



U.S. Department of Transportation
Federal Highway Administration



**FEDERAL HIGHWAY ADMINISTRATION
(FHWA) AND FLORIDA DEPARTMENT OF
TRANSPORTATION (FDOT)**

**NEPA ASSIGNMENT
JOINT MONITORING REVIEW**

**January 2026
REPORT**

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Executive Summary

Federal Highway Administration (FHWA) and Florida Department of Transportation (FDOT) conducted a National Environmental Policy Act (NEPA) Monitoring event as is required by the provisions of the 23 U.S.C. 327 Memorandum of Understanding (MOU), renewed on May 26, 2022. According to Section 8.2 of the 2022 MOU, FHWA and FDOT are required to conduct joint monitoring events to ensure FDOT's compliance with the MOU and all applicable Federal laws and policies. The primary goals of the event were to assess FDOT's compliance with NEPA responsibilities as outlined in the 2022 MOU, monitoring FDOT's performance for the topics identified in the 2024 FL Monitoring Risk Assessment , and identify successful practices, observations and non-compliance observations.

This report presents the results of the first joint monitoring event conducted by the FHWA and the FDOT Office of Environmental Management (OEM). The event is a risk-based review focusing on FDOT's assumption of NEPA Assignment responsibilities as defined by the MOU under 23 U.S.C. 327, which allows FDOT to assume FHWA's responsibilities for environmental review, consultation, and compliance for highway projects within the state. As a part of the monitoring event, a desktop review was conducted in June and July 2024 for NEPA document approvals completed by FDOT in calendar year 2023.

The monitoring review followed the jointly developed 2023 Florida NEPA Assignment Program Monitoring Plan and involved an assessment of FDOT's adherence to NEPA processes and MOU requirements for the areas identified in the 2024 FL Monitoring Risk Assessment , namely noise, supporting documentation including Endangered Species Act (ESA) interactions, and wetlands. The review methods included analyzing FDOT project files, guidance documents, and environmental procedures. This report provides an overview of the findings made during the 2024 Monitoring Event, highlighting both successful practices and observations. The monitoring event identified one non-compliance observation at the project level that required FDOT to take corrective action which they have completed.

Background

Under the terms of the December 2016 MOU between the FHWA and the FDOT, the FDOT assumed FHWA's responsibilities for environmental review, consultation, and compliance for certain Federal highway projects. This agreement, renewed on May 26, 2022, outlines the roles and responsibilities of each party to ensure the successful implementation of NEPA assignment program.

A component of the 2022 MOU is the requirement for FHWA and FDOT to conduct joint monitoring events to evaluate FDOT's compliance with the NEPA assignment program. Section 8.2 of the MOU mandates that two monitoring events must take place within the five-year term of the agreement. These reviews assess if FDOT complies with the terms of the NEPA assignment MOU, allocates appropriate

resources, and regularly evaluates its environmental management processes to ensure they are working as intended.

The 2023 Florida Joint NEPA Assignment Monitoring Plan developed by FHWA and FDOT provided the framework for conducting this comprehensive review. This plan includes conducting annual risk assessments, and during an event reviewing procedures for evaluating compliance with MOU requirements, documenting findings and observations.

As a result of the March 2024 Florida Monitoring Risk Assessment, the first joint monitoring review focused on evaluating FDOT's compliance with NEPA processes per MOU requirements, including the adequacy of project documentation generally and specifically regarding Endangered Species Act (ESA) interactions, compliance with procedural requirements and regulatory adherence to wetland requirements, and compliance with procedural requirements and regulatory adherence to noise evaluations per the Project Development & Environment (PD&E) Manual and Federal requirements. The review also aimed to identify successful practices that could be shared with other state DOTs and areas that could enhance FDOT's NEPA processes in the future.

The findings from this review will inform future Florida joint monitoring activities and help FHWA and FDOT ensure the successful implementation of the NEPA assignment program. By adhering to the MOU and Florida Joint Monitoring Plan, FHWA and FDOT aim to maintain a high standard of environmental stewardship and compliance with federal regulations.

Purpose and Objective

The purpose of the joint monitoring event is to ensure FDOT's continued compliance with the NEPA Assignment program and to evaluate the effectiveness of their environmental impact analysis and mitigation practices.

This event aims to confirm FDOT's adherence to NEPA processes and federal regulations, review and improve procedures for handling the NEPA assignment program, and promote accountability and transparency in the environmental review process. By identifying potential non-compliance observations, noting other observations, and highlighting successful practices, the joint monitoring event seeks to enhance FDOT's environmental management practices, ensure compliance with the NEPA assignment program, and improve the overall efficiency and effectiveness of the Florida environmental program.

Scope and Methodology

The scope and methodology of this monitoring event is based on the jointly developed November 2023 NEPA Assignment Program Monitoring Plan. The monitoring event includes a risk assessment, document reviews, and this report. (See <https://www.fdot.gov/environment/NEPAAssignment.shtm>).

The 2024 Florida Monitoring Risk Assessment, completed jointly by FDOT and FHWA, was used to identify areas of potential risk. The team identified noise, wetland impacts, and general supporting documentation including the Endangered Species Act (ESA) – Section 7 interactions as topics to focus on for the 2024 Monitoring Event, which was conducted between June 3, 2024, and July 12, 2024. Out of a total of 371 project approvals available from January 1, 2023, through December 31, 2023, the team judgmentally rather than randomly selected sixteen (16) projects to review to ensure the focus area topics, a variety of document types, and multiple FDOT Districts were represented in the event:

- Type 1 Categorical Exclusions (CEs) (Eight projects)
- Type 2 CEs (Two projects)
- Type 2 CE Re-evaluations (Two projects)
- Environmental Impact Statement Re-evaluations (EISs) (Two projects)
- Environmental Assessment (EA) (One project)
- EA Re-evaluation (One project)

The methodology involved a detailed desktop review of FDOT project files, environmental documents, and NEPA re-evaluations pertinent to the focused topics. Team members individually reviewed the projects and then the team members collaborated and confirmed the individual project observations. The evaluation included checking for proper documentation, coordination with relevant agencies, and the presence of any successful practices. This comprehensive approach ensured a thorough assessment of FDOT's environmental management practices, aiming to enhance procedural efficiency and overall effectiveness in meeting NEPA Assignment requirements.

Team Members

- Joseph Sullivan, FHWA Florida Division Environmental Specialist
- Luis D. Lopez, P.E., FHWA Florida Division Senior Environmental Specialist
- Jonathon Bennett, FDOT State Environmental Quality and Performance Administrator
- Mary Blake, FDOT Quality Assurance and Quality Control Coordinator

Findings

Successful Practices

Successful practices are practices that the team believes are positive and encourages FDOT to continue or expand those programs in the future. The team identified the following successful practices:

General

- The jointly developed 2023 NEPA Assignment Program Monitoring Plan identified the expectations for a monitoring event. This early collaboration assisted in addressing questions and concerns from both FHWA and FDOT to ensure a successful first Monitoring event.
- The annual monitoring risk assessment tool provides for regular feedback and collaboration at a program level between FHWA and FDOT that also allows for the early identification of potential concerns.
- The jointly developed 2024 Monitoring Event Schedule allowed the team to have a successful, coordinated, and efficient process, clearly defining milestones and responsibilities ensuring a timely completion for the monitoring event.

Noise

- Projects noise sections typically are very concise and organized which helps to clearly and transparently demonstrate compliance with the noise project Type reference per 23 CFR 772 and the PD&E Manual (Part 2, Chapter 18) and to support the evaluation conclusions.
- FDOT's practice to include the regulation references in distinct negative declarations also enhances the transparency of the evaluation and shows the author's understanding of the CFR and the FDOT process. This was noted on 7 of the 16 projects reviewed.
- One project document included a project website which had a noise video that explained FDOT Noise policy and procedure on how traffic noise impacts are studied and evaluated for transportation projects. This was an innovative tool to help inform the public on the noise evaluation process and engage them in the environmental review.

Wetlands

- FDOT's practice to include distinct negative wetlands impacts declaratory statements supported by Geographic Information System (GIS) graphics or other maps clearly notes the project effects or lack thereof on nearby wetlands which helps provide the transparency of the project effects. This was noted on 3 of 16 projects reviewed.

Supporting Documentation

- FDOT successfully collaborated with US Fish and Wildlife Service (USFWS), and Florida Fish and Wildlife Conservation Commission (FWC) in the development of a Florida Panther Conservation Plan (the Plan). Wildlife vehicle collisions are the leading cause of Florida Panther mortality, which is listed as an endangered species. The Plan focuses on improving connectivity and reducing habitat threats for the Florida panther specifically in the transportation realm. The Plan also streamlines the consultation process and documentation needed to support the mitigation strategies for potential impacts of transportation projects.
- FDOT regularly engages the consultant industry and District staff through virtual Statewide PD&E Industry Forums to provide key updates on project development and environmental topics to ensure PD&E Manual changes and other documentation expectations are clearly conveyed. Feedback received from the industry during these events helps refine the PD&E Manual and other resources and review processes.
- FDOT routinely shares changes to the PD&E Manual in a variety of ways, including the FDOT Contact Mailer email distribution mechanism. The Contact Mailer reaches local, state, and federal agencies, as well as citizens and transportation professionals can subscribe to these notices. Thus, providing another avenue for public engagement within the environmental program.
- FDOT's practice to include distinct negative ESA impacts declaratory statements supported by tables, agency letters and reports, and/or maps helped clarify the project effects or lack thereof on ESA resources. This was noted on 4 of 16 projects reviewed. The Districts' use of the Area of Interest and the Environmental Screening Tool's GIS layers effectively and efficiently supports the negative contention statements made in the evaluation.
- Other FDOT transparency practices include providing a table for easy identification of effects, which was observed in the Environmental Assessment, combining the Biological Opinion (BO) and Natural Resource Evaluation in the project file, using bold fonts when summarizing the BO and species effects determinations, and including GIS and Florida Natural Areas Inventory reports to support the environmental documentation.

Non-compliance Observations

A non-compliance observation is an instance where the team finds the State is not in compliance or is deficient with regard to a Federal regulation, statute, guidance, policy, State procedure, or the MOU. Non-compliance may also include instances where the State has failed to secure or maintain adequate personnel and/or financial resources to carry out the responsibilities they have assumed. The FHWA expects the State to develop and implement corrective actions to address all non-compliance observations.

The team identified one non-compliance observation at the project level.

Supporting Documentation

- The PD&E Manual (Part 2, Chapter 16) and FDOT Procedure Number 650-000-003 states that the project commitments are to be documented and updated in the Project Commitment Record (PCR). However, 1 of 16 projects reviewed did not have a PCR to track one of the commitments as needed by the State procedures, which was to include the Special Provision for the Eastern Indigo Snake in the construction contract documents. FDOT has addressed this observation thus resolving the non-compliance observation at the project level.

Observations

Observations are items the team would like to draw attention to, which may improve processes, procedures, and/or outcomes. Observations made during the review include the following:

Noise

- Specific references to regulatory definitions and requirements would clarify and support the noise determination made on 1 of 16 projects reviewed.
- A quality control observation where the 2016 MOU was referenced in the noise report instead of the 2022 MOU was noted on 1 of 16 projects reviewed.

Wetlands

- The team identified no observations related to wetlands.

Supporting Documentation

- The PD&E Manual (Part 2, Chapter 16) states that if specific keys or programmatic agreements were used to determine an effect on a listed species, then the key must be referenced in the checklist and the steps in the key must be outlined in the supporting documentation. Species Key use was not documented 1 of 16 projects reviewed.
- The PD&E Manual (Part 2, Chapter 16) indicates that the environmental document will include a summary of the evaluation of listed species and habitat impacts, agency coordination and compensation for impacts (as appropriate) in the Type 1 CE Checklist. The supporting documentation for the projects reviewed did include species effects determinations. However, 2 of 16 projects reviewed included only the briefest summary of species effects in the CE Checklist.

Overall Monitoring Opinion

The team recognizes and appreciates FDOT's efforts to implement the requirements of the MOU by processing and approving projects; refining policies, procedures, and guidance documents; refining the Statewide Environmental Project Tracker (SWEPT) system for official project files; training staff; implementing a QA/QC Plan; and conducting a self-assessment for monitoring compliance with the assumed responsibilities.

During this first monitoring event, the team identified numerous successful practices, one non-compliance observation at the project level, and a few other observations to consider for improvement. The review concluded that FDOT's environmental documentation practices are in compliance with established agreements and guidelines and FDOT has carried out the responsibilities it has assumed consistent with the intent of the MOU and FDOT's application.

There is one non-compliance observation at the project level that required FDOT to take corrective action which they have completed. The other report observations provided aim to further enhance the quality and consistency of FDOT's environmental management program, thereby improving overall compliance efficiency and program effectiveness and the team finds that FDOT is in substantial compliance with the terms of the MOU.