



WATER QUALITY ENHANCEMENT AREA RULEMAKING WORKSHOP CHAPTER 62-330, F.A.C.

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AGENDA

- History.
- Content of the law.
- Draft rule language.
- How this rule will compliment the adopted stormwater rule.
- Timeline of new rule.
- Public comment.





2022 HOUSE BILL (HB) 965

ENVIRONMENTAL MANAGEMENT

- Provides for water quality enhancement areas (WQEAs) permits, establishes service areas and determines enhancement credits.
- Directs DEP and water management districts to authorize sale and use of enhancement credits for specified purposes.
- Directs DEP to maintain specified ledgers to track the awards, release and use of credits.





HISTORY

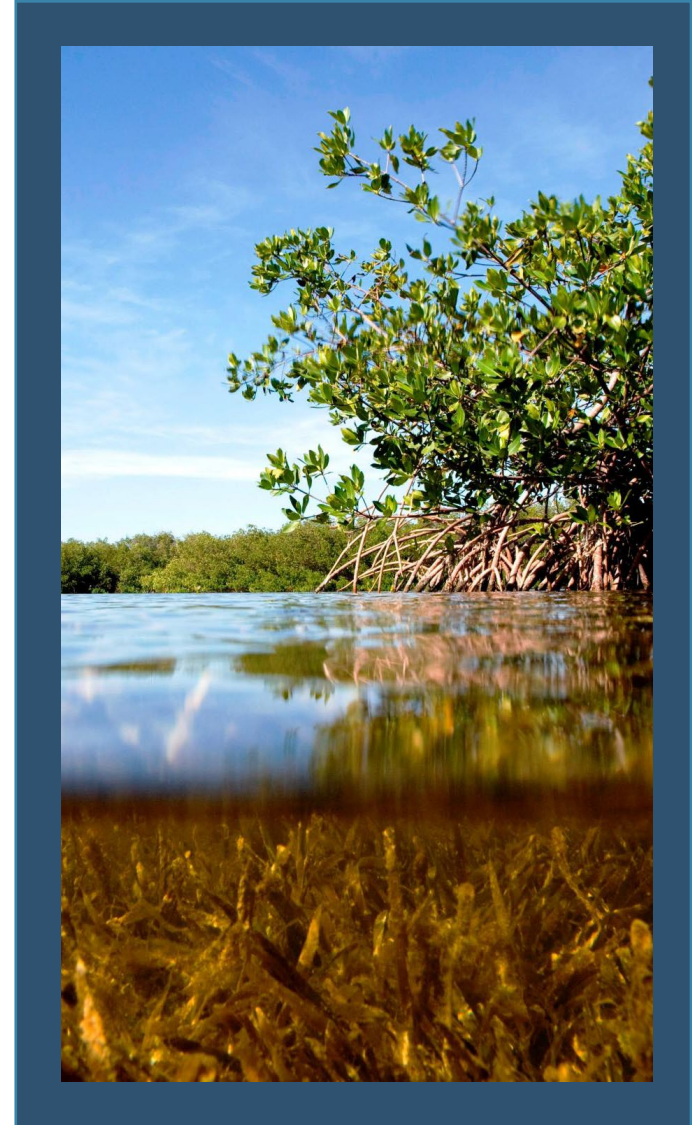
- HB 965 passed by the Florida Legislature and approved by Governor DeSantis in spring 2022.
- Codified as Chapter 2022-215, Laws of Florida.
- The Department of Environmental Protection (DEP) began rulemaking as directed to establish the Water Quality Enhancement Area (WQEA) program.
- DEP issued a Notice of Rule Development (NORD) on March 14, 2023.





SCOPE AND INTENT

- Establishes the requirements for the generation, valuation and award of water quality enhancement credits, as well as the purchase and use of those credits by governmental entities.
- A WQEA permit will be an Environmental Resource Permit (ERP).
- Credits could be used for ERP net improvement or Performance Standards.
- The rule is not intended to limit any actions by federal, state or local agencies, affected persons or citizens pursuant to other rules or regulations.





GENERAL REQUIREMENTS

- Create credits using natural system such as constructed wetlands that reduce pollutants to a receiving waterbody or water segment.
- Only governmental entities may purchase and use these credits.
- Credits are meant to compensate for the lack of water quality treatment available onsite.
- Not to be used to meet on-site stormwater management requirements.



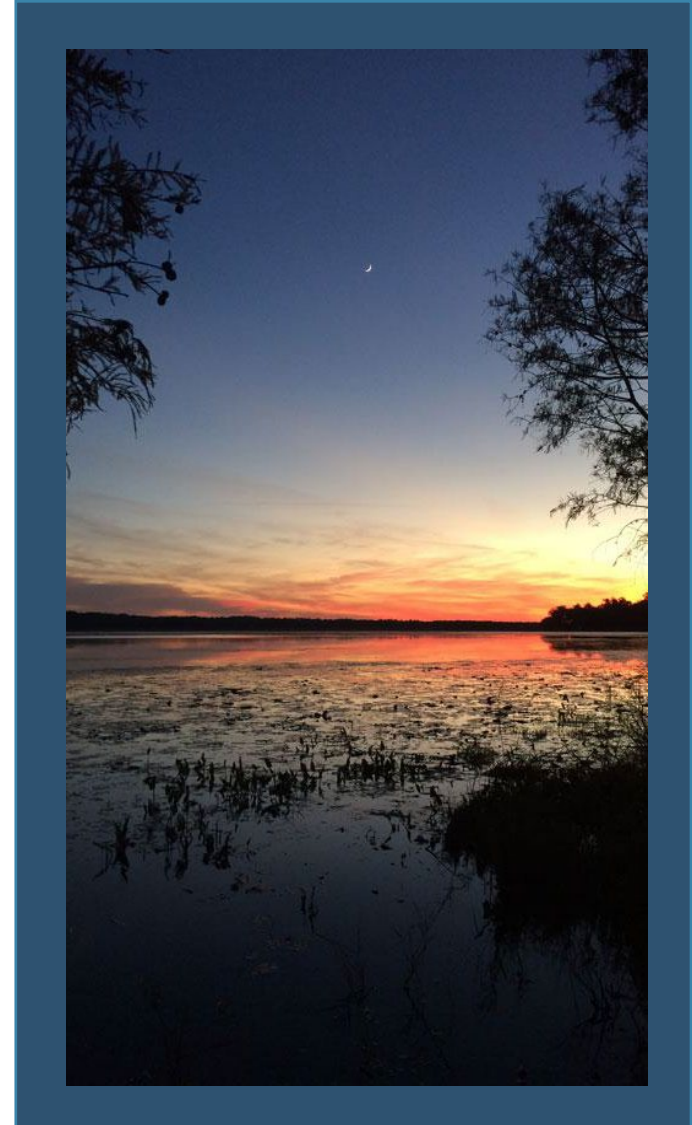
GENERAL REQUIREMENTS (2)

- The WQEA and the purchaser of credits from that WQEA must be within the same watershed.
- WQEA credited pollutant load reduction must be achieved annually in perpetuity.
 - These cannot roll over or aggregate from year to year.
- The WQEA cannot be within a conservation, reclamation or mitigation area.
- Governmental entities cannot create a WQEA for sale of credits.
- Pollutant reductions required under any state regulatory program are not available to sell.



DEFINITIONS

- Expanded definitions.
 - Governmental entity.
 - Natural system.
 - WQEA.
 - WQEA permit.
 - WQEA service area.
- New definitions.
 - Best management practice for stormwater treatment.
 - Department.
 - Enhancement credit or credit.
 - Purchaser.
 - Owner.





ENHANCEMENT CREDIT LOCATIONAL VALUATION FACTOR ADJUSTMENTS



- Service area.
 - Based on modeling provided by the WQEA at time of permit.
- Location factor.



ENHANCEMENT CREDIT GENERATION AND VALUATION

- Credits would be based on standard numerical models or analytical tools that establish the ability of the WQEA to remove pollutants or constituents.
- Credits would be calculated in units as indicated within section 62-302.530, Florida Administrative Code (F.A.C.), for the parameter of pollutant removed.
- Number of credits created would be specified in the permit.
- Calculation of credits would reflect only those generated in most limited condition for the WQEA operating conditions.
- If the WQEA is within a BMAP, it will use the existing BMAP analysis and/or numerical models utilized in the BMAP or RAP.



ENHANCEMENT CREDIT GENERATION AND VALUATION (2)

- If not in a BMAP, or if the analysis is not applicable, the WQEA must use a DEP approved model to determine its WQEA credits.
- The analysis and/or numerical model used, and its inputs shall be documented in the permit.
 - This must include rainfall data, anticipated volumetric inflow and outflows of the system and site-specific conditions that would affect performance.
 - Would also include proposed treatment type and a minimum of two years of data supporting its reduction rates.



ENHANCEMENT CREDIT TRANSACTIONS AND CREDIT USE

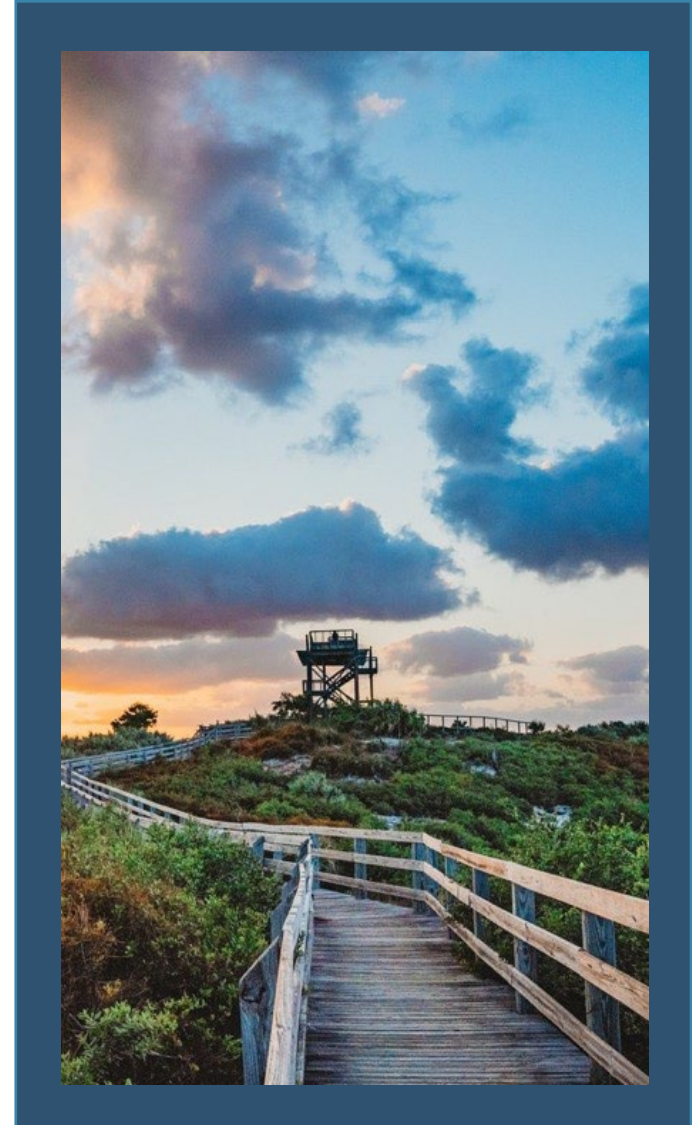


- Purchase of credits is voluntary.
- The number of credits would be reviewed as appropriate for the project.
- Use of credits should not cause or contribute to a violation of state water quality standards.
- Use of credits would be reflected in the purchaser's ERP.
- The WQEA owner must document the terms of credit transactions, entities purchasing them, number of credits sold to each, unit price of the credits, and projects (ERP numbers) and locations for those using the credits.
- If a purchaser would like to change which WQEA would provide their credits, they must notify DEP in writing and ensure all regulations are followed.



ENHANCEMENT CREDIT MONITORING, CONTINUED VERIFICATION AND TRACKING

- An applicant for a WQEA permit must propose a performance and success criteria monitoring and verification plan with protocols that address treatment type(s) and site-specific conditions to be implemented once the WQEA is operational.
- Monitoring should measure the inflow and outflow water quality to demonstrate the WQEA's pollutant reductions.
- Monitoring must include flow and concentration data into and out of the WQEA.
- Must be maintained in perpetuity.
- DEP will track all credit transactions, including relevant information, and make information publicly available.





COMPLIANCE AND ENFORCEMENT



- Owner of the WQEA must do the following.
 - Have a long-term maintenance entity with financial assurance for that entity.
 - Certify and document that their systems are fully operational and maintained.
 - Document monthly pollutant load reductions and report annually to DEP.
 - Notify DEP immediately if there are any changes to the WQEA.
 - Maintain all terms of the permit in perpetuity.
- DEP may revoke authorization to sell credits until WQEA returns to compliance and credits are re-evaluated.



RELATION TO THE NEW RULE

- Provide another avenue for applicants to meet their projects' stormwater requirements if they do not have the space or means to provide treatment on site.
- Credits would only be available for government entities.
- Credits would be available for use to meet net improvement or performance standards.
- Can be used to meet the net improvement requirements of impaired parameters not exclusively total nitrogen (TN) or total phosphorus (TP).
- Cannot be used by point source dischargers unless it's for their ERP permitted surface water management system.





TIMELINE FOR RULEMAKING



- DEP to review all public comments and suggestions and make needed revisions to the concepts and rule language being considered.
- Comments can be submitted at this rule workshop and can be emailed to WQEA_2023@FloridaDEP.gov by **Dec. 6, 2023**.
- DEP may hold a subsequent public workshop to present a second draft of the rule language and solicit further public comments and suggestions (tentatively scheduled for Feb. 7, 2024).



THANK YOU

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