Receiving Waters Framework:
A Practical Approach to Utilizing Compensating Stormwater Treatment

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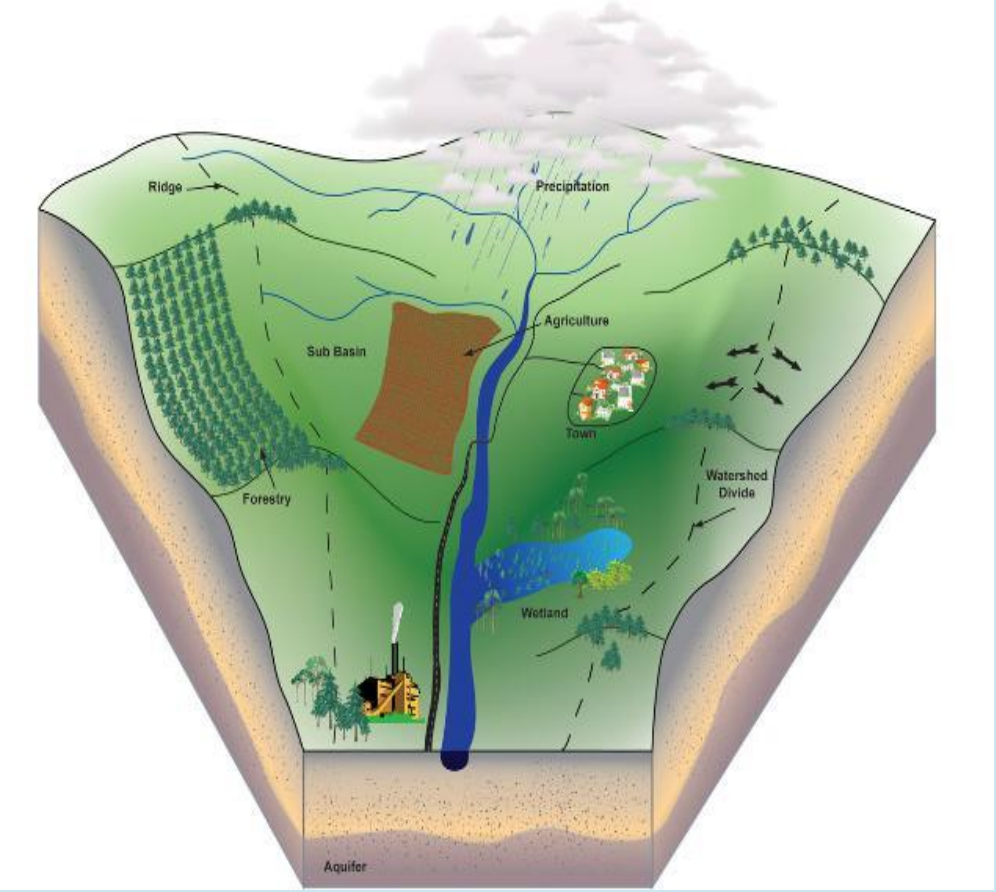
Session Overview

1. New Stormwater Rule
2. Compensating Stormwater Treatment
3. The Downstream Water Constraint
4. A Practical Receiving Water Framework
5. Applying the Framework to Projects
6. Q&A

SB 712 – Clean Waterways Act (2020)

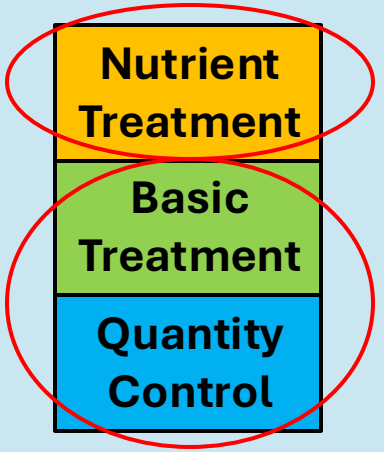


Graphical illustration of a watershed. Credit: Greg Means (UF/IFAS)

<u>Directed FDEP to adopt new stormwater rules:</u>

- Improve water quality
- Use most recent scientific information
- Address low-impact design BMPs
- Focused on **nutrients**
- Incorporates a **watershed approach**
- Consistent application of **<u>Net Improvement</u>**

ERP Stormwater Rule (2024-2025)



Key Requirements:

- Retained basic treatment, quantity and rate control requirements
- Capped nutrient loading and added specific nutrient reduction requirements
- Offered new options to meet nutrient requirements (LID, GSI, Alternative Designs)
- Expanded compensating treatment options (nutrient trading)
- Enhanced O&M, cost estimate, financial, inspection requirements

SB 848 Clarified Third-Party Treatment

Before SB 848:

- Compensating stormwater treatment only authorized in ERP rules
- RSMS authority only contained in Applicant's Handbook
- No clear tie-in for WQEA enhancement credits

After SB 848:

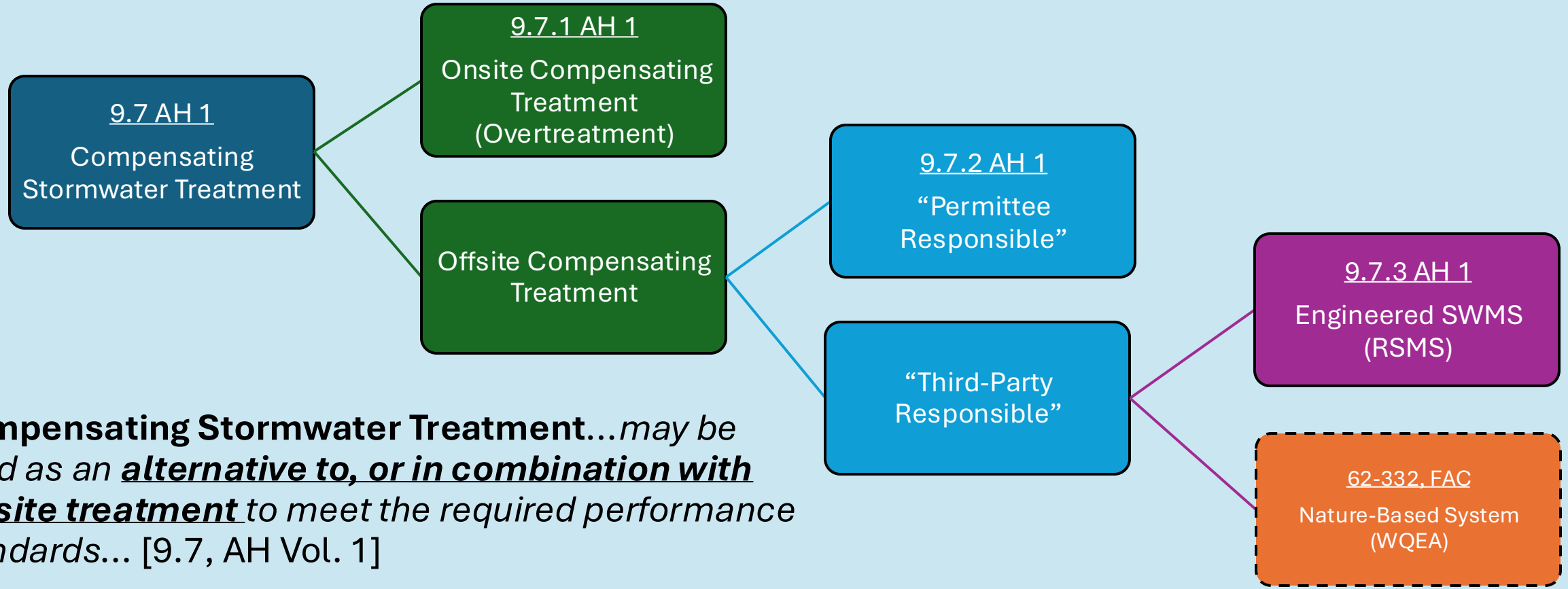
- Compensating stormwater treatment recognized in statute
- RSMS transfer of responsibility expressly authorized by statue
- WQEA credits and RSMS allocations both recognized as compliance options

NEW: Stormwater Rule Update (Oct 1, 2026)

Key Changes:

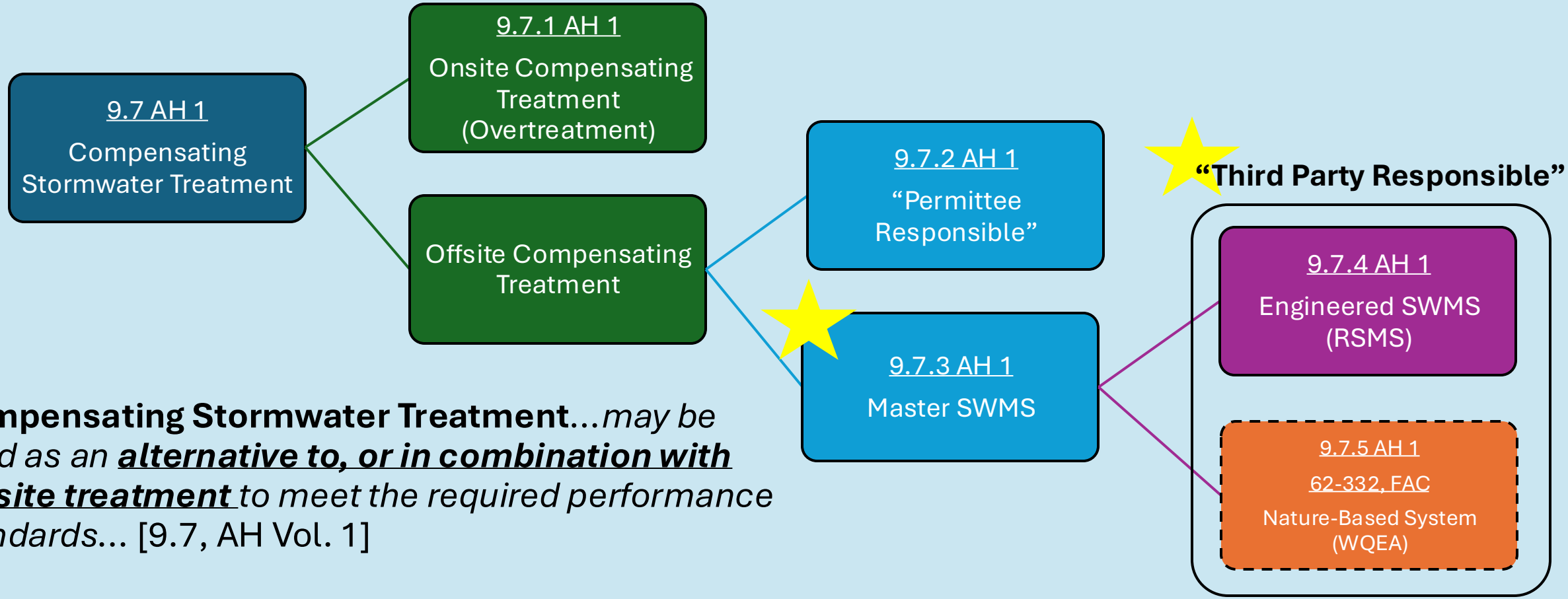
- Defines “Compensating Stormwater Treatment”
- Defines “Pollutant Reduction Allocation” and “Enhancement Credit”
- Authorizes pollutant reduction allocations from RSMS for ERP compliance
- Confirms use of enhancement credits from WQEAs for ERP compliance
- Requires financial responsibility for RSMS operators
- Transfers perpetual responsibility to RSMS/WQEA operator
- Distinguishes RSMS from “Master Stormwater Management System”

Compensating Stormwater Treatment



Compensating Stormwater Treatment...*may be used as an* ***alternative to, or in combination with on-site treatment*** *to meet the required performance standards*... [9.7, AH Vol. 1]

Compensating Stormwater Treatment (Oct 1)

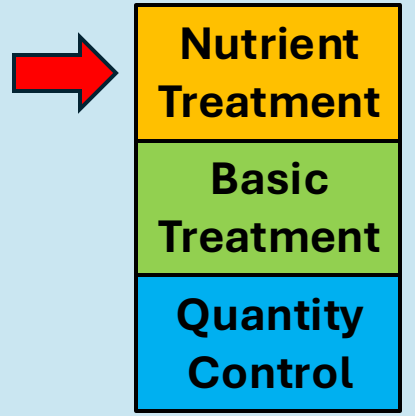


Compensating Stormwater Treatment...*may be used as an* ***alternative to, or in combination with on-site treatment*** *to meet the required performance standards*... [9.7, AH Vol. 1]

Practical Effect for Permit Applicants

Confirms nutrient requirements can be met through any combination of:

- ✓ Onsite treatment (conventional or MSWMS)
- ✓ Permittee-controlled offsite treatment
- ✓ RSMS pollutant reduction allocations
- ✓ WQEA enhancement credits

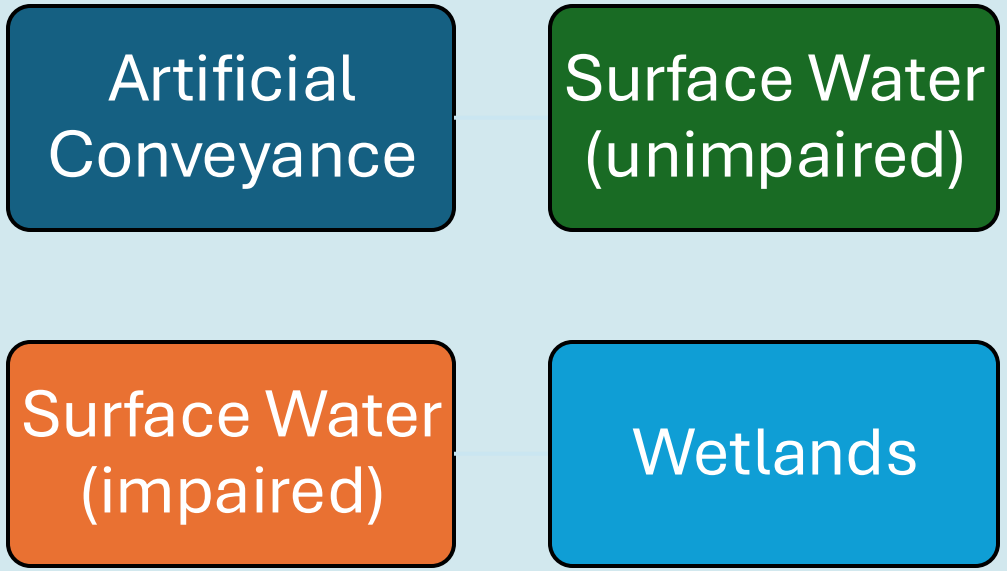


Retains remaining ERP requirements:

- No changes to basic treatment or quantity control
- Compensating treatment only within same hydrologically connected watershed
- No localized adverse impacts

Receiving Water Framework

- The transfer must occur within the same hydrologically connected watershed
- The project must not create a localized adverse impact
- Impaired waters and TMDLs create tighter technical constraints
- Wetlands shift the analysis to assimilative and hydraulic capacity



Artificial Conveyance (e.g. MS4)

- Interior conveyances route runoff through an MS4
- Compensating treatment may occur elsewhere within the same MS4
- Treatment outside the MS4 may also be possible where both discharges benefit a common receiving water

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Surface Water (Unimpaired)

- Projects may discharge to a natural surface water that is unimpaired
- Compensating treatment may occur elsewhere within the same hydrologically connected watershed (e.g. HUC 12)
- No separate nutrient capacity analysis is required

Surface Water (Impaired)

- Impaired waters require a **localized analysis**
- Impaired waters are evaluated by **Waterbody Identification (WBID) Number**
- **Net Improvement**: post-development loading must be less than predevelopment
- **Same WBID**: full treatment obligation is transferrable within the same segment
- **Different WBIDs**: project must meet net improvement at discharge point
- Only the treatment **above net improvement** (e.g. 80/80) may be transferred offsite

Surface Water (Impaired)

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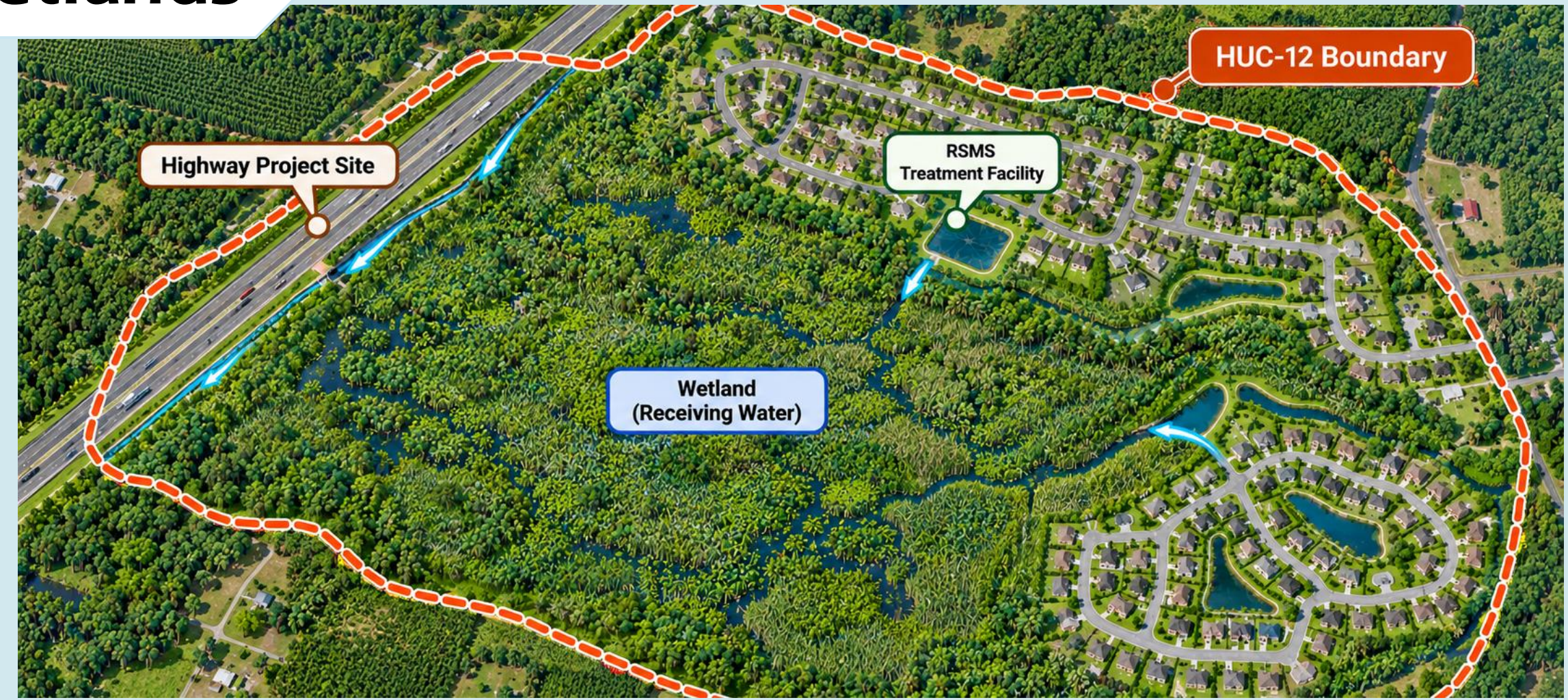
Wetlands

- Wetlands must have **sufficient hydraulic and nutrient assimilative capacity**
- **Chapter 62-611, F.A.C.** provides a framework for evaluation:
  - **Hydraulic loading**: ≤ 2 in/week annual average
  - **Detention time**: > 14 days annual average
  - **TN and TP loading limits**: < 25 g-TN/m^2/year, < 3.0 g-TP/m^2/year
  - **Maximum discharge concentrations**: 3 mg-TN/L, 1 mg-TP/L
- **Cumulative loading** from other discharges to the same wetland must also be considered
- If sufficient capacity is demonstrated, the wetland can support the use **without impact**

Wetlands


HUC-12 Boundary
Highway Project Site
RSMS
Treatment Facility
Wetland
(Receiving Water)

Receiving Water Framework - Takeaways

- Offsite compensating treatment is **not one-size-fits-all**
- "**No localized adverse impacts**" starts with the project's receiving water:
  - **Artificial conveyance**: evaluate the connected MS4
  - **Unimpaired surface water**: HUC-12 generally defines the opportunity
  - **Nutrient-impaired surface water**: WBID and net improvement become controlling considerations
  - **Wetlands**: demonstrate hydraulic and nutrient assimilative capacity
- In every case, confirm **hydrologic connection** (e.g. HUC 12)

"The receiving water determines how much treatment can move offsite — and how far."