



WATER QUALITY CREDIT TRADING RULEMAKING WORKSHOP #1

WATER QUALITY ENHANCEMENT AREA RULEMAKING WORKSHOP #3

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AGENDA

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





CHAPTER 62-306, F.A.C.

WATER QUALITY CREDIT TRADING



- Existing water quality credit trading rule being updated and how it is different from the proposed water quality enhancement area (WQEA) 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 and sell credits, including point or non-point sources.



GENERAL REQUIREMENTS

CHAPTER 62-306, F.A.C.

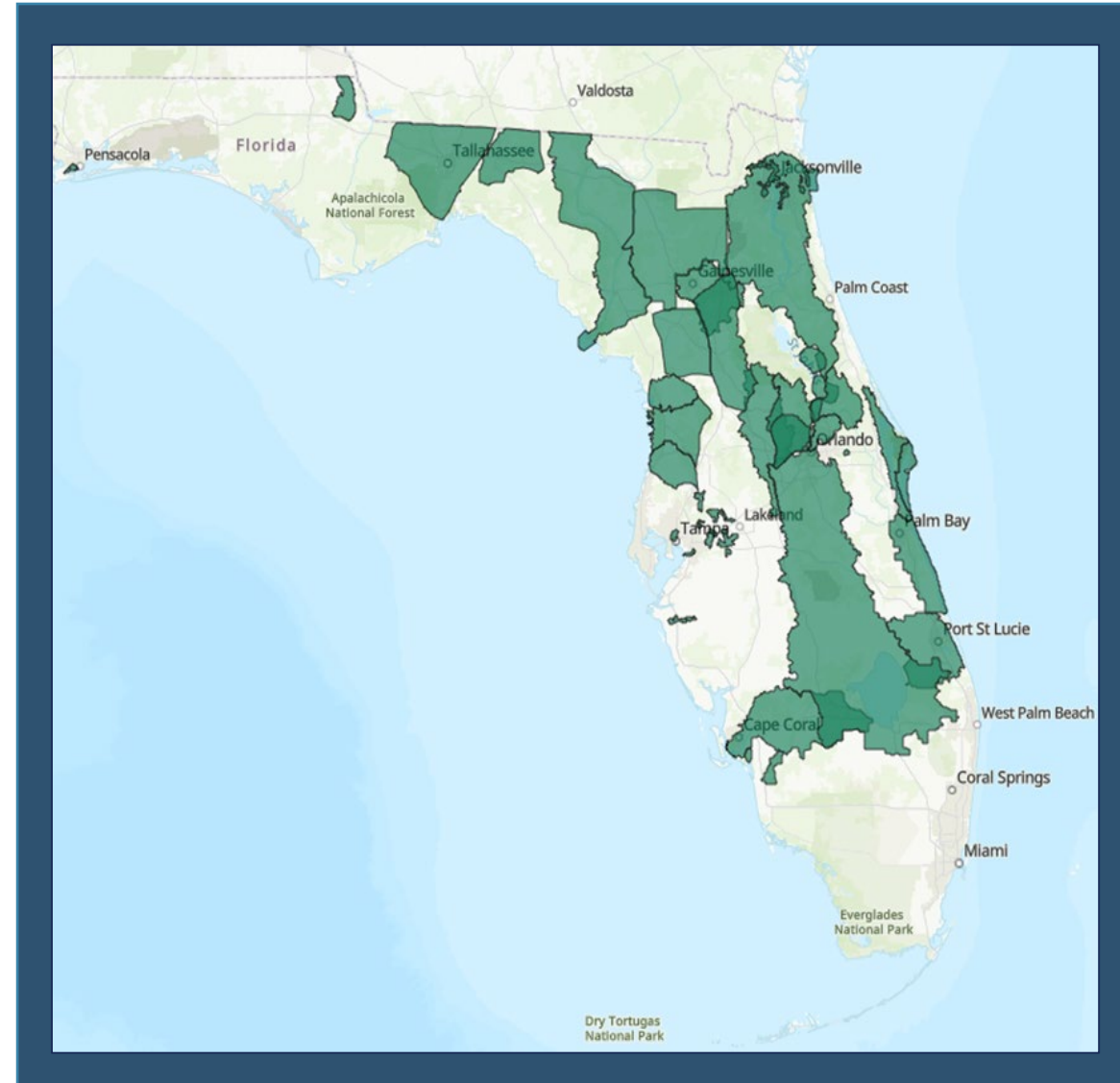
- Credits can only be purchased for BMAPs or RAPs that include detailed individual allocations.
- Credits generated by a wastewater point source other than a municipal separate storm sewer system (MS4) must be confirmed by monthly effluent monitoring. The monitoring plan must be incorporated into the applicable permit and shall verify the pollutant reductions are at least equal to the number of credits sold.
- WQEAs permitted under Chapter 62-332, F.A.C., may sell credits under Chapter 62-306, F.A.C., so long as the transaction conforms to the provisions within the chapter. All permitting requirements for any WQEA shall remain under the purview of Chapter 62-332, F.A.C.



OVERVIEW

CHAPTER 62-306, F.A.C.

- Nutrient credit trading program exclusively for satisfying nutrient allocations assigned to an entity under a BMAP or RAP under section 403.067, Florida Statutes (F.S.).
- Credits can be generated from any process that removes more nutrients from effluent than the entity's annual wasteload allocation under the BMAP or RAP, or a water quality-based effluent limitation established in a permit, whichever is more stringent.
- Credits must be traded within the boundaries of the BMAP or RAP.
- Credits may be sold on a temporary basis.
- Governmental entities can sell credits outside of their jurisdiction.

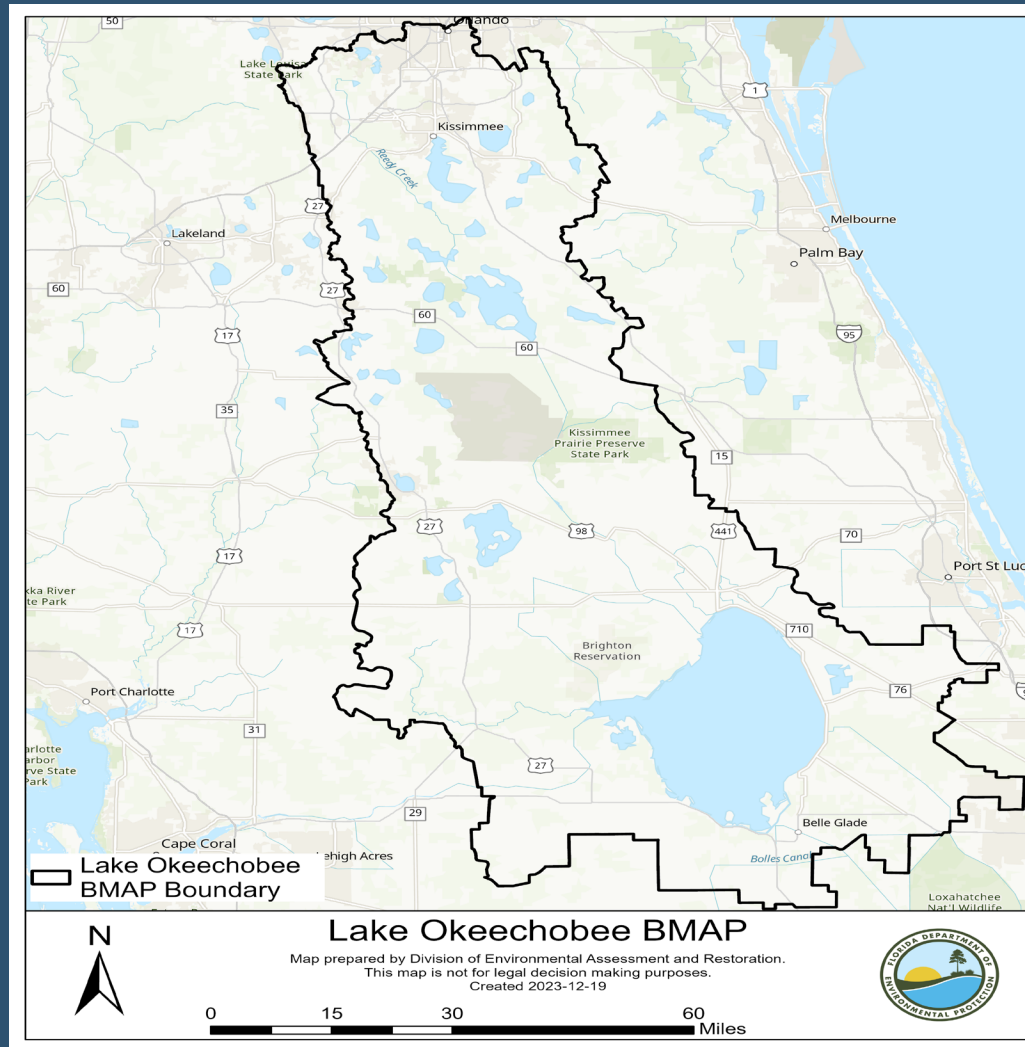




KEY DEFINITIONS

CHAPTER 62-306, F.A.C.

BMAP
Boundary =
Service Area



TARGET WATERBODY

The receiving waterbody or waterbody segment to which the load allocation applies for purposes of meeting the restoration targets in the applicable BMAP or RAP.



KEY DEFINITIONS (2)

CHAPTER 62-306, F.A.C.

BASELINE

- The annual net nutrient load from a pollutant source after performing all required pollution control activities under a BMAP, RAP or permit.

POINT V. NONPOINT SOURCE

- The baseline for a point source is the entity's annual wasteload allocation under the BMAP or RAP or a water quality-based effluent limitation established in a permit, whichever is more stringent.
- The baseline for a non-agricultural nonpoint source is the entity's individual annual load allocation or the applicable categorical load allocation under the BMAP or RAP.





KEY DEFINITIONS (3)

CHAPTER 62-306, F.A.C.

LOCATIONAL VALUATION FACTOR

- Locational Valuation Factors (LVFs) are adjustments to credits made by DEP to ensure that trades represent the relative impact a given unit of nitrogen or phosphorus discharged at one location has on the water quality in the target waterbody.
- LVFs are used in trades to provide reasonable assurance that the seller's credits are functionally equivalent in protecting the water quality of the waterbody or water segment.

UNCERTAINTY FACTOR

- Chapter 62-306, F.A.C., is not limited to technologies that can be easily monitored for nutrient reduction.
- When estimated nutrient reductions are required, an uncertainty factor is applied to account for any unknown factors that may limit nutrient reduction.





CREDIT USE AND VALUATION

CHAPTER 62-306, F.A.C.

- Both Chapters 62-332 and 62-306, F.A.C., describe a standard calculation for LVF based on the following:
 - Modelled attenuation between the location where credits are generated and the point they are applied.
 - Water quality variability within the target waterbody.
- LVF equations are equivalent between two rules.
 - Equation in rule 62-306.600, F.A.C., accounts for different locational scenarios based on the relative locations of the target waterbody and seller.
 - A seller may be downstream of the purchaser as long as the target waterbody is downstream of the credit generation site.
 - Equation in rule 62-332.500, F.A.C., is simplified because the seller must always be upstream of the buyer and the target waterbody is at the buyer's point of discharge.



2024 LEGISLATION

SENATE BILL 1532

- The Florida Legislature passed Senate Bill (SB) 1532 during the 2024 session.
 - Expanded circumstances WQEA use.
 - Use of WQEA credits by private entities.
 - Section 1 of Chapter No. 2024-144, Laws of Florida.
- Current draft rule has been updated to reflect amendments from SB 1532 and DEP's review of comments to date.





RULE 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 an “applicant.”
- The WQEA permit will be an environmental resource permit (ERP).
- Credits could be used for net improvement, satisfying the ERP performance standard, under sections 373.403-373.443, F.S., or allocations of an adopted BMAP or RAP under section 403.067, F.S.
- 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

- “Applicant” added per SB 1532.
 - A governmental entity that seeks to purchase water quality enhancement credits to meet an assigned BMAP allocation or RAP or a governmental entity or a private sector 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.
- “Purchaser” removed.
- “Natural System.”
 - Definition limited by statute.
- “Water Quality Enhancement Area.”
 - Definition limited by statute.





GENERAL REQUIREMENTS

- 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.
- Those using credits must meet a pre=post on their project site before they can purchase credits.
- Not to be used to meet water quantity requirements.





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 Chapter 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.



SERVICE AREA



- Purchaser's project must be within the service area of the WQEA.
 - Based on modeling provided by the WQEA at the time of the 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.



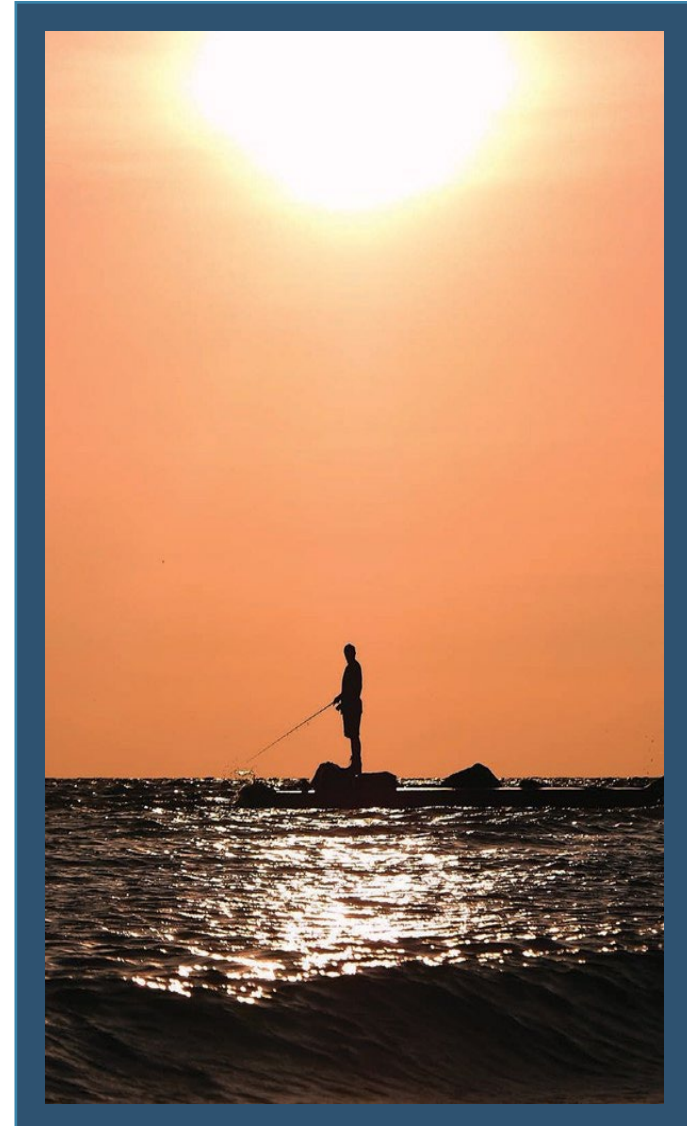
ENHANCEMENT CREDIT LVF ADJUSTMENTS

- Location factor = transport factor x variability factor.
- Transport factor.
 - Based on the attenuation of a pollutant between the WQEA point of discharge and the purchaser's point of discharge.
- Variability factor.
 - Concentration of the 95th percentile divided by the arithmetic mean of the pollutant.
- Number of credits needed = (number of standard units of measure for pollutant removed annually required for treatment) x LVF.
- The numerical model(s) used to determine the LVFs shall be updated at least every 10 years by the WQEA.



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.
- Credits may not be used by point source dischargers to satisfy regulatory requirements other than to obtain an ERP.
- WQEA can sell some of its 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



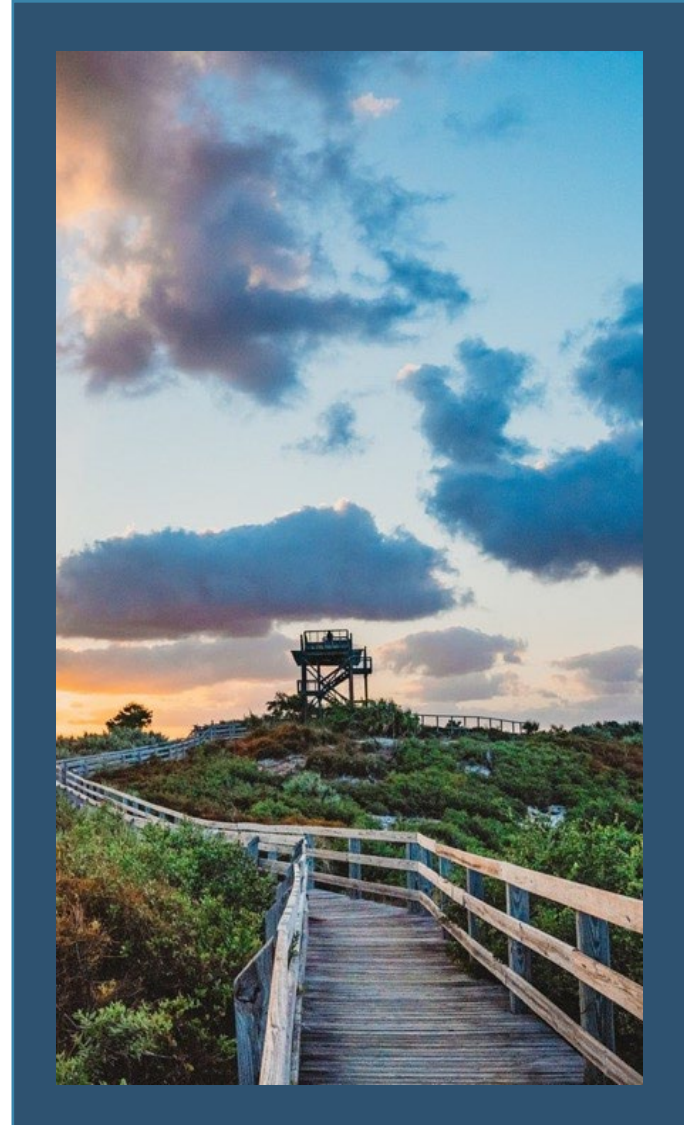
- DEP would track all WQEA transactions in a ledger.
- Withdrawal of credits from a WQEA would be considered a minor modification to the WQEA permit.
- Information tracked must document the terms of credit transactions, including the purchasing entity, number of credits sold, project or discharge locations, 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 of no less than 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

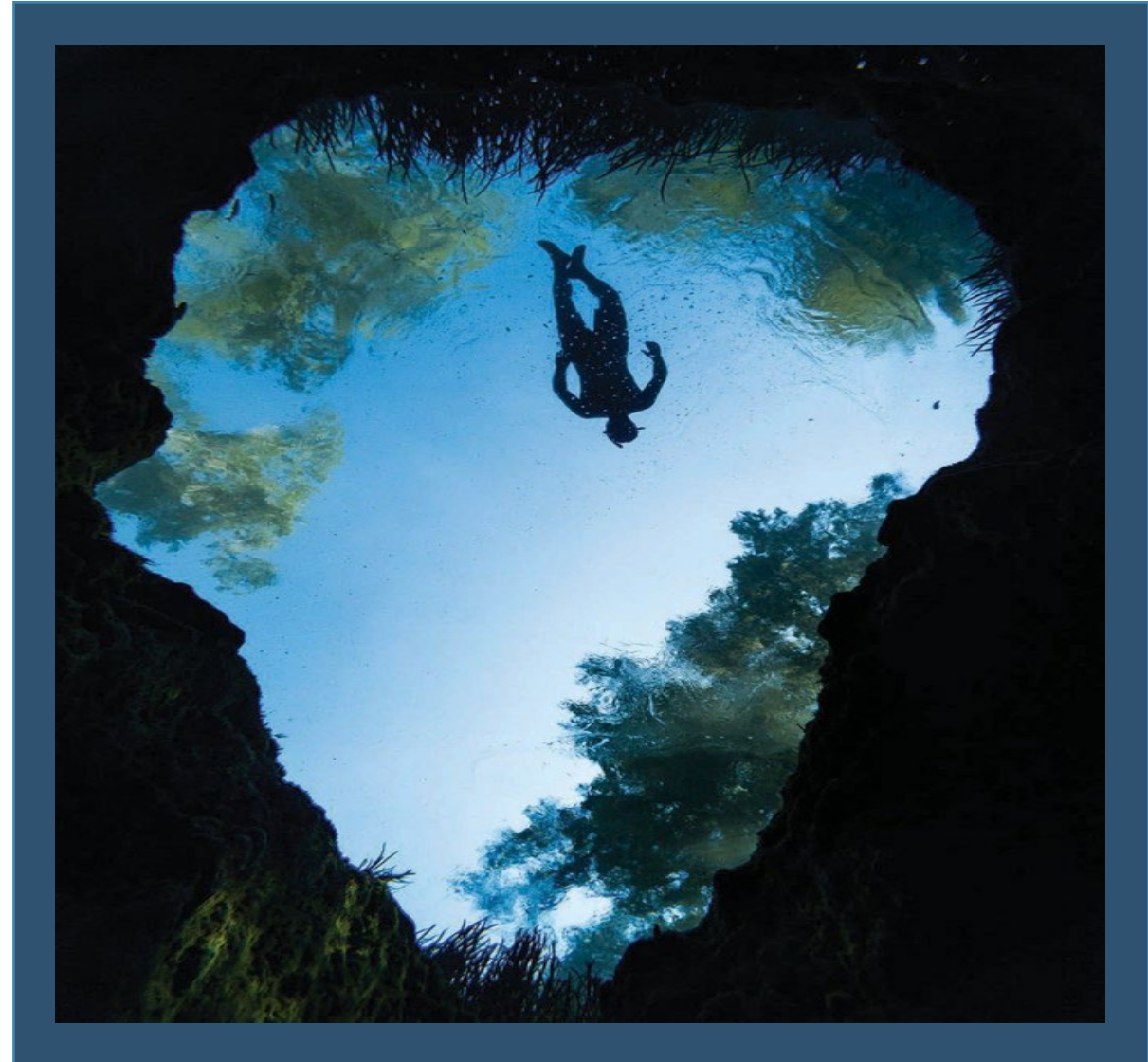


- Requirements for WQEA owners.
 - Designate a long-term maintenance entity supported by financial assurance for that entity.
 - Certify and document that the systems are fully operational and maintained.
 - Document pollutant load reductions and report annually to DEP.
 - Notify DEP if there are any 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 also be emailed by Oct. 2, 2024, to WQEA_2023@FloridaDEP.gov.
- DEP will evaluate comments received and may hold an additional workshop.





THANK YOU

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