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GUIDANCE ON WETLAND ALTERED SITES TEST PARAGRAPHS 62-340.300(3)(a-c), F.A.C.

TO: The Department, Water Management Districts, and local governments

THROUGH: Richard Cantrell *RC*
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This memo provides additional guidance to that given in THE FLORIDA WETLANDS DELINEATION MANUAL for application of the rule language within subsection 62-340.300(3), F.A.C. It must be read in concert with THE FLORIDA WETLANDS DELINEATION MANUAL and should not be interpreted as replacing the existing guidance. Rather, the following is to be interpreted as an expansion of the former discussion.

The intent and purpose of the altered sites test is to provide a framework to delineate wetlands, where due to past or present legal alteration(s), the normal interpretation of plant species dominance, soils, and hydrologic evidence within the parameters of paragraphs 62-340.300(2)(a-d), F.A.C. is rendered unreliable. When legal disturbances or alterations have masked the nature of a site so that paragraphs 62-340.300(2)(a-d), F.A.C. cannot be used to obtain reliable results, then the provisions of paragraphs 62-340.300(3)(a)(b), F.A.C. may be applied using reasonable scientific judgment.

Specifically not included in the 62-340.300(3)(a)(b), F.A.C. altered sites concept are alterations caused by illegal activities. Evaluation of such sites may under 62-340.300(3)(c), F.A.C. utilize many of the same methodologies associated with the altered sites test but in a forensic manner. Wetland delineations pertaining to potentially illegal activities do not consider the alterations as they exist but rather what they were immediately before the illegal activities took place.

Fundamental to the 62-340.300(3)(a), F.A.C. altered sites concept is that the area delineated, even with the alteration, is a functioning wetland, all be it with potentially reduced function.

Even a wetland with minimal function is still a wetland; either an area meets the wetland criteria or it does not. Pragmatically, this means that over time and without continued alteration, any wetland delineated using the 62-340.300(3)(a), F.A.C. altered sites test would return to a condition easily identifying it as such, using the types of evidence and characteristics contemplated in paragraphs 62-340.300(1)(2)(a-d), F.A.C. In all cases, copious attention should be given to the statutory definition of wetlands and the associated example wetland plant communities when evaluating current site conditions and applying the altered sites test methodology to extant wetland conditions.

Landscapes where historic or ongoing legal activities have altered the hydrology of a site to the extent that wetland functions are no longer present during normal seasonal cycles per 62-340.300(3)(b), F.A.C., **are not wetlands** and therefore are not “altered site” wetlands subject to the provision of subsection 62-340.300(3)(a), F.A.C. However, some wetland sites that have been legally altered to the point of not being wetlands per 62-340.300(3)(b), F.A.C. may return to wetland conditions with the cessation of the legal activities. When this occurs, the site **may** be subject to the altered site provisions **if** residual effects of the disturbance prevent the reliable use of paragraphs 62-340.300(2)(a-d), F.A.C.

The importance of reasonable scientific judgment cannot be overstated when considering the altered sites concept. Each and every altered site will present a unique set of interpretations and conclusions. The term “altered” does not refer to any deviation from Florida’s pre-settlement condition but rather to the intensity, extent and degree of alteration as it effects the reliability of paragraphs 62-340.300(2)(a-d), F.A.C. in correctly identifying areas that are included in the statutory wetland definition. **Some** of the activities that **may** result in the application of the altered sites provisions are: recent land clearing, impoundment, intensive grazing, soil disturbance, long term suppression of normal fire cycles, herbicide treatments, anthropogenic plant monocultures that change the indicator status of existing vegetative communities, invasive exotic vegetation that eliminates the indicator status of other vegetative strata, recent disturbance by hurricanes, catastrophic fire, soil compaction or recent mowing. None of the listed example activities, in combination or by themselves, mandate the use of the altered sites test. It is necessary to use the altered sites test **only when** these or other alterations prohibit the reliable use of paragraphs 62-340.300(2)(a-d), F.A.C. in correctly identifying areas that are functioning wetlands included in the statutory wetland definition. The burden of proof for utilizing the altered sites test shall rest with the party asserting it was required given the current site conditions.

Please contact Eric Hickman at (850) 245-8496 with any questions or comments.