

FLORIDA WETLAND MITIGATION POLICY CHANGES

Two major Florida Mitigation Policy Changes for the Wetland Mitigation Banking Industry

WINTER SPRINGS, FL, UNITED STATES, February 25, 2021 /EINPresswire.com/ -- Two major Mitigation Policy Changes occurred in 2020 for the Wetland Mitigation Banking Industry:



The Navigable Waters Protection Rule and Florida Streamlined Regulation Section 404 of the Clean Water Act (CWA), were two major Mitigation Policy Changes for the Wetland Mitigation Banking Industry.”

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1) The New Navigable Waters Protection Rule. On April 21, 2020; the new rule was approved to define “WOTUS” which limits the Extent of Federal Regulation for Wetlands. Therefore, less Federal Mitigation will be Needed for Projects that have Wetland Impacts. The new policy removes isolated wetlands from jurisdiction from the CWA Section 404. We are hopeful that this new policy will provide Clarity & Less Time spent permitting. However, conservation groups are not fond of this new policy and are challenging it in many states. Fortunately, State

Protection still remains for Isolated Wetlands in Florida and other states with State Agencies overseeing permitting wetland impacts.

2) Florida Streamlined Regulation: On December 17, 2020; Florida has assumed responsibility of The Clean Water Act Section 404. FDEP assumed administration of the dredge and fill permitting program under Section 404 of the federal Clean Water Act for certain wetlands and other surface waters in the state. Therefore, potential wetland impacts will need to be administered by FDEP and not ACOE under CWA Section 404. We are currently uncertain how this new policy will affect the industry, however, we are hopeful that FDEP can move the permitting process quicker than ACOE has been able to perform authorizing wetland impacts, hence making the mitigation reservation period a shorter timeframe than in the past. FDEP estimates that 85% of projects currently overlap with both State and Federal Regulation. This new policy eliminates duplicative rules on the state and federal levels. FDEP will permit projects that are considered “Assumed Waters” under Section 404, and the ACOE will continue permitting “Retained Waters” (Section 10). Currently, the Army Corps has transferred over 500 files to FDEP and there are currently uploading the applications into their databases and contacting applicants to inform them on

who their DEP processor is and what the DEP application number is.

Mitigation Banks will continue to be permitted by ACOE.

FDEP recorded 2 public webinars related to State 404 at the end of 2020 and those recordings can be accessed from the 404 Assumption webpage on the FDEP website:

<https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/404-assumption>

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