



# WATER QUALITY ENHANCEMENT AREA RULEMAKING WORKSHOP #2

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# AGENDA

- General updates.
- Review of existing Chapter 62-306, Florida Administrative Code (F.A.C.), Water Quality Credit Trading.
- Overview and revisions of draft rule, possibly new Chapter 62-332, F.A.C.
- Timeline of new rule.
- Public comment.







# RULE 62-306, F.A.C.

## WATER QUALITY CREDIT TRADING



- Existing water quality credit trading rule.
- Only used to meet nutrient reduction requirements of an adopted basin management action plan (BMAP) or reasonable assurance plan (RAP).
- Multiple activities are eligible to generate credits, including from point or non-point sources.





# 2024 LEGISLATION

## SENATE BILL 1532

- The Florida Legislature passed Senate Bill (SB) 1532 during the 2024 session.
  - Expanded circumstances for water quality enhancement area (WQEA) use.
  - Use of WQEA credits by private entities.
  - Effective July 1, 2024 (pending approval and signature by Governor DeSantis).
- Current draft rule is based on current statute (prior to amendments in SB 1532) and DEP's review of comments to date.



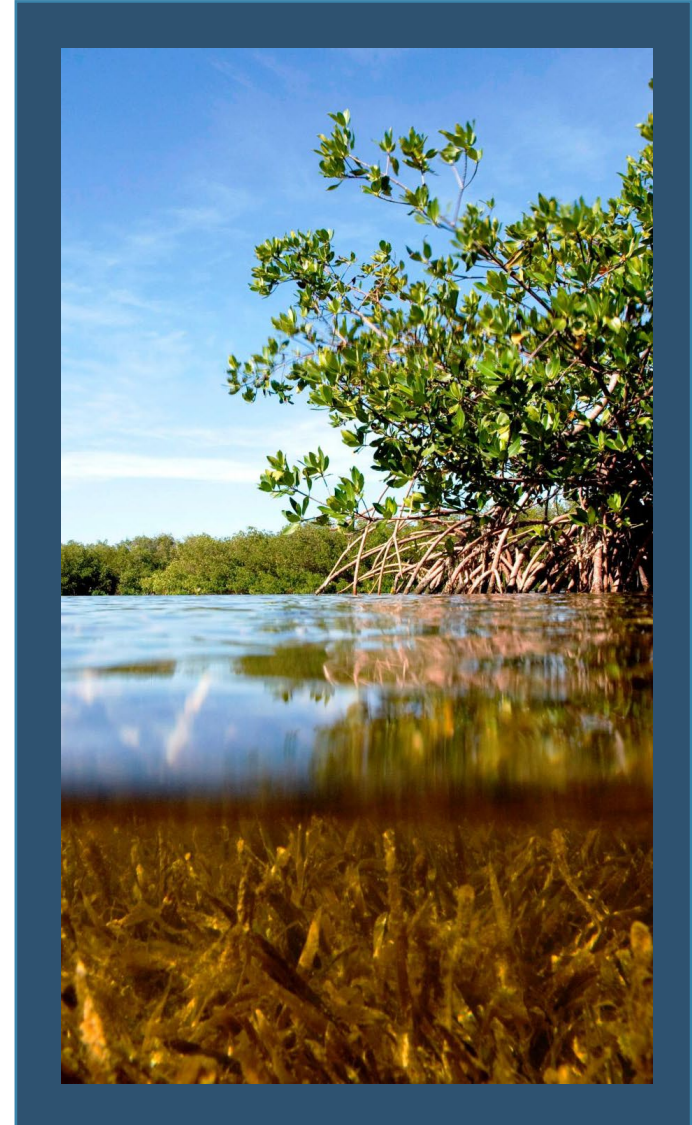




# RULE SCOPE AND INTENT

## BASED ON CURRENT LAW

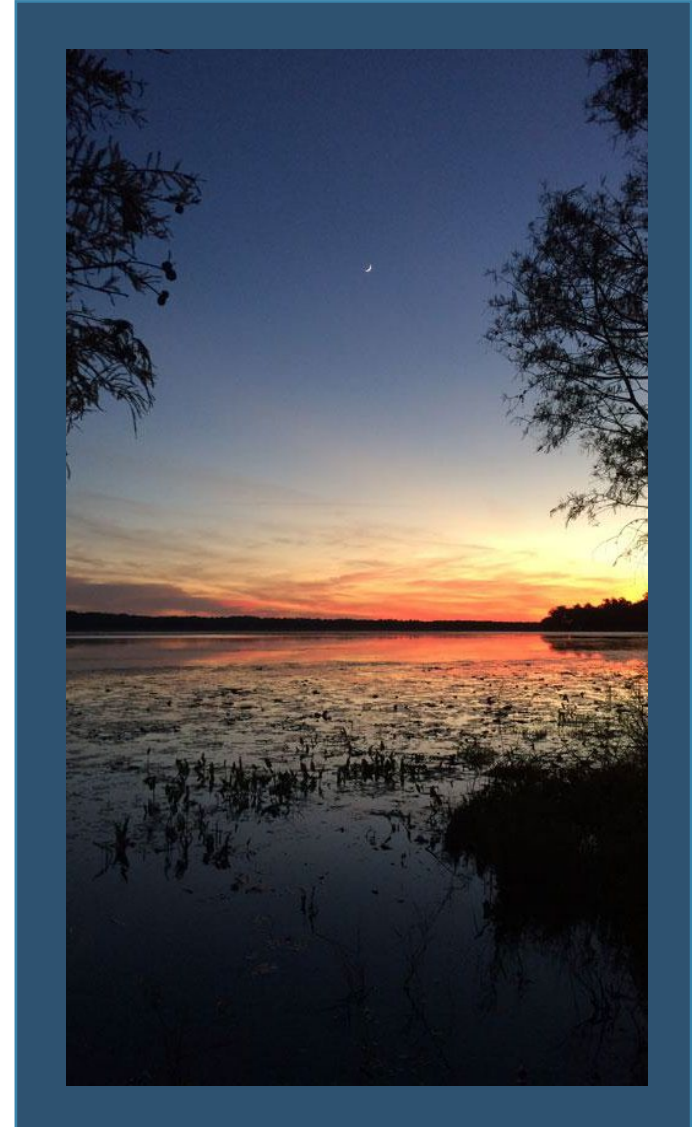
- Establishes the requirements for the generation, valuation and award of water quality enhancement credits, as well as the purchase and use of those credits by governmental entities *(may revise based on 2024 SB 1532)*.
- The WQEA permit will be an environmental resource permit (ERP).
- Credits could be used for net improvement or allocations of an adopted BMAP or RAP, as well as any expanded uses incorporated by law.
- 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.





# DEFINITIONS

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





# GENERAL REQUIREMENTS (OWNERS)

- Create credits using natural systems, such as constructed wetlands, that reduce pollutants to a receiving waterbody or water segment.
- Establishment of a WQEA will be done through an ERP.
- Any pollutant loading reductions created by a WQEA beyond those required by Chapter 62-330 F.A.C., are eligible to generate credits.
- WQEAs cannot be located in areas for conservation, mitigation or reclamation.
- Credits are generated as the average annual mass pollutant load expected to be reduced by the WQEA.



# 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 standard units of measure for the parameter of pollutant removed.
- Number of credits created will be specified in the WQEA permit.
- Credits are generated as the average annual mass pollutant load expected to be reduced by the WQEA above what is otherwise required by 62-330, F.A.C.
  - Must be maintained in perpetuity and cannot resell a credit the next year.
- Calculation of credits would be based on conservative estimates and consider uncertainty of the model.





# GENERAL REQUIREMENTS (PURCHASERS)

- Only governmental entities may purchase and use these credits (*may revise based on 2024 SB 1532*).
- Those using credits must meet a pre=post on their project site before they can purchase credits (*may revise based on 2024 SB 1532*).
- Not to be used to meet water quantity requirements.
- Transactions will be evaluated for approval by the DEP in the purchaser's ERP at time of permitting.
- DEP may deny the use of credits if such use would result in localized water quality violations at the discharge site.
- Credits included in a previously authorized transaction cannot be used again for another sale.



# SERVICE AREA

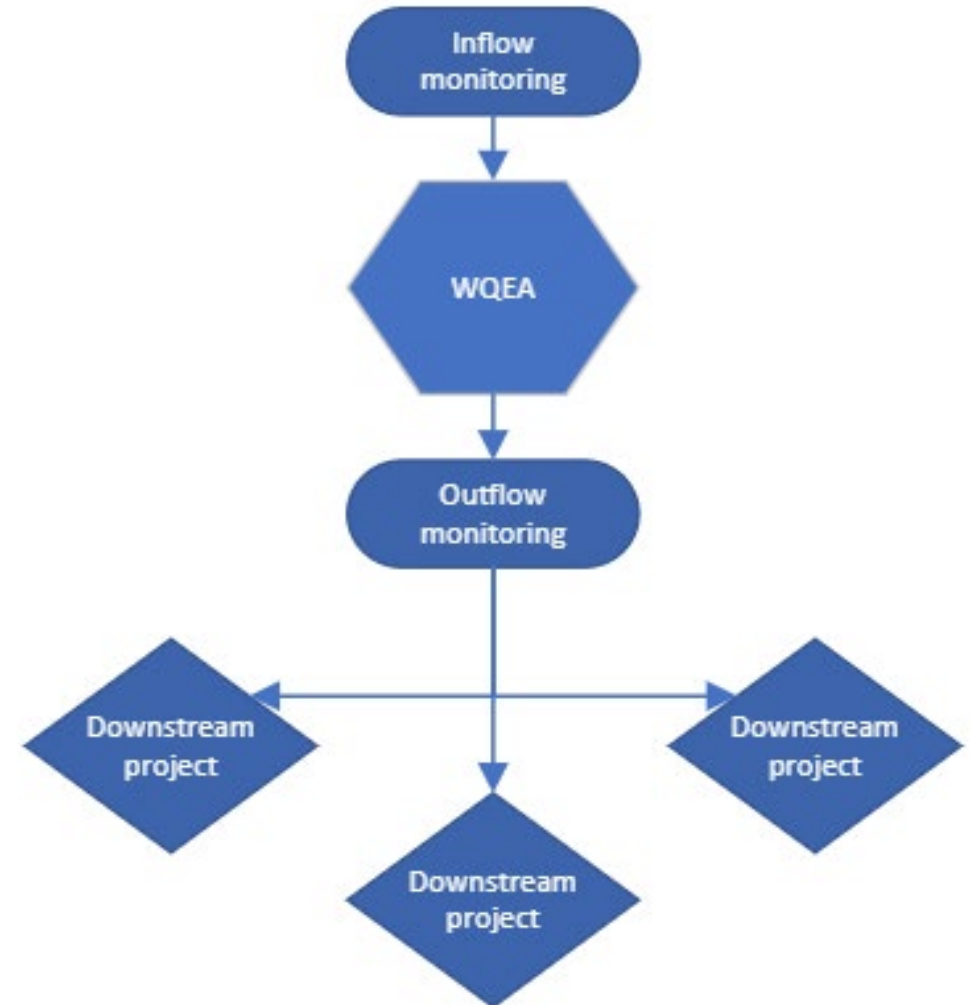
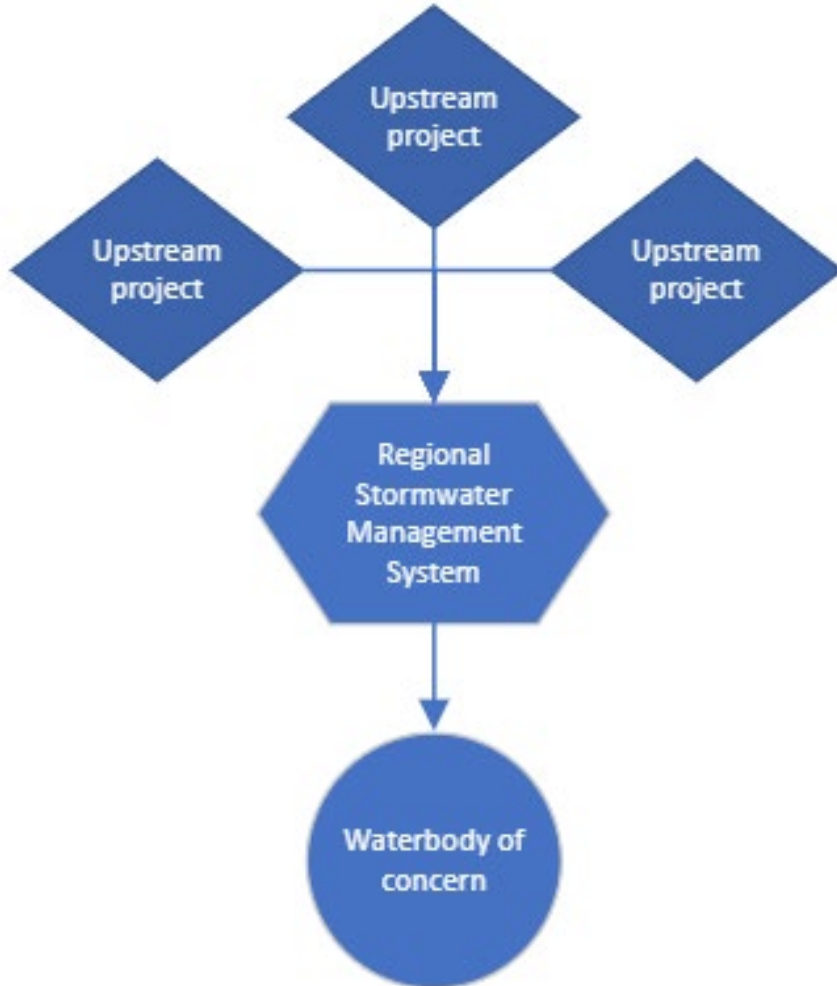


- Purchaser's project must be within the service area of the WQEA.
  - Based on modeling provided by the WQEA at time of permit and approved by DEP.
  - Project must be hydrologically connected and downstream of the WQEA.
  - Service areas may overlap.
- Exemptions.
  - Linear projects where only a portion cross a service area.
  - Projects that are upstream of the WQEA but service an aquatic preserve.





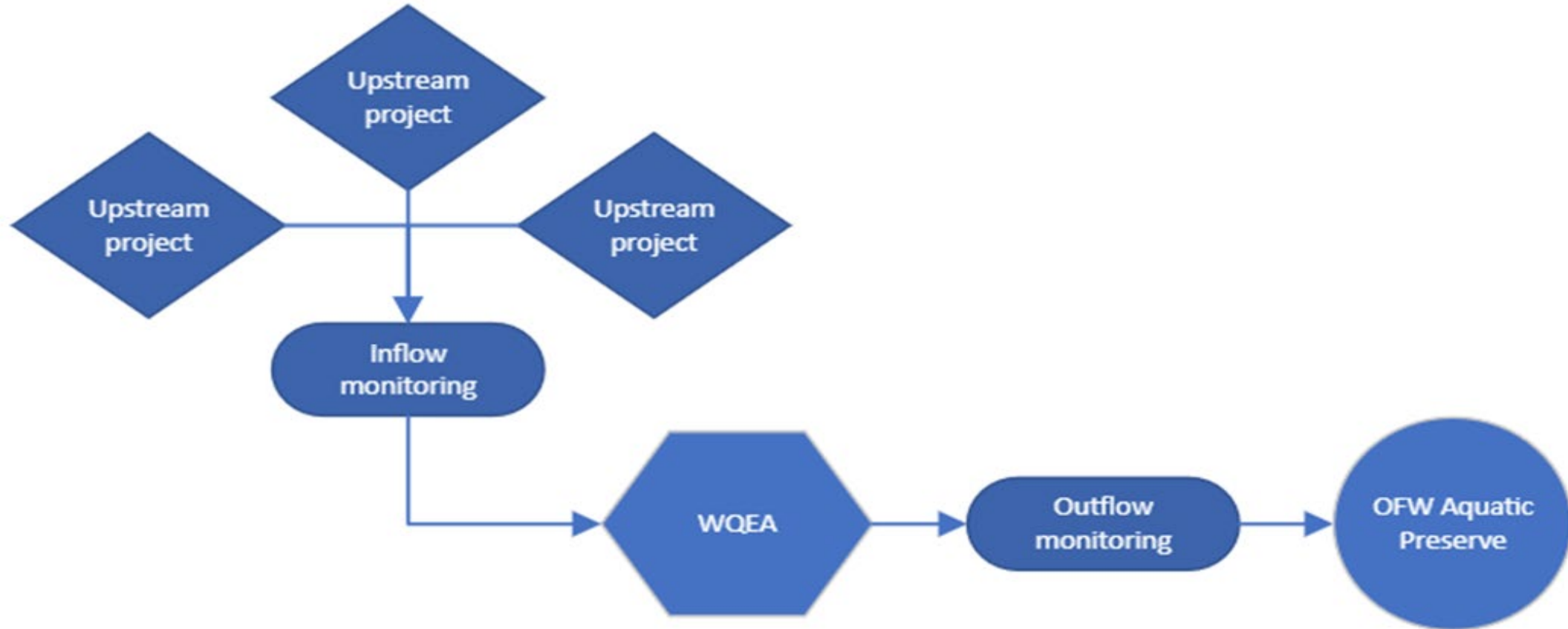
# DIFFERENCE BETWEEN REGIONAL STORMWATER SYSTEM AND WQEA





# SERVICE AREA EXEMPTION

## OUTSTANDING FLORIDA WATER (OFW) AQUATIC PRESERVE







# ENHANCEMENT CREDIT LOCATIONAL VALUATION FACTOR ADJUSTMENTS

- The purpose of a proposed locational valuation factor (LVF) is to provide equivalent water quality improvement at the purchaser's point of discharge.
- No localized water quality violations shall occur at the site of purchaser's discharge.
- Location factor shall account for the pollutant reduction from the WQEA to the farthest downstream point of the WQEA's service area.
- Location factor cannot be less than one.
- Location valuation factors and number of credits purchased will be reflected in the purchaser's ERP and enhancement credit tracking ledger.
  - Evaluating implementation options within DEP.
  - Encouraging stakeholder input.



# ENHANCEMENT CREDIT TRANSACTIONS AND CREDIT USE



- Purchase of credits is voluntary.
- Use of credits should not cause or contribute to a violation of state water quality standards at the purchaser's point of discharge.
- If a purchaser would like to change which WQEA would provide credits, they must notify DEP in writing.
- Governmental entities can be the owner of a WQEA but can only use credits for themselves and cannot sell credits to third parties per section 373.4134(3)(e), Florida Statutes (F.S.), (*may revise based on 2024 SB 1532*).
- WQEA can sell some of their credits in phases on a case-by-case basis; however, all financial assurance must be met before any credit transactions can occur.





# ENHANCEMENT CREDIT TRACKING

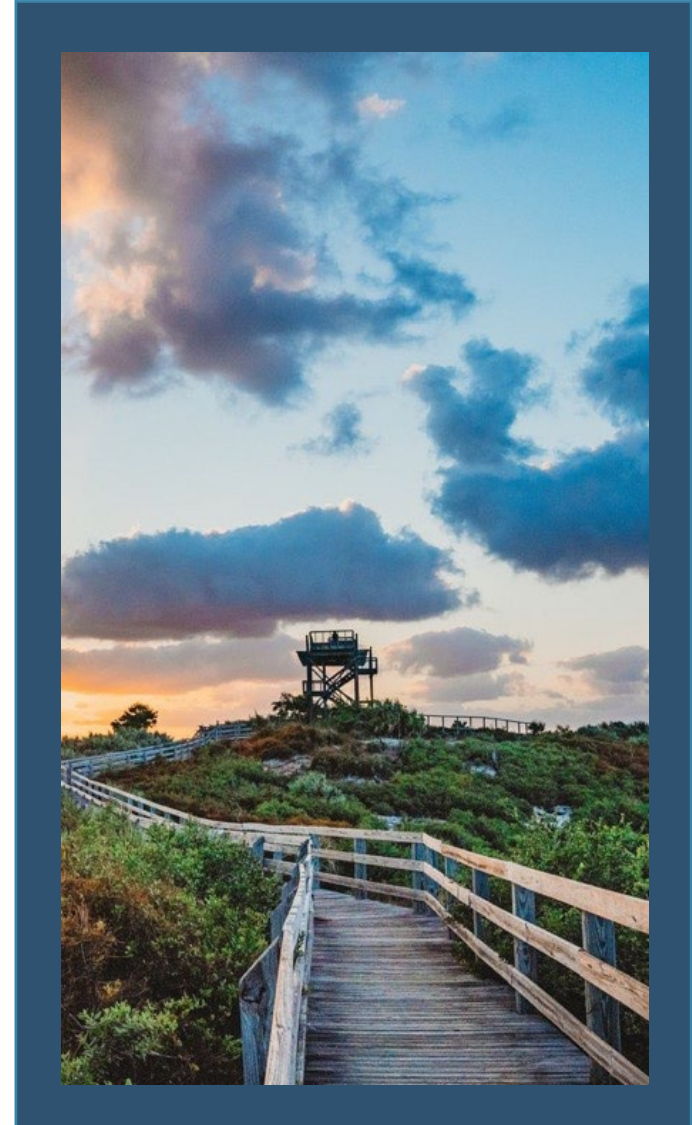


- DEP would track all WQEA transactions in a ledger.
- Withdrawal of credits from a WQEA would be considered a minor modification to the WQEA permit.
- Information tracked must document the terms of credit transactions, including the purchasing entity, number of credits sold, project or discharge locations, number of credits still available in the WQEA and date of the WQEA's most recent inspection.



# ENHANCEMENT CREDIT MONITORING, CONTINUED VERIFICATION

- An applicant for a WQEA permit must demonstrate pollutant reductions can be achieved of at least equal to the number of credits sold.
- An applicant for a WQEA permit must propose a performance and success criteria monitoring and verification plan with protocols specific to the treatment type(s) and site-specific conditions.
- At a minimum, monitoring should measure the inflow and outflow of water quality, flow and concentration to demonstrate the WQEA's pollutant reductions.







# COMPLIANCE AND ENFORCEMENT



- Requirements for WQEA owners.
  - Have a long-term maintenance entity with financial assurance for that entity.
  - Certify and document that the systems are fully operational and maintained.
  - Document 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 suspend a WQEA's authorization to sell credits until the WQEA returns to compliance and credits are re-evaluated.
- A purchaser's ERP would not be affected should the WQEA fail to achieve its required success criteria.



# TIMELINE FOR RULEMAKING



- DEP will continue reviewing all public comments and will make revisions to the concepts and draft rule language.
- Comments can be submitted at this rule workshop and can be emailed to [WQEA\\_2023@FloridaDEP.gov](mailto:WQEA_2023@FloridaDEP.gov) by May 2, 2024.
- DEP will hold a subsequent public workshop to present a revised draft of the rule language; this will be an additional opportunity for public input.





# THANK YOU

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