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For informational purposes only: Midwest Environmental Advocates, Inc., (MEA) supports our partners who are working with the Legislature to ensure that 2019 SB 91 provides clarity and accountability for the proposed water quality trading clearinghouse program. MEA is a nonprofit environmental law center that works for healthy water, air, land and government for this generation and the next.

Certain requirements for the proposed central clearinghouse should be more detailed and explicit consistent with the requirements under the Clean Water Act and Wis. Stat. § 283.84. MEA recommends amendment to the proposed legislation to address the following points and questions:

- A “commercially reasonable process for soliciting and entering into transactions” should be defined.
- Can the clearinghouse sell advance credits or does work need to be done before selling credits?
- Additional language is necessary to address enforcement and ultimate responsibility for ensuring pollutant reductions.
- It is not clear whether the clearinghouse trades and credit generation would be open for public review and accountability.

Because existing state law already allows for establishment of trading exchanges, the benefits of requiring the Department of Natural Resources (DNR) to create a single clearinghouse are unclear. Other DNR permitting programs, including the wetland program, allow for third parties to generate and sell credits, but it is an open market and with multiple third-party sellers.

Based on trading program analysis by the Chesapeake Bay Foundation,¹ as well as requirements in current state law, MEA urges an amendment to SB 91 to require a ratio of 2:1, as compared to the lesser proposed ratio of 1.2:1. The language of the bill also demonstrates uncertainty regarding the research and scientific models that would be employed to determine the total number of credits that can be produced. To ensure actual reduction of nonpoint pollution, all clearinghouse agreements should include a provision to allow for public compliance and enforcement.

¹ See <https://www.cbf.org/document-library/cbf-guides-fact-sheets/nutrient-trading-fact-sheet-pa-and-va374c.pdf>; see also <https://extension.psu.edu/a-primer-on-water-quality-credit-trading-in-the-mid-atlantic-region>.

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