmental entity may use a water quality enhancement area for its own water quality needs. However, a governmental entity may not act as a **sponsor** to construct, operate, manage, or maintain a water quality enhancement area or market enhancement credits to third parties.

The term “sponsor” was carefully chosen when the statute was drafted. The term “sponsor” allows a qualified entity to contract with a local government to be the sponsor of the bank on land owned by a local government, if the local government grants the proposed sponsor an interest in the property that meets the requirements of 4.3.7 of Applicant’s Handbook Volume I, such as an appropriate easement.

In the mitigation bank context, it is not uncommon for local governments use to allow mitigation banks on certain public lands after the local government grants an easement. Therefore, please reconsider the position taken at the workshop on this subject.

Thank you for your consideration of TWBC’s comments and red-line proposed modifications.

Sincerely,



Robert Miller

CEO of The Wetlandsbank Company, LLC

Attachment: Redlined rule language

June 10, 2026 comments

CHAPTER 62-332

WATER QUALITY ENHANCEMENT AREAS

62-332.100 Scope and Intent

62-332.200 Definitions

62-332.300 General Requirements

62-332.350 WQEA Permit and WQEA Conceptual Approval Permit Applications

62-332.400 Establishment of Enhancement Credits

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

62-332.530 Perpetual Protection of Water Quality Enhancement Areas

62-332.550 Financial Responsibility

62-332.600 Enhancement Credit Transactions and Credit Use

62-332.700 Enhancement Credit Tracking

62-332.800 Enhancement Credit Monitoring and Continuing Credit Verification

62-332.900 Compliance and Enforcement

62-332.920 Surrender or Transfer of Water Quality Enhancement Area Permits

62-332.100 Scope and Intent.

(1) The Department finds that, in certain instances, the improvement of water quality and adverse water quality impacts of activities regulated under Part IV of Chapter 373, Florida Statutes (F.S.), may be addressed by the construction, operation, maintenance, and long-term management of water quality enhancement areas that provide offsite compensatory treatment. This chapter establishes the requirements of an environmental resource permit (“ERP”) for water quality enhancement areas that would be permitted under Chapter 62-330, F.A.C., and the generation, valuation, award, release, and use of water quality enhancement credits providing offsite compensatory treatment under Section 373.4134, F.S. This chapter establishes applicable requirements for a water quality enhancement area permit under Chapter 62-330, F.A.C., Environmental Resource Permitting.

(2) The water quality enhancement credit transactions authorized in this chapter are intended to provide flexibility to ERP applicants for the purpose of purchase applicant or a governmental entity to address impacts regulated under ss. [373.403-373.443](#)

(3) The responsibilities for authorizing the use of enhancement credits by the credit purchaser are described in Operating and Delegation Agreements

between the Department of Environmental Protection (“Department”) and the water management districts (“Districts”). The Agreements are incorporated by reference in subsection 62-113.100(3), F.A.C.

(4) The requirements for the use of water quality enhancement credits to meet the allocations of an adopted Basin Management Action Plan (BMAP) or adopted Reasonable Assurance Plan (RAP) are set forth in Chapter 62-306, F.A.C.

(5) This chapter is supplemental to the rules promulgated under Part IV of Chapter 373, F.S., Chapter 62-306, F.A.C., and Chapter 62-330, F.A.C., and does not supersede any requirements therein nor prohibit or limit any

activities allowed therefrom. Rule 62-330.010, F.A.C., incorporating the Applicant's Handbook Volume I and Volume II for each Water Management District is incorporated by reference herein.

Rulemaking Authority 373.4134, 403.805 FS. Law Implemented 373.4134, FS. History—New

62-332.200 Definitions.

(1) (1) "Conservation Easement" is defined and the requirements set forth in section 704.06, Fla. Stat.

(2) "Credit Purchaser" means an entity that seeks to purchase water quality enhancement credits for the purpose

of achieving net improvement under Section 373.414(1)(b)3., F.S., or satisfying ERP performance standards, or a

governmental entity that seeks to purchase water quality enhancement credits to meet an assigned BMAP allocation

or RAP.

(3) "Department" means the Florida Department of Environmental Protection.

(43) "District" means a water management district as established in Chapter 373, F.S.

(54) "Endowment Holder" means an entity authorized to hold endowments and manage the long-term stewardship of the endowment funds, whose operations are regulated and examined by a federal agency or an agency of the State of Florida.

(6) "Enhancement credit" or "credit" means the standard unit of measure that represents a quantity of pollutant removed.

(7) "Investment Manager" means an entity or individual that is a Registered Investment Adviser (RIA) with the U.S. Securities and Exchange Commission (SEC) or state securities regulatory agency and whose operations are regulated and examined by a federal agency or an agency of the State of Florida. The Water Quality Enhancement Area applicant shall provide documentation evidencing proof of such regulation and examination to the Department.

(8) "Natural system" means an ecological system

supporting aquatic and wetland-dependent natural resources, including fish, and aquatic and wetland-dependent

wildlife habitats.

(9) “Release” means a permit modification by the Department wherein enhancement credits are awarded to the Water Quality Enhancement Area ledger and are made available for withdrawal.

(10) “Target Waterbody” means the Hydrologic Unit Code (“HUC”) 12 subwatershed that contains the Credit Purchaser’s project.

(11) “Water quality enhancement area” or (“WQEA”) means a natural system, constructed, operated, managed, and maintained for the purpose of providing offsite regional treatment for which enhancement credits may be provided pursuant to a water quality enhancement area permit.

(12) “Water quality enhancement area permit” or “WQEA permit” means an ERP issued under Part IV of Chapter 373, F.S., and this chapter for a water quality enhancement area which authorizes the construction, operation, management, and maintenance of a water quality enhancement area and the purchase and sale of enhancement credits from the permitted WQEA in accordance with this chapter.

(13) “Withdrawal” means a permit modification approved by the Department wherein released enhancement credits are deducted from the WQEA ledger.

(14) “WQEA Construction Phase” or “Construction Phase” means the period necessary to implement the permitted work including, but not limited to, implementing site security measures; construction and installation of water quality treatment systems; installation of hydrologic control devices, technologies, and best management practices; and conducting initial earth moving and land management activities. This phase begins with implementation of any permit required activities and ends with the Department’s acceptance of the As-Built Certification, if required.

(15) “WQEA Operation and Maintenance Phase” or “Operation and Maintenance Phase” means the phase following the WQEA Construction Phase when permitted activities are conducted to achieve water quality improvement conditions and enhancement credit generation described in the WQEA Permit performance and success criteria monitoring and verification plan in accordance with Rule 62-332.800, F.A.C. This phase ends with a Department determination that the defined success criteria and targets set forth in the WQEA Permit have been met and all enhancement credits have been released.

(16) “Sponsor” means an entity that is responsible for establishing the WQEA that has received a permit to construct, operate, maintain, and be responsible for the perpetual management of a water quality enhancement area.

(17) “WQEA Perpetual Management Phase” or “Perpetual Phase” means the phase following full implementation of the construction phase and operation and maintenance phase – where the WQEA has achieved success and all enhancement credits have been released as prescribed in the WQEA permit. Perpetual water quality improvements and land management activities shall be implemented and maintained in accordance with the WQEA permit and this rule.

112 **62-332.300 General Requirements.**

113 (1) A WQEA Sponsor shall generate and maintain enhancement credits in perpetuity by constructing and
114 operating water quality improvement projects utilizing natural systems including, but not limited to, constructed
115 wetlands or minor impoundments that reduce pollutants to a receiving waterbody or water segment.

116 (2) The construction, operation, management, and maintenance of a WQEA shall be permitted by the
117 Department through the ERP process pursuant to Chapter 62-330, F.A.C., and this chapter.

118 (3) Enhancement credits must be generated and sold by a WQEA Sponsor in accordance with this chapter and
119 the conditions of the WQEA permit.

120 (4) A governmental entity may be a WQEA and use the credits generated by the WQEA permit for its
121 own water quality needs, such as, but not limited to, providing offsite water quality compensation for that
122 government's own development projects. However, a governmental entity may not act as a Sponsor to
construct, operate, manage, or maintain a water quality enhancement area or market enhancement credits to
third parties. Sponsor, fund, or otherwise

123
124 (5) No portion of a WQEA shall be authorized to meet the mitigation, water quality treatment, or compensatory
125 requirements of any other permit or regulatory program, except for BMAPs and RAPs and as otherwise authorized
126 in this chapter.

127 (6) Reductions in pollutant loading required under any state regulatory program are not eligible to generate
128 enhancement credits.

129 (7) WQEAs may not be established on lands purchased for conservation pursuant to the Florida Forever Act or
130 the Florida Preservation 2000 Act.

131 WQEAs shall not be constructed in such a manner that the system severs a portion of a surface water.

132 (9) As provided by s. 373.4134(7)(j), F.S., the agency may deny the use of enhancement credits when the
133 agency is not reasonably assured that the use of the credits will not cause or contribute to a violation of water quality
134 standards, even if the project being implemented by the applicant is within the WQEA service area. The agency will
135 approve the use of enhancement credits if the agency receives a request for the use of enhancement credits and the
136 credit purchaser

137 applicant reasonably assures the agency through modeling, or other evaluations, or a combination thereof, that such
138 use will not cause or contribute to a violation of water quality standards.

139 (10) The issuance of a WQEA permit does not eliminate the Sponsor's obligation to comply with all
140 requirements of Chapter 62-330, F.A.C., pertaining to adverse impacts to water quantity, water quality, and adjacent
141 lands or wetlands.

142 (11) The issuance of a WQEA permit does not preclude the responsibility of the Sponsor to obtain other
143 applicable federal, state, and local permits for construction activities associated with the WQEA.

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145 Rulemaking Authority 373.4134, 403.805 FS. Law Implemented 373.4134, FS. History—New
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147 **62-332.350 WQEA Permit and WQEA Conceptual Approval Permit Applications.**

148 (1) A WQEA Applicant proposing to establish a WQEA must apply for a WQEA Permit. An application for a
149 WQEA Permit shall also constitute an application for an ERP under Chapter 62-330, F.A.C. WQEA Permit
150 applications shall be processed according to Chapter 62-330, F.A.C. The Department will process and take action on
151 all permit applications under Part IV of Chapter 373, F.S., necessary for the implementation of a WQEA.

154 (2) A person or entity may apply for a WQEA Conceptual Approval permit to obtain estimates of the legal and
155 financial requirements necessary for the WQEA, information necessary for evaluation of the WQEA Permit
156 application, and potential enhancement credits to be awarded pursuant to the WQEA Permit. The WQEA
157 Conceptual Approval permit does not authorize the use or withdrawal of enhancement credits or any construction
158 within the proposed WQEA. The level of detail provided in the WQEA Conceptual Approval permit will depend on
159 the level of detail submitted with the application.

160 (3) A WQEA Permit shall automatically expire five years from the date of issuance if the WQEA Sponsor
has not
161 recorded a conservation easement, over the real property within the WQEA in accordance with the WQEA Permit or
162 if construction has not been completed pursuant thereto. Except as provided above, a WQEA Permit shall be
163 perpetual unless revoked.

164 (4) To provide the Department with reasonable assurances that the proposed WQEA will meet the criteria in
165 Section 373.4134, F.S., and in this chapter, and that any proposed system will meet conditions of issuance and
166 applicable criteria of Chapter 62-330, F.A.C., each WQEA Permit application submitted to the Department shall
167 include the information required under Chapter 62-330, F.A.C., as applicable, and the information specified below
168 as appropriate for the proposed project:

169 (a) Description of the location of the proposed WQEA which shall include:

170 1. Map at regional scale showing the project area in relation to the regional watershed and proposed WQEA
171 service area;

172 2. Vicinity map showing the project area in relation to adjacent lands and offsite areas of ecologic or hydrologic
173 significance which could affect the perpetual viability or ecological and hydrological value of the WQEA;

174 3. Aerial photograph identifying boundaries of the project area;

175 4. Map or survey showing legal access to the WQEA for site inspection; and

176 5. Legal description of the proposed WQEA.

177 (b) Description and assessment of current site conditions affecting the anticipated performance of the
proposed water quality enhancement area, including the proposed treatment type and the anticipated
associated reduction rates, as demonstrated by the performance of other areas where the treatment type has
been established and operating over a minimum of two consecutive wet and dry seasons, which shall include, as
appropriate:

178 1. Soils map of the project area;

179 2. Topographic map of the project area and adjacent hydrologic contributing and receiving areas;

180 3. Hydrologic features map of the project area and adjacent hydrologic contributing and receiving areas;

181 4. Geotechnical report of the project area within or adjacent to sensitive karst areas;

182 5. Vegetation description and map of the project area;

183 6. Existing ecological and hydrological conditions of the regional watershed that includes the project area;

184 7. Adjacent lands, including existing land uses and conditions, projected land uses according to comprehensive
185 plans adopted pursuant to Chapter 163, F.S., by local governments having jurisdiction, and any special designations
186 or classifications associated with adjacent lands or waters; and

187 8. Disclosure by the WQEA Applicant of any material fact that would affect the contemplated use of the
188 property.

189 (c) Description of the ecological and hydrological benefits of the proposed WQEA to the regional watershed in
190 which it is located.

191 (d) Identify and document the numerical model or analytical tool, inputs, and results, used to establish the
192 efficacy of the WQEA as described in Rules 62-332.400, F.A.C., and 62-332.500, F.A.C.

193 (e) Assessment of anticipated pollutant load reductions or other nutrients to be removed on a 10-year average
194 annual basis from the

195 WQEA.

196 (f) A plan describing the actions proposed to establish and construct the WQEA which shall include, as
197 applicable:

198 1. Construction drawings detailing proposed topographic alterations, and all structural components associated
199 with proposed activities;

200 2. Proposed construction activities, including a detailed schedule for implementation;

201 3. The proposed vegetation planting scheme and detailed schedule for implementation; and

202 4. Measures to be implemented during and after construction to avoid adverse impacts related to proposed
203 activities.

204 (g) Proposed performance and success criteria monitoring and verification plan in accordance with Rule 62-
205 332.800, F.A.C.

206 (h) Detailed perpetual management plan comprising all aspects of continued water quality improvements and
207 land management activities such as, but not limited to, maintenance and replacement of hydrologic control devices,
208 structures, vegetation establishment, exotic and nuisance species control, fire management, and control of access to
209 ensure long-term pollutant reduction.

210 (i) Evidence of sufficient legal or equitable interest in the property which is to become the WQEA meeting the
211 requirements of Rule 62-330.060, F.A.C.

212 (j) Draft documentation of financial responsibility meeting the requirements of Rule 62-332.550, F.A.C. and 62-
213 342.700, F.A.C.; and

214 (k) Draft documentation of the conservation easement which shall, at a minimum, meet the requirements and
215 restrictions of Section 704.06, F.S., and Rule 62-332.530, F.A.C.

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218 Rulemaking Authority 373.4134, 403.805, FS. Law Implemented 373.4134, , FS. History—New.

219

220 **62-332.400 Establishment of Enhancement Credits.**

221 (1) The Department will award enhancement credits to the WQEA, or phases thereof, based upon the
222 standard numerical models or analytical tools that establish the ability of the water quality enhancement area
223 to remove pollutants or constituents, which satisfy the requirements of subsection 373,4134(c) and

220 information submitted in the WQEA permit application and the following as set forth in 373.4134(c)

221 The WQEA applicant must provide for the assessment, valuation and award of credits
222 based on units of pollutant removed.

223 (b) The determination of the award of enhancement credits generated by a WQEA shall be based on standard numerical
224 models or analytical tools that establish the ability of the WQEA to remove pollutants or their constituents

225 (c)

231 (d) Credits must be based on a standard unit of measure of the specific pollutants removed on a 10-year average annual
232 basis.

233 (2) The valuation of enhancement credits will be stated in the WQEA permit. The number of credits and
234 schedule for release shall be based upon the performance criteria for the WQEA and the success criteria for each

235 activity as specified in the WQEA permit. The final release of all enhancement credits awarded will only occur after the
236 WQEA meets all of the

237 success criteria specified in the permit for the WQEA Operation and Maintenance Phase. No credits shall be
238 released until the Sponsor records the required conservation easement and provides the required financial
239 assurances to the Department.

240 (3) If the WQEA is located within a BMAP or adopted RAP, the applicant must use the most recent numerical
241 models or analytical tools used for that BMAP or adopted RAP in the WQEA permit application, except as provided
242 in subsection (4) below.

243 (4) If the WQEA is not located within a BMAP or adopted RAP, the WQEA Applicant must either:

244 (a) use another standard numerical model or analytical tool that has been approved by the Department or

245 (b) propose and submit a numerical model or analytical tool for Department review and approval for the
246 proposed WQEA.

247 (5) A WQEA Permit application must identify and document the numerical model or analytical tool, inputs,
248 and results used to establish the efficacy of the WQEA, including all information to support the permit application
249 required by Rule 62-330.054, F.A.C., and any other information required by this chapter relevant to substantiate the
250 level of pollutant load reduction generated. At a minimum, the application must contain:

251 (a) Rainfall data over the longest period of record available, either from the National Centers for
252 Environmental Information or collected from the closest site to the proposed WQEA, preferably within the same
253 drainage basin.

254 (b) Anticipated average annual water quality and quantity inflows to the proposed water quality enhancement
255 area, based on published local data collected over a period of record that most closely matches the rainfall
data collected under this paragraph.

(c) Site-specific conditions affecting the anticipated performance of the proposed WQEA, including the proposed treatment type and the anticipated associated reduction rates as demonstrated by the performance of other areas where the treatment type has been established and has operated over a minimum of two consecutive wet and dry seasons.

(d) Data provided under this subsection must be from monitoring stations the Department deems sufficient to determine flows and local water quality conditions.

(e)

Rulemaking Authority 373.4134, 403.805 FS. Law Implemented 373.4134, FS. History–New.

62-332.500 Service Area and Enhancement Credits.

(1) The boundaries of the WQEA service area shall depend upon the geographic area in which the water quality enhancement area could reasonably be expected to address adverse impacts and must, at a minimum, consist of a Hydrologic Unit Code 8 (HUC 8) sub-basin as set forth by the United States Geological Survey, that cause or contribute to the failure of the

waterbody or water segment to meet applicable water quality criteria. Service areas may overlap, and more than one service area may be approved within a regional watershed.

(2) The geographical boundaries of the water quality enhancement service area will be determined by modeling provided by the WQEA Applicant outlining the area within which the WQEA could reasonably be expected to reduce impacts given the attenuation of the applicable pollutants..

(3) Numerical models or other analytical tools must be capable of evaluating the fate and transport of the pollutant(s) of concern within the HUC 8 and shall be reviewed and approved by the Department at the time of application.

(4) The Credit Purchaser's project must be located within the water quality enhancement service area..

(5) The Applicant shall provide reasonable assurance that the WQEA's credited pollutant load reduction will be achieved on a 10-year average annual basis.

Rulemaking Authority 373.4134,, 403.805 FS. Law Implemented 373.4134, FS. History–New.

62-332.530 Perpetual Protection of Water Quality Enhancement Areas

(1) Before enhancement credits may be released to a WQEA or any phase of a WQEA, the WQEA Sponsor shall cause a conservation easement to be conveyed to the Department. The grantor of a conservation easement may convey a conservation easement to additional grantees, but such conveyance shall be subordinate to the conservation easement granted to the Department.

(2) All conservation easements shall be granted in perpetuity without encumbrances, unless such encumbrances do not adversely affect the hydrology and water quality improvement effectiveness of the WQEA. All conservation easements shall be of a form and content sufficient to ensure protection of the WQEA according to the permit, and

332 shall, at a minimum, meet the requirements and restrictions of Section 704.06, F.S., except as provided in subsection
333 62-332.530(7), F.A.C. Forms for a conservation easement are incorporated by reference in Rule 62-
334 330.301, F.A.C., which is incorporated by reference herein. The conservation easement shall also provide that the
335 WQEA Applicant shall have access to the property and the authority to perform all acts necessary to ensure compliance
336 with the WQEA Permit (unless the WQEA Applicant is the fee owner of the property), and that the Department shall
337 have access and the authority to perform these acts if the WQEA Sponsor fails to do so.
338 (3) As part of providing reasonable assurance that the WQEA site will be protected in perpetuity, the grantor of
339 the conservation easement shall provide the following unless the Department determines during the permit review
340 process such items are not necessary to ensure protection of the WQEA according to the permit:
341 (a) A boundary survey of the real property interest being conveyed. The survey must be certified, by a land
342 surveyor and mapper, registered in the State of Florida, to meet the requirements of the Department and the
343 minimum technical standards set forth by the Florida Board of Professional Surveyors and Mappers in Rules 5J-
344 17.050 through 5J-17.052, F.A.C., under Section 472.027, F.S.
345 (b) A certified appraisal, documentation from the county property appraiser or other equivalent documentation
346 demonstrating the market value of the interest to be
347 conveyed to determine the appropriate amount of title insurance.
348 (c) A marketable title commitment issued to the Department as beneficiary in an amount at least equal to the
349 fair market value, as established in paragraph 62-332.530(3)(b), F.A.C., of the interest being conveyed. An owner's
350 title insurance policy (ALTA Form B) naming the Department as beneficiary shall be issued to the Department
351 within the time frames specified by the permit. The coverage, form and exceptions of the title insurance policy shall
352 ensure that the WQEA will be protected according to the WQEA Permit.
353 (d) A current Phase I environmental site assessment identifying any environmental problems which may affect
354 the liability of the Department and any additional site assessments as are necessary to ensure that the Department is
355 not subject to liability under federal or state laws relating to the treatment or disposal of hazardous substances or
356 ownership of land upon which hazardous substances are located, or to ensure that there are no hazardous substances
357 present on the property which would adversely affect construction, operation, and perpetual management of the
358 WQEA.
359 (4) The Department shall require additional documentation or actions from the grantor of the conservation
360 easement if necessary to ensure that the WQEA will be protected in accordance with the WQEA Permit.
361 (5) The WQEA permittee shall pay the documentary revenue stamp tax and all other taxes or costs associated with
362 the conveyance, including the cost of recording the conservation easement and any other recordable instruments
363 required by the Department, unless prohibited or exempt by law, as a condition of the receipt of the conveyance.
364 (6) All real estate taxes and assessments which are or which may become a lien against the property shall be
365 satisfied of record by the Owner of the property where the WQEA is located before recording the conservation easement.
366 If necessary, the
367 Owner of the property where the WQEA is located shall, in accordance with Section 196.295, F.S., place funds in
368 escrow with the county tax collector. The
369 WQEA or Owner of the property where the WQEA is located shall also provide the Department with annual
370 documentation demonstrating that such taxes and

367 assessments have been paid.

368 (7) As a condition of receipt of the conveyance, the WQEA shall remove all abandoned personal

369 property, solid waste, or hazardous substances from the property that the Department determines: will reduce the
370 proposed hydrology and water quality improvement efficiency of the property; will adversely affect the
371 construction, operation, or management of the WQEA; or will adversely affect the construction, alteration,
372 operation, maintenance, abandonment or removal of any surface water management system to be constructed in the
373 WQEA.

374 (8) The Owner of the property where the WQEA is located shall record the conservation easement required
in the WQEA Permit. The WQEA

375 Owner of the property where the WQEA is located
shall submit to the Department the original recorded conservation easement as soon as such document is
376 returned from the public records office.

377

378 Rulemaking Authority 373.4134, 403.805 FS. Law Implemented 373.4134 FS. History—New

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380 **62-332.550 Financial Responsibility.**

381 (1) WQEA may provide financial assurances through the use of endowments.

(2) The provisions of Rule 62-342.700 shall apply to WQEA.

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628 SponsorSponsorSponsorRulemaking Authority 373.4134, 403.805 FS. Law Implemented 373.4134 FS. History—
648 New.

649 **62-332.600 Enhancement Credit Transactions and Credit Use.**

650 (1) The Agency that is reviewing the Credit Purchaser's ERP application will verify the number of enhancement
651 credits necessary to meet the permitting criteria under Chapter 62-330, F.A.C., and will confirm that the appropriate
652 enhancement credits are available for use at the selected WQEA. The required number of enhancement credits shall
653 be calculated based on appropriate location valuation factors (LVFs) as described in Rule 62-332.500, F.A.C.

654 (2) Enhancement credits that have been released may only be used to address adverse water quality
impacts of activities regulated under ss. 373.403-373.443 or for meeting the allocations of an adopted BMAP or
adopted RAP under Section 403.067.

657 F.S.

658 (3) To use enhancement credits, the Credit Purchaser must submit to the Agency permitting the impact a
659 Reservation Letter from the WQEA Sponsor demonstrating that enhancement credits have been reserved, sold, or
660 transferred to the Credit Purchaser. If the Agency permitting the Credit Purchaser's ERP determines that use of the
661 enhancement credits proposed by the Credit Purchaser is appropriate to offset the adverse impacts, the Agency
662 permitting the impact shall require the sufficient number and type of enhancement credits be withdrawn prior to the
663 issuance of the Credit Purchaser's permit or as a condition of the Credit Purchaser's permit.

664 (4) An enhancement credit included in a previously authorized credit transaction is not available for another

665 transaction.

666 (5) Enhancement credits may not be used by point source dischargers to satisfy regulatory requirements other
667 than those necessary to obtain an ERP for construction and operation of a surface water management system.

668 (6) Purchase of enhancement credits is voluntary.

669
670 Rulemaking Authority 373.4134, 403.067(9), 403.805 FS. Law Implemented 373.4134, 403.067 FS. History—New.

671
672 **62-332.700 Enhancement Credit Tracking.**

673 (1) The Department shall maintain a ledger of the enhancement credits available at each WQEA.

674 (2) The ledger shall include all WQEA credit transactions involving enhancement credits under this Chapter or
675 trades under Chapter 62-306, F.A.C.

676 (3) WQEA credit transactions shall be processed as a no-fee minor modification of the WQEA Permit.

677 (4) Within 60 days of receiving the full payment for the credits and a request from the Credit Purchaser, or as
678 required by the WQEA permit, the Sponsor shall submit a minor modification application requesting the
679 enhancement

679 credits be withdrawn from the official ledger.

680 (5) The ledger shall include the following information:

681 (a) The amount and type of credits generated in the WQEA.

682 (b) A brief description of actions or activities that generated the release of credits.

683 (c) The date credits become available for purchase.

684 (d) The date of the most recent inspection of the WQEA.

685 (e) The Credit Purchaser's name.

686 (f) Credit Purchaser's permit number and date of issuance.

687 (g) Credit Purchaser's BMAP or RAP allocation issuance and expiration date for trades.

688 (h) The Credit Purchaser's permitting Agency.

689 (i) The amount and type of credits sold in each purchase.

690 (j) The balance of the amount and type of credits available after purchase or credit generation in the WQEA.

691 (k) The date the WQEA ledger is updated.

692
693 Rulemaking Authority 373.4134, 403.805 FS. Law Implemented 373.4134, FS. History—New.

694
695 **62-332.800 Enhancement Credit Monitoring and Continuing Credit Verification.**

696 (1) The Sponsor must demonstrate the achievement of pollutant reductions, on a 10- year average annual
697 basis, of no less than the number

697 of credits sold.

698 (2) The WQEA Sponsor must implement a performance and success criteria monitoring and verification plan
699 approved by the Department, including protocols and monitoring frequency, to be implemented once the WQEA is
700 permitted and operational.

701 (a) Enhancement credits shall be directly measured by the WQEA Sponsor in accordance with the Department-approved

monitoring and verification plan in accordance with the WQEA permit.

(b) The plan must be sufficient to demonstrate that the WQEA meets defined performance criteria for pollutant reductions on which enhancement credits are based and the success criteria for each activity.

(c) The WQEA Sponsor must implement the approved monitoring and verification plan in perpetuity.

(3) The monitoring and verification protocols must be able to measure the difference in water quality compared to baseline condition in order to accurately demonstrate the WQEA's pollutant reductions and ensure that all released enhancement credits have been achieved.

Rulemaking Authority 373.4134, 403.805 FS. Law Implemented 373.4134, FS. History--New.

62-332.900 Compliance and Enforcement.

(1) The WQEA Sponsor must certify and submit annually to the Department that the control devices and systems,

technologies, best management practices, or other activities on which the enhancement credits are based continue to be fully implemented and properly operated and maintained, and that the 10-year average annual pollutant load reductions continue to be

achieved.

(2) The WQEA Sponsor must report annually to the Department the pollutant loads of their targeted pollutant at the

discharge point(s) of the WQEA, in the standard units of measure for the WQEA at a frequency required by the permit to demonstrate pollutant load reduction resulting in credits.

(3) The Sponsor must maintain records demonstrating that any control devices and systems, technologies, best

management practices, or other management actions upon which credits are based continue to be fully implemented and properly operated and maintained in perpetuity. The WQEA Sponsor must notify the Department in writing within 30

calendar days of any changes to the size, nature, function, or treatment capabilities of the WQEA. Any such changes may result in a WQEA permit modification to ensure credit transactions maintain at least their approved level of pollutant load reduction. The WQEA Sponsor must allow the Department, or Department's agent, to inspect the records and

the control devices and systems, technologies, best management practices, or other management actions during regular business hours.

(4) The WQEA Sponsor is responsible for achieving the pollutant load reductions on which the credits are based and

complying with the terms of its permit, including any associated financial assurance instruments and monitoring and verification plan, in perpetuity. In the event the Department determines the purchased released credits are invalid because the WQEA Sponsor has failed to comply with its monitoring and verification plan, has failed to demonstrate that the

WQEA is meeting defined performance and success criteria for the reduction of pollutants on which credits are based, or otherwise has failed to meet the conditions of its permit, including financial assurances, the Department

735 may suspend the authorization to withdraw enhancement credits until such time as the WQEA returns to compliance
736 and credits have been reevaluated.

737 (5) The WQEA Sponsor shall annually submit a report of the Enhancement Credits sold or used to the
738 Department.

739 Rulemaking Authority 373.4134, 03.805 FS. Law Implemented 373.4134, FS. History--New.

740

741 **62-332.920 Surrender or Transfer of Water Quality Enhancement Area Permits.**

742 (1) If no credits have been released or sold, a WQEA Sponsor may apply to surrender a WQEA Permit, or
743 permitted

744 phase thereof, by submitting a written request to the Department. The written request must identify which phase of
745 the WQEA permit will be surrendered, indicate the extent of actions and activities performed in that phase, and
746 describe the conservation property interest encumbering that phase. The Department shall authorize release from a
747 WQEA permit when no credits have been withdrawn. The Department shall authorize the relinquishment of a
748 permitted phase, where no credits associated with that phase have been withdrawn, and the release would not
749 compromise the hydrology and water quality improvement efficiency of the remaining portions of the WQEA. A
750 surrender of a WQEA permit or release of a phase of a WQEA shall be made by permit modification.

751 (2) If a property interest has been conveyed as provided in Rule 62-332.530, F.A.C., for a WQEA Permit which
752 is surrendered as provided above, the Department shall release the conservation easement.

753 (3) If a surface water management system has been constructed or altered within the WQEA, the WQEA
754 Sponsor shall

755 obtain any permits required under Part IV of Chapter 373, F.S., and Chapter 62-330, F.A.C., to operate or abandon
756 the surface water management system.

757 (4) To transfer a WQEA Permit, the WQEA Sponsor shall meet the requirements of Chapter 62-330.340,
758 F.A.C., and the

759 entity to whom the permit will be transferred must provide reasonable assurances that it can meet the requirements
760 of the permit.

761

