PART 1, CHAPTER 12

ENVIRONMENTAL PERMITS

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ENVIRONMENTAL PERMITS

12.1 OVERVIEW

This chapter details the environmental permits that may be required for Florida Department of Transportation (FDOT) projects as well as coordination required from project planning through construction and maintenance. The need to obtain an environmental permit for a transportation project is determined by the project's impact on a protected resource. ***Table 12-1*** identifies the most common federal and state laws, and agency rules and policies associated with environmental permits for transportation projects.

For qualifying projects, FDOT's Efficient Transportation Decision Making (ETDM) process is initiated during the Planning phase where resource agencies review projects to identify potentially affected resources and permits that FDOT may need to obtain. See ***Section 12.3.2*** for guidance on projects that qualify for ETDM screening.

In the Project Development and Environment (PD&E) phase, FDOT develops technical reports as needed, completes environmental analyses, and prepares an Environmental Document that identifies the preferred alternative to be designed. Resource impacts are evaluated, mitigation options are identified, and commitments may be made with regulatory/resource agencies. Information gathered during PD&E can support environmental permit applications. More guidance on preparing for permitting during PD&E is provided in ***Section 12.3.3***.

Permitting is generally initiated during the Design phase (i.e., typically after Phase II design plans or 60% plans), but can be advanced in the PD&E phase if enough detailed information regarding project and resource impacts is available. Efforts to avoid and minimize impacts to protected resources will assist in efficiently navigating the permitting process to assure regulatory agencies that the project will not result in unacceptable impacts. After FDOT meets the regulatory agency's permitting criteria, the permit is issued. Guidance on the permitting process in the Design phase is provided in ***Section 12.3.5***.

During Construction, FDOT ensures environmental permit compliance and confirms that permit conditions are addressed as specified in the contract documents. Environmental permit compliance is handled by the Construction Office. Guidance on environmental permitting issues during Construction is provided in ***Section 12.3.6***.

An additional resource for environmental permitting is FDOT's ***Permit Handbook***.

12.1.1 District Roles and Responsibilities

The District ETDM Coordinator screens qualifying projects in the Environmental Screening Tool (EST) and transmits agency comments to the PD&E Project Manager and Environmental Permits Coordinator. See the ***ETDM Manual, Topic No. 650-000-002*** for details on ETDM Coordinator and Environmental Permits Coordinator responsibilities during ETDM.

The District prepares the appropriate Environmental Document and supporting technical reports for the project.

The Environmental Permits Coordinator is responsible for obtaining the necessary project permits. They also coordinate with Environmental Office staff during PD&E, review the Environmental Document and applicable technical reports, coordinate with resource agencies during project permitting, and coordinate with Construction staff as necessary. The responsibilities of the Environmental Permits Coordinator may also be handled by other District staff, such as District Environmental Permitting Engineer, Environmental Permits Coordinator, or Drainage Engineer. Throughout the remainder of this chapter this position will be referred to as the Environmental Permits Coordinator.

Design Project Managers in coordination with the District Drainage Engineer and Environmental Permits Coordinator ensure that permits are obtained in accordance with the project schedule and the project design incorporates environmental commitments, as appropriate.

The Construction Project Administrator is responsible for compliance during the Construction phase. For more information on the responsibilities of the Construction Project Administrator, see ***Section 8.2*** of the ***Construction Project Administration Manual (CPAM), Topic No. 700-000-000***.

12.1.2 Definitions

The definitions below are used throughout this chapter.

Compensatory Mitigation (federal definition) - The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances of preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization have been achieved. See ***33 Code of Federal Regulations (CFR) § 332.2***.

Critical Habitat - For federally listed species, critical habitat consists of: (1) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of ***Section 4*** of the ***Endangered Species Act (ESA)***, on which are found those physical or biological features (constituent elements) (a) essential to the conservation of the species and (b) which may require special management considerations or protection; and (2) specific areas outside the geographical area

occupied by the species at the time it is listed in accordance with the provisions of ***Section 4*** of the ***Act***, upon a determination by the Secretary that such areas are essential for the conservation of the species [***ESA Section 3 at (5)(A)***]. Designated critical habitats are described in ***50 CFR §§ 17 and 226***.

Design-Build (DB) - A project delivery contracting method whereby one entity performs both design and construction under one single contract.

Design-Bid-Build - A project delivery method whereby the contracting agency either performs the design work in-house or negotiates with an engineering design firm to prepare drawings and specifications under a design services contract, and then separately contracts for at-risk construction by engaging a contractor through competitive solicitation.

Direct Effects - Effects that are caused by the activity and occur at the same time and place. The terms “impacts” and “effects” are used interchangeably in this chapter. See ***86 Federal Register (FR) 2744***.

Discharge of Dredged Material - Any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, the waters of the United States. See ***33 CFR § 323.2(d)***.

Discharge of Fill Material - The addition of fill material into waters of the United States. See ***33 CFR § 323.2(f)***.

Dredging - Excavation, by any means, in surface waters or wetlands. It also means the excavation, or creation, of a water body which is, or is to be, connected to surface waters or wetlands, as delineated in ***Section 373.421(1), Florida Statutes (F.S.)***, directly or via an excavated water body or series of water bodies. See ***Section 373.403(13), F.S***.

Essential Fish Habitat (EFH) - Those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. For the purpose of interpreting the definition of Essential Fish Habitat (EFH): "waters" include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; "substrate" includes sediment, hard bottom, structures underlying the waters, and associated biological communities; "necessary" means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem; and "spawning, breeding, feeding, or growth to maturity" covers a species' full life cycle. See ***50 CFR § 600.10***.

Fill - Material placed in waters of the United States where the material has the effect of: (i) Replacing any portion of a water of the United States with dry land; or (ii) Changing the bottom elevation of any portion of a water of the United States. Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the United States. The term fill material does not include trash or garbage. See ***33 CFR § 323.2(e)***.

Filling - The deposition, by any means, of materials in wetlands or other surface waters, as delineated in ***Section 373.421(1), F.S***. See ***Section 373.403(14), F.S***.

Incidental Fallback - The redeposit of small volumes of dredged material that is incidental to excavation activity in waters of the United States when such material falls back to substantially the same place as the initial removal. Examples of incidental fallback include soil that is disturbed when dirt is shoveled and the back-spill that comes off a bucket when such small volume of soil or dirt falls into substantially the same place from which it was initially removed. See ***33 CFR § 323.2(d)(2)(ii)***.

Incidental Take (federal definition, ***ESA***) - Take of listed fish or wildlife species that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by a federal agency or applicant, or contractors working on behalf of the applicant. See ***50 CFR § 402.02***.

Incidental Take (state definition) - Any taking otherwise prohibited, if such taking is incidental to, and not the purpose of the carrying out of an otherwise lawful activity. See ***Rule 68A-27.001(5), Florida Administrative Code (F.A.C.)***.

Indirect Effects - Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable. See ***86 FR 2744***. The terms “indirect’ and “secondary” are used interchangeably in this chapter.

Mitigation (state definition) - An action to off-set the adverse impacts caused by an activity typically consisting of restoration, enhancement, creation, or preservation of wetland resources, or a combination thereof. Measures proposed by or acceptable to the applicant to mitigate adverse effects that may be caused by the regulated activity. Such measures may include, but are not limited to, onsite mitigation, offsite mitigation, offsite regional mitigation, and the purchase of mitigation credits from mitigation banks permitted under ***Section 373.4136, F.S.*** See ***Section 373.414(1)(b), F.S***.

Mitigation Sequence - A federal process by which proposed wetland impacts must be avoided to the maximum extent practicable; the remaining unavoidable impacts must then be minimized, and finally compensated for, to the extent appropriate and practicable.

Navigable Waters of the United States - Those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water line and/or those waters that are presently used, or have been used in the past or may be susceptible to use for interstate or foreign commerce. These are waters that are navigable in the traditional sense. Permits are required in these waters pursuant to ***Section 10*** of the ***Rivers and Harbors Act of 1899***. See ***33 CFR § 329.4***.

Non-tidal wetland - A wetland that is not subject to the ebb and flow of tidal waters. Nontidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line). See ***86 FR 2744***.

Ordinary High Water Line (state definition) - For the regulatory purposes of ***Chapter 62-330, F.A.C.***, means that point on the slope or bank where the surface water from the water body ceases to exert a dominant influence on the character of the surrounding vegetation and soils. The ordinary high water line frequently encompasses areas dominated by non-listed vegetation and non-hydric (i.e., upland) soils. See the ***Environmental Resource Permit (ERP) Applicant's Handbook, Volume I***.

Ordinary High Water Mark (with respect to non-tidal waters) - The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed upon the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. See ***33 CFR § 328.3(e)***.

Sovereignty Submerged Lands - Those lands by which the State of Florida acquired title on March 3, 1845, by virtue of statehood. Sovereignty submerged lands include all submerged lands, title to which is held by the Board of Trustees (Governor and Cabinet) of the Internal Improvement Trust Fund (TIITF). Sovereignty submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters.

Stormwater - The surface flow of water that results from, and that occurs immediately following, a rainfall event.

Stormwater Management System - A surface water management system that is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system [***Sections 373.403(10)*** and ***403.031(16), F.S.***].

Surface Water (state definition) - Means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface [***Section 373.019(21), F.S.***]. ***Rule 62-340.600, F.A.C.***, further defines surface waters as waters on the surface of the earth, contained in bounds created naturally or artificially, including, the Atlantic Ocean, the gulf, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, and other watercourses.

Take (federal definition, ***ESA***) - "The term 'take' means to **harass**, **harm**, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct **[*16 United States Code (U.S.C.) § 1532(19)*]**."

- **Harm** - Significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding or sheltering.

- **Harass** - Intentional or negligent acts or omissions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include but are not limited to breeding, feeding, or sheltering (***50 CFR § 17.3***).

Take (state definition) - To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct (***Rule 68A-27.001(4), F.A.C.***).

- **Harm** - An act which actually kills or injures fish or wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.

- **Harass** - An intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.

Take (as related to state and federal bald and golden eagle permitting) - To "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb" an eagle.

- **Disturb** - To "agitate or bother a bald or golden eagle to the degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior" (***Title 50 CFR § 22.3)***. The ***Florida Fish and Wildlife Conservation Commission (FWC)*** **Bald Eagle Mana*gement Plan*** adopts the federal definition of "disturb" in ***50 CFR § 22.3*** and Florida's definition of "take" in ***Rule 68A-1.004(79), F.A.C***.

Tidal wetland - A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line. See ***86 FR 2744***.

Waters of the United States - Waters of the United States is defined in ***33 CFR Part 328*** and ***40 CFR § 122.2*** and is the jurisdictional boundary of a water that is regulated by the United States Army Corps of Engineers (USACE) or the United States Environmental Protection Agency (EPA) under the ***Clean Water Act (CWA)***.

Wetlands (federal definition) - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (***40 CFR § 232.2***)

Wetlands (state definition) - Those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. See ***Section 373.019(27), F.S***.

12.2 PERMITTING AGENCIES AND ENVIRONMENTAL REGULATIONS

Environmental permits are required from one or more regulatory agencies for most land alterations, including the addition of impervious surfaces; construction, alteration, or abandonment of stormwater management facilities; impacts to wetland or surface waters (including navigable waters); and actions that could adversely affect protected wildlife species and/or their habitat.

Permit applications are reviewed by the regulatory agencies for their consistency with regulatory criteria and/or the effect of the project on the environmental resources (e.g., wetlands, water quality, protected species and their habitats). Through the application process, the regulatory agencies may request other agencies to review transportation projects to ensure that they are not adversely impacting the resources (i.e., wildlife, habitat, cultural) under their purview. Certain protected species impacts may also require a specific species permit.

FDOT typically coordinates with the agencies listed below throughout the permitting process. More details on the permitting agencies can be found in ***Section 12.2.1***.

Federal Agencies

The USACE has the authority to issue permits under ***Section 10 of the Rivers and Harbors Act*** and ***Section 404 of the Clean Water Act (CWA)*** for activities involving the discharge of dredge and fill materials into waters of the United States, including wetlands. The USACE may grant permission to alter a civil works project in accordance with ***Section 14 of the Rivers and Harbors Act [33 United States Code (U.S.C.) § 408]***, commonly referred to as ***Section 408***.

The U.S. Coast Guard (USCG) has the authority to issue permits under ***Section 9 of the Rivers and Harbors Act*** and ***General Bridge Act***. The USCG issues permits for bridges or causeways in or over navigable waters of the United States, and for causeway construction in all tidal waters of the United States.

The U.S. Environmental Protection Agency (EPA) develops and interprets policy, guidance and environmental criteria used in evaluating federal permit applications. The

agency also serves as the water resource commenting body during the federal permitting process and has veto authority over the issuance of a USACE permit.

The U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) serve as the federal wildlife commenting agencies during the USCG and USACE federal permitting processes. The USFWS and/or NMFS act as lead permitting agencies for ***Section 10*** permitting under the ***Endangered Species Act (ESA)***.

The Advisory Council on Historic Preservation (ACHP) serves as a review agency on permit applications where any district, site, building, structure, or object, that is included in or eligible for inclusion in the ***National Register of Historic Places (NRHP)*** may be affected. The day-to-day responsibilities for project reviews are carried out by the State Historic Preservation Officer (SHPO), or the Tribal Historic Preservation Officer (THPO) of the Seminole Tribe of Florida for projects occurring on Seminole tribal lands. When projects occur on tribal lands of the Miccosukee Tribe of Indians of Florida, the SHPO serves as the THPO but the Tribe must be included in the consultations. For significant sites occurring on non-tribal lands that may have cultural or religious importance to the Tribes having cultural affiliation with Florida, the Tribes must be provided an opportunity to comment on the effects of the project on the site. These Tribes include: the Seminole Tribe of Florida, the Miccosukee, the Muscogee (Creek) Nation, the Poarch Band of Creek Indians, the Seminole Nation of Oklahoma and, for projects west of the Apalachicola River, the Mississippi Band of Choctaw Indians.

State Agencies

The Florida Department of Environmental Protection (FDEP) is the State's primary environmental regulatory agency. FDEP has delegated much of the permitting responsibility for Environmental Resource Permits (ERPs) to four of the five Water Management Districts (WMDs) and specified local governments. The Northwest Florida Water Management District (NWFWMD) does not have full ERP authority from FDEP. FDEP implements the National Pollution Discharge Elimination System (NPDES) and Coastal Construction Control Line (CCCL) permitting programs throughout the State. The permitting responsibilities of each agency are detailed in the FDEP and WMD agency operating agreements.

The five WMDs are: NWFWMD, Suwannee River (SRWMD), St. Johns River (SJRWMD), South Florida (SFWMD), and Southwest Florida (SWFWMD). WMDs have been delegated permitting authority by FDEP for discharges, including stormwater discharges; dredge and fill activities in, on, or over waters of the State; construction activities which discharge to waters of the State; and, state-owned submerged lands which include all tidal lands and submerged lands under navigable waters owned by the State of Florida. The NWFWMD does not have full permitting authority from FDEP; the FDEP processes permit applications for projects with submerged lands and actions on military bases within the geographic area of the NWFWMD. Right of Way (ROW) Occupancy permits may be required for projects impacting WMD property.

The Florida Fish and Wildlife Conservation Commission (FWC) serves as the state wildlife commenting agency on state environmental permits and issue certain protected species permits.

The Director of the Florida Division of Historical Resources (FDHR) at the Department of State serves as the SHPO for the State of Florida. The FDHR is a commenting agency on certain state environmental permits and the SHPO is the commenter on federal permits that may impact historical resources. The SHPO assists the regulatory agency in determining whether a proposed activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of ***Section 267.061, Florida Statutes (F.S.)***.

The Bureau of Archaeological Research (BAR) within the Department of State issues permits for archaeological testing and research occurring on state-owned or controlled lands, including sovereign submerged lands under ***Chapter 1A-32***, ***Florida Administrative Code (F.A.C)***.

Section 335.02(4), F.S., provides that FDOT is not subject to county, municipal, or special district regulations for projects on the State Highway System (SHS) and therefore is not required to obtain local permits. Notwithstanding, if an FDOT project has a direct impact on property or water control district structures, FDOT shall coordinate with the District legal counsel and may need to coordinate with the appropriate county, municipality, or special district based on counsel direction.

Both the state and federal permitting programs have established various permit types based on specific impact thresholds and/or activity types. The permit types and threshold criteria are described in detail in the USACE's ***Source Book*** and in the ***ERP Applicants Handbook, Volume I***, referenced in ***Figure 12-1*** and ***Figure 12-2***. Additionally, both the state, via delegated authority for federal programmatic permits, and the Lead Federal Agency may use certain species-specific "effect" determination keys in order to assess the effect a given project may have on a federally protected species. These keys, FDOT programmatic approaches, and supplemental protected species information, can be found on FDOT's ***Protected Species and Habitat Website***.

Additionally, there are state and federal species–specific wildlife permitting requirements unrelated to the dredge and fill permitting process. These requirements are typically implemented shortly in advance of the commencement of construction. Refer to ***Section 12.2.3*** for a discussion of these permits. See ***Part 2, Chapter 16, Protected Species and Habitat*** for more information.

12.2.1 Federal Permitting

Federal permits are issued by multiple federal agencies under various regulatory authorities. Permits are typically required for proposed impacts to jurisdictional wetlands and other surface waters, impacts to civil works projects, and for bridge or causeway construction over navigable waters of the United States. For these types of impacts, the

USACE and USCG are the primary federal permitting agencies for FDOT projects. ***Table 12-2*** lists the main federal authorizations needed from these regulatory agencies. Impacts to protected federal species may need to be permitted by either USFWS or NMFS. See ***Section 12.2.3*** for federal species permit information.

The USACE issues dredge and fill permits in Waters of the United States in accordance with ***Section 404*** of the ***CWA*** and ***Section 10*** and ***Section 14*** of the ***Rivers and Harbors Act of 1899***.

Additionally, ***Section 10*** of the ***Rivers and Harbors Act of 1899*** grants the USACE the permitting authority for "structures or works in or affecting a navigable water of the United States." Such structures or works include boat ramps, piers, breakwaters, jetties, docks, bridge abutments, and aids to navigation. ***Section 14*** of the ***Rivers and Harbors Act*** allows the USACE to grant permission to alter civil works projects.

If a project involves a bridge over navigable waters of the United States, the USCG issues bridge permits under the ***Rivers and Harbors Act of 1899*** and the ***General Bridge Act of 1946***. These ***Acts*** placed the navigable waters of the United States under the exclusive control of the USCG to prevent any interference with their navigability by bridges or other obstructions except by express permission of the United States Government.

As federal permitting authorities, either the USACE or USCG must prepare a ***National Environmental Policy Act (NEPA)*** document in support of their ***NEPA*** action (permit). If either agency participates as a Cooperating Agency in an FDOT Federal Project, they may adopt the FDOT's ***NEPA*** document as their own, or they may use it to develop their own ***NEPA*** document. It is important to coordinate early with the USACE or USCG to confirm that the FDOT ***NEPA*** document, or a State Environmental Impact Report (SEIR), will address the Cooperating Agency's ***NEPA*** requirements so as to expedite project delivery.

FDOT typically invites the USACE to be a Cooperating Agency when a Standard permit is anticipated for a project. The USACE may be invited to be a Participating Agency when FDOT anticipates a General Permit (includes Regional General and Nationwide permits) is needed. Cooperating or Participating Agency invitations should not be sent until FDOT has determined the appropriate permit type for a project. The USACE may instead request to be a Cooperating or Participating Agency. The District should consider the USACE's request on a case by case basis. FDOT will continue to coordinate with the USACE and share information relevant to the permitting process when warranted regardless of the agencies status as a Cooperating or Participating Agency for a PD&E Study. The USCG will automatically be invited to be a Cooperating Agency for projects requiring a USCG bridge permit.

The USFWS and the NMFS serve as the federal wildlife commenting agencies during the USACE's or USCG's federal permitting process. Which agency provides comment depends upon which protected species (terrestrial and/or marine) or critical habitat are potentially affected. If FDOT has completed consultation with USFWS and NMFS under

the ***ESA*** or ***Magnuson-Stevens Fishery Management Act***, the USACE or USCG can rely on the results of such consultation. The EPA serves as the water resource commenting body during the federal permitting process and has veto authority over the issuance of a USACE permit.

In the absence of a Federal Action when an action has the potential to adversely affect a federally listed species or its habitat, the listed species will be addressed via ***Section 10*** of the ***ESA***. In these situations, the USFWS or NMFS serves as the Lead Federal Agency and would have to prepare a ***NEPA*** document in support of their permit action. This process also requires the development of a ***Habitat Conservation Plan (HCP)***. See ***Part 2, Chapter 16, Protected Species and Habitat*** for more information on ***Section 10*** of the ***ESA***. For protected species permitting, see ***Section 12.2.3***.

Regardless of whether the USACE and/or USCG function as the permitting agency or serve as lead or cooperating agencies for a Federal Action, the issuance of federal permits requires coordination with resource agencies. If a project is determined to have the potential to affect federally listed species or their habitats, the USACE or USCG will solicit comment from NMFS and/or the USFWS following the ***ESA Section 7*** consultation process outlined in ***Part 2, Chapter 16, Protected Species and Habitat***. If a project is determined to have the potential to affect Essential Fish Habitat (EFH), the USACE or USCG will solicit comment from the NMFS (***Part 2, Chapter 17, Essential Fish Habitat***). For projects that require public notification of the Federal Action, the EPA may provide comment. For projects where FDOT has completed ***ESA Section 7*** and/or EFH consultation or technical assistance, the results of the consultation or coordination will be provided to the applicable permit issuing agency.

Additionally, the USACE, USCG, or USFWS are required to comply with ***Section 106*** of the ***National Historic Preservation Act of 1966 (NHPA)***. ***Section 106*** of the ***NHPA*** requires federal agencies to take into account the effects of their undertakings on historic properties, and afford the ACHP a reasonable opportunity to comment. The review process mandated by ***Section 106*** to assess a project's effects on historic properties is outlined in regulations issued by ACHP (see ***Part 2, Chapter 8, Archaeological and Historic Resources***). For projects where FDOT has completed ***Section 106*** consultation, the results will be provided to the applicable permit issuing agency.

12.2.1.1 United States Army Corps of Engineers

Activities in waters of the United States regulated under ***Section 404*** of the ***CWA*** include (but are not limited to) fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports), and mining projects. ***Section 404*** requires issuance of a permit before dredged or fill material may be discharged into jurisdictional waters, unless the activity is exempt from ***Section 404*** regulation (e.g., certain farming and forestry activities).

As described by the EPA ***(EPA, 2015)***, the basic premise of the ***Section 404*** program is that no discharge of dredged or fill material may be permitted if:

1. A practicable alternative exists that is less damaging to the aquatic environment; or

2. The nation's waters would be significantly degraded.

   Therefore, a proposed activity must first show that steps have been taken to:

   a. Avoid impacts to wetlands, streams and other aquatic resources;

   b. Minimize adverse effects on the resource, if impacts are unavoidable; and

   c. Compensate for all remaining unavoidable impacts (i.e., wetland or listed wildlife mitigation) such that there is no net loss of wetland function from the proposed project.

There are several federal dredge and fill permit types that are distinguished by their limits of impact. In increasing magnitude/complexity, they include Nationwide Permits, Regional General Permits, State Programmatic General Permits, Letter of Permission, and Standard Permits. Additionally, it is possible to obtain a determination from the USACE of "no permit required" if a project is anticipated to have no impact on wetlands or surface waters under the jurisdiction of USACE. This determination by the USACE does not supersede the requirement to obtain any other federal or state permits which may be necessary for a project, nor does it constitute a federal evaluation of possible impacts to species protected under the ***ESA***, or impacts to historic resources protected under ***Section 106*** of the ***NHPA***.

1. **General Permit** - This refers to a USACE authorization that is issued on a nationwide or regional basis (District-wide or more limited geographic scope) for a category of activities when those activities are substantially similar in nature and cause only minimal individual and cumulative impacts ***(USACE, 2014)***. They are reviewed every five years and may be renewed, modified or suspended. The USACE's ***Source Book***, included by reference in ***Figure 12-1*** should be reviewed for an entire listing of thresholds for a project to qualify under a general permit. Coordination with the USACE will ensure the project impacts meet the requirements for general permit authorizations. It is important to note that "consideration of alternatives in ***40 CFR § 230.10(a)*** are not directly applicable to General Permits" ***[40 Code of Federal Regulations (CFR) § 230.7]***.

   a. **Nationwide Permits (NWP)** - There are more than 50 established NWPs. These are essentially automatic permits for qualifying activities that result in only minimal adverse environmental effect. Each NWP includes a series of impact thresholds, such that if a project's anticipated impacts fall below the specified thresholds, the project would qualify for the NWP without review by or approval of the USACE. However, it is recommended to submit an application package to the USACE and request that the USACE concur with the determination that the project

is consistent with the thresholds associated with a given NWP. With concurrence from USACE, the applicant will have a level of comfort that their project is consistent with the federal intent of the NWP. Without USACE concurrence, an applicant may run the risk of being in violation of the ***CWA*** during construction if there is a disagreement with a USACE representative as to whether their project is consistent with NWP intent.

There are certain NWPs that require Pre-Construction Notification (PCN) prior to project construction due to variability in the degree of potential impacts for a given type of work. In accordance with ***33 CFR § 330.1*** for NWPs requiring advance notification, the notification must be provided in writing as early as possible prior to commencing the proposed activity, but must be received no less than 45 days prior to commencing construction. The permittee may presume that the project qualifies for the NWP unless the permittee is otherwise notified by the USACE within a 45-day period. The 45-day period starts on the date of receipt of the notification in the USACE district office and ends 45 calendar days later. If the USACE notifies the prospective permittee that the notification is incomplete, a new 45-day period will commence upon receipt of the revised notification. The prospective permittee may not proceed with the proposed activity before expiration of the 45-day period unless otherwise notified by the USACE. If the USACE fails to act within the 45-day period, the USACE must use the procedures of ***33 CFR § 330.5*** to modify, suspend, or revoke the NWP authorization.

Both the NWPs, and the General Conditions required in PCN, are itemized in the ***FR*** and on the USACE web site (See ***Figure 12-1***). It is important to be aware of general conditions associated with NWP. For example, general condition 18 requires consultation with the NMFS or USFWS if the project activity may affect a listed species or critical habitat protected under the ***ESA***.

NWPs are reviewed and generally renewed every five years, so it is important to keep abreast of current NWP listings. Coordination with the USACE will ensure the applicant meets the requirements under NWP authorizations. NWP that are typically relevant to FDOT projects include: NWP No. 3 Maintenance, No. 14 Linear Transportation Projects, No. 15 USCG Approved Bridges, and No. 23 Approved Categorical Exclusions.

b. **Regional General Permits** that may apply to FDOT projects.

Regional General Permit **SAJ-92** is applicable for projects with identified impact thresholds [i.e., where dredge and fill impacts do not result in the loss of greater than a total of 0.5 acre of tidal impacts to waters of the United States (wetlands, surface waters and navigable waters) for the entire project, and 5.0 acres of non-tidal impacts to waters of the United

States (wetlands, surface waters and navigable waters) for any 1-mile segment of roadway length as measured from the beginning of the project, up to a maximum loss of 50 acres of waters of the United States per project]. This regional general permit is limited to projects that have been reviewed through the FDOT's ETDM and/or PD&E processes. To be current, the Environmental Document must have been evaluated, re-evaluated, or confirmed within 5 years of submitting an application. This regional general permit may not authorize construction of a new alignment (non-existing roadway).

Regional General Permit **SAJ-46**, Shoreline Stabilization Activities in Florida, may also be applicable to FDOT projects. This permit authorizes new work and maintenance associated with shoreline stabilization activities including bulkheads and seawalls with backfill, seawall footers, and shoreline stabilization materials.

c. **State Programmatic General Permits (SPGP)** - The purpose of the SPGP is to avoid duplication of permitting between the USACE and the FDEP for minor work located in waters of the United States, including navigable waters. These agencies have a coordination agreement detailing the procedures and process on how to avoid duplication of regulatory review. A link to the FDEP website on the SPGP is included in ***Figure 12-2***.

2. **Letter of Permission (LOP)** - ***LOPs*** are used when project impacts are minor or would not have significant individual or cumulative effect. The process required to obtain a ***LOP*** approval is more detailed than the NWP process; however, it is typically less rigorous than that for a Standard Permit. The USACE is not required to publish an individual public notice, but they must coordinate with federal and state wildlife agencies and complete a public interest evaluation as outlined in ***33 CFR § 325.2 (e)(1)***. A determination as to whether a ***LOP*** is the appropriate instrument for a given action is at the discretion of the USACE.

3. **Standard Permit** - This permit is also referred to as an Individual Permit and is required for larger, more complex projects when a proposed project does not meet the criteria to qualify for a General Permit, Nationwide Permit, or ***LOP***. See ***33 CFR § 325.5*** for more information on the Standard Permit requirements.

Figure 12-1 provides the locations and contact information of regional USACE offices.

There are exemptions for very narrowly-defined activities that result in incidental impacts to wetlands or surface waters in accordance with ***Section 404(f)(1)*** of the ***CWA***. For instance, one exemption for FDOT is for the maintenance of transportation structures, so long as the structures are in non-tidal waters and the character, slope, and size of the original fill design is not proposed to change. ***Figure 12-1*** provides links to sources that identify these exemptions.

FDOT is required to obtain USACE authorization when an FDOT project is proposed to alter existing federal flood control projects (i.e., levees, dams, and canals). The USACE provides guidance for this process in ***Section 408 – Interim Changes for Immediate and Future Policy Revisions (2018)***. ***Section 14*** of the ***Rivers and Harbors Act of 1899*** and codified in ***33 U.S.C. § 408*** (commonly referred to as "***Section 408***") authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the USACE, to grant permission for the alteration or occupation or use of a USACE civil works project if the Department of the Army's Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. The granting or denial of permission pursuant to ***Section 408*** is made formal through a ***Section 408*** Decision Letter.

A decision on a ***Section 408*** request is a Federal Action, and therefore subject to ***NEPA*** and other environmental requirements. While ensuring compliance is the responsibility of USACE, the requester is responsible for providing all information that the District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and guidance. Insufficient supporting documentation may result in requests for additional information until the file is deemed complete by USACE. The USACE civil works ***NEPA*** implementing regulations are found in ***33 CFR Part 230***. Because proposed alterations vary in size, level of complexity, and potential impacts, the procedures and required information to make such a determination are intended to be scalable. Early coordination with USACE is suggested to determine the appropriate level of required support to navigate the ***Section 408*** review process.

Typically, when a ROW Occupancy Permit application is submitted to a WMD, the WMD reviews it and determines if the WMD needs to send it to USACE (***Section 12.2.2.5***). If sent to USACE, they will evaluate whether ***Section 408*** applies. If it is determined that ***Section 408*** applies, the ***Section 408*** review is conducted at the District level in Jacksonville. In general, review at the District level would be for projects that adjust features around a canal, dam, or levee that would not result in changes to authorized structural geometry or hydraulic capacity. These reviews take approximately 30 to 90 days for decisions to be rendered. For more complicated projects that may propose changes to structural geometry or hydraulic capacity of an existing facility, the review may be elevated to USACE Headquarters. These reviews can take between 18 to 24 months. Generally, proposed alterations that would result in substantial adverse changes in water surface profiles will not be approved. There are no statutory time limits on ***Section 408*** review.

In situations where USACE is also evaluating a ***Section 10/404*** permit application, the USACE may forward the ***Section 408*** decision letter with the ***Section 10/404*** permit decision. Under no circumstances will ***Section 10/404*** actions be rendered in advance of a decision on a ***Section 408*** request. For cases involving a categorical permission, the written approval will be validation that the categorical permission is applicable.

12.2.1.2 United States Coast Guard

The USCG approves the location and plans of bridges and causeways and imposes conditions relating to the construction, maintenance, and operation of these bridges in the interest of public navigation. The USCG is also required by law to ensure environmental considerations are given careful attention and importance in each bridge permitting decision. See ***Part 1, Chapter 16, Navigation*** for more details.

12.2.2 State Permitting

State permits are required for proposed impacts to jurisdictional wetlands and other surface waters as well as for flood protection and water quality, and to ensure compliance with coastal zone management criteria. The FDEP and WMDs are the primary state wetland permitting agencies. WMDs issue ERPs for most FDOT projects; whereas, FDEP issues NPDES and CCCL permits (***Sections 12.2.2.2*** and ***12.2.2.5*** respectively).

Table 12-3 provides the state permit types that are often needed from these regulatory agencies. For state protected species permit requirements, see ***Section 12.2.3***.

The FDEP and the WMDs are required to consider the effects of their agency action (issuance or denial of a permit) on historic resources in accordance with ***Section 373.414(1)(a)(6), F.S.*** These requirements are set forth in ***Chapter 267, F.S.***, or the ***Florida Historical Resources Act***, specifically ***Section 267.061, F.S***. The statute requires state agencies of the executive branch to consider an array of possible adverse effects of state undertakings over which they have direct or indirect jurisdiction upon historic resources. In addition, these agencies must also afford the FDHR a reasonable opportunity to comment on the proposed action or actions and to initiate measures to minimize harm to the historic resources prior to the approval or initiation of such action. In these cases, the consideration, treatments, and permitted activity in relation to impacts to historic resources and archaeological sites are detailed in the ***ERP Applicant's Handbook, Volume I***. These requirements include consultation and findings letters from the FDHR. See ***Part 2, Chapter 8, Archaeological and Historical Resources*** for more information. In instances where FDOT has completed consultation under ***Section 106*** of the ***NHPA***, documentation of the consultation can be used to satisfy requirements under ***Chapter 267, F.S.***

12.2.2.1 Environmental Resource Permitting

Under the authority of ***Section 373.4131, F.S.***, FDEP and Florida's five WMDs implemented ***Chapter 62-330, F.A.C.***, Environmental Resource Permitting (ERP). The ERP program was adopted to provide consistent permitting thresholds, requirements, and processes throughout the state. The ERP program governs the following activities: construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling) located in, on or over wetlands or other surface waters, as defined and delineated in ***Chapter 62-340, F.A.C.***

ERP permitting is performed under the guidance of ***Chapter 62-330, F.A.C.*** and the ***ERP Applicant's Handbook, Volume I***. The ***ERP Applicant's Handbook*** is incorporated by reference as part of ***Rule 62-330.010(4), F.A.C.***, and carries the same authority as the rule itself. ***Chapter 62-330, F.A.C.,*** and the ***ERP Applicant's Handbook, Volume I*** apply statewide.

The ***ERP Applicant's Handbook, Volume I*** provides general background information on the ERP program, including agency contact information, a summary of the statutes and rules used to authorize and implement the ERP program, and the forms used to notice or apply to the agencies for an ERP authorization. This volume of the ***ERP Applicant's Handbook*** also provides discussion on:

1. Activities regulated under ***Chapter 62-330, F.A.C.***, and ***Part IV of Chapter 373, F.S.***;

2. Types of permits, permit thresholds, and exemptions;

3. Procedures used to review exemptions and permits;

4. Conditions for issuance of an ERP, including the environmental criteria used for activities located in wetlands and other surface waters;

5. Erosion and sediment control practices to prevent water quality violations; and,

6. Operation and maintenance requirements.

There are also handbooks ***(ERP Applicant's Handbook, Volume II)*** for each of the WMDs. ***Volume II*** primarily applies to activities that require the services of a registered professional to design a stormwater management system. Links to the ***ERP Applicant's Handbook, Volume I*** (identical for all WMDs) and ***Volume II*** (unique to each of the five WMDs to address regional differences) are provided in ***Figure 12-2***.

Each WMD incorporates a provision in the ***ERP Applicant's Handbook, Volume II*** referencing ***Section 373.413(6), F.S.***, and providing for flexibility for state transportation projects and facilities. This statutory language provides the WMDs and FDEP with additional flexibility when permitting stormwater management facilities for state transportation projects, such as regional treatment facilities. FDOT is also only required to treat stormwater generated by its transportation projects, not water entering its treatment systems from offsite areas.

Depending on the size, location and nature of proposed project, a project may be exempt from permitting, or may require either a General or Individual Permit. General Permits are required for activities which can be conducted with minimal environmental impact, provided the applicant adheres to certain conditions (specifically listed in ***Chapter 62-330, F.A.C.***). An Individual Permit is required for projects which do not fall under permitting size and impact thresholds (***Rule 62-330.020, F.A.C.***) and is not covered by a

General Permit. See ***Table 12-3*** for a list of permits that may be required by state agencies.

A conceptual approval permit is also available, but not required, for activities occurring in phases or over a large land area. A conceptual approval permit does not authorize construction, maintenance, removal, or alteration (a separate individual permit is required for those activities). However, the first phase of construction can be authorized at the same time the conceptual approval permit is issued. A conceptual approval permit provides the permit holder with a rebuttable presumption that, during the duration of the conceptual approval permit, the design and environmental concepts upon which the conceptual approval permit is based (within the detail provided in the application) will meet applicable rule criteria for issuance of permits for subsequent phases of the project. This presumption is rebuttable at the time of receipt of a complete application to construct or operate future phases, dependent on the factors in subsection ***Rule 62-330.056(7), F.A.C.*** This type of permit is not typically applicable to FDOT projects, but may prove useful for complicated, controversial, and/or long-term projects where FDOT wants to establish its expectations in the way the ERP will be administered during future phases of a given project. It also has the potential to save time with agency reviews when applying for construction permits for individual phases especially if the elimination and reduction of impacts criteria has been addressed at the conceptual stage.

Exempt activities do not typically require notice be given to the FDEP or WMDs. If agency notice is required, it will be stipulated in the rule for the specific exemption. If verification that the activity is exempt, an on-line self-certification can be obtained, or the appropriate regulatory agency can perform the certification for a fee. An agency determination that an activity qualifies for an exemption is subject to ***Chapter 120, F.S.*** Although some projects may be exempt from the need to obtain an ERP, the project may still require coordination with wildlife agencies. For example, a project may have a bridge or culvert inhabited by bat species. This may require coordination with the FWC or USFWS.

A list of exempt activities is contained in ***Rule 62-330.051, F.A.C.*** Two exemptions of interest to FDOT include:

1. ***Rule 62-330.051(4), F.A.C., Bridge, Driveways, and Roadways*** - Exempts work in other Surface Waters (water conveyances that are not wetlands as defined by ***Chapter 62-340, F.A.C.*** (such as some roadside ditches) for road shoulder and turn lane improvements, or paving of dirt roads owned by county or local governments. Subsection (c) Minor roadway safety construction, alteration, or maintenance and operation can be applicable for FDOT sidewalk and milling and resurfacing projects.

2. ***Rule 62-330.051(9), F.A.C., Pipes or Culverts*** - Exempts up to 0.03 acres of work in wetlands as delineated under ***Chapter 62-340, F.A.C.***, including Outstanding Florida Waters (OFW) for culvert outfall and headwall construction.

12.2.2.2 State-owned Submerged Lands Authorizations

Activities located on sovereignty submerged lands also referred to as “state-owned submerged lands” (as described in ***Section 12.1.2***) require a proprietary authorization from the Board of Trustees of the Internal Improvement Trust Fund (BOT) to use such lands according to ***Chapter 18-21, F.A.C.*** Proprietary authorization is required for essentially all FDOT activities on state-owned submerged lands. FDOT fee simple ownership of an area does not preclude the determination of state owned sovereign submerged lands by FDEP.

FDEP and the WMDs act as staff to the BOT and, in accordance with the Operating Agreement between their agencies, will process all applications involving proposed work on state-owned submerged lands. These agencies have delegated authority from the Board to approve or deny most projects, but for some types of projects (such as submerged land leases), the final decision to approve or deny the authorization rests with the Governor and Cabinet of the state of Florida, who serve as the BOT. Leases are typically required for revenue-generating uses and are, therefore, not required for FDOT projects. FDOT projects proposed on state-owned submerged lands typically need a letter of consent or an easement. The determination for the proprietary authorization is part of the ERP permitting process. However, the final easement or letter of consent is provided by the FDEP after issuance of the ERP.

12.2.2.3 National Pollutant Discharge Elimination System

As authorized by the ***CWA***, the NPDES permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. The EPA delegated to the FDEP the authority to implement the NPDES stormwater permitting program in the State of Florida (in all areas except Indian Country lands). FDEP's authority to administer the NPDES program is contained in ***Section 403.0885, F.S.*** If a project will disturb one acre or more of soil, and if the stormwater run-off from the site will discharge to waters of the state (even if the discharge is conveyed through the municipal storm sewer system), a NPDES Construction Generic Permit (CGP) will be required prior to commencement of construction as a means of protecting down-stream water quality. A ***Notice of Intent (NOI)*** (application) is filed with FDEP at least two days prior to the commencement of construction. Due to the proximal timing of this permit to the commencement of construction, it is the contractor’s responsibility to apply for and obtain the NPDES CGP permit. FDOT’s Construction Engineering and Inspection (CEI) ensures that the Contractor has obtained the permit by verifying proof of permit coverage (e.g., FDEP coverage letter or ***NOI***). More details on the NPDES permitting process can be found at the web link provided in ***Figure 12-2***.

Part of the NPDES permit program is the Municipal Separate Storm Sewer System (MS4). An MS4 is a publicly-owned conveyance or system of conveyances (i.e., ditches, curbs, catch basins, underground pipes, etc.) designed or used for collecting or conveying stormwater that discharges to surface waters of the State. An MS4 can be operated by entities such as municipalities, counties, drainage districts, colleges, military bases, or

prisons. FDOT is a regulated MS4 operator under federal and state rules. Regulated MS4 operators must obtain an NPDES stormwater permit and implement a comprehensive ***Stormwater Management Program (SWMP)*** to reduce the contamination of stormwater runoff and eliminate illicit discharges to the MS4.

As implemented by ***Chapter 62-624, F.A.C.***, Phase I of the MS4 program addresses discharges of stormwater runoff from "medium" and "large" MS4s (i.e., those MS4s located in areas with populations of 100,000 or greater). A Phase I MS4 is defined in ***Rule 62-624.200(10), F.A.C.***, as “a municipal separate storm sewer system identified under ***Section 402(p)(2)*** of the ***CWA*** and subject to regulation under ***Section 402(p)(3)(B)*** of the ***CWA*** as implemented as part of FDEP’s federally approved NPDES stormwater program pursuant to ***Section 403.0885, F.S***.” Generally, Phase I MS4s are covered by individual permits and are effective for no more than five years. There are individual MS4 permits issued to several counties in Florida, and FDOT is a co-permittee in each of those permits.

FDOT has an approved ***Statewide Stormwater Management Plan (SSWMP)*** that describes the activities to be conducted, methods to be used, and procedures to be followed by FDOT to reduce the discharge of pollutants to and from the Phase I MS4s throughout the State of Florida. This plan supports FDOT’s documentation and procedures for annual reporting as a co-permittee under the MS4 Phase 1 permits. As stated in Section II of the Phase 1 permit, the ***SSWMP*** is incorporated into the permit by reference once approved by FDEP and serves as the guiding document for FDOT compliance as a co-permittee under Florida’s Phase 1 MS4 program. More information can be found in the ***FDOT SSWMP***.

Phase II of the program regulates discharges from certain MS4s not regulated under Phase I, that meet designation criteria set forth in ***Chapter 62-624, F.A.C***. A Phase II MS4 is defined in ***Rule 62-624.200(11), F.A.C.***, as “a municipal separate storm sewer system subject to regulation under ***Section 402(p)(6)*** of the ***CWA***, as implemented as part of FDEP’s federally approved NPDES stormwater program pursuant to ***Section 403.0885, F.S.***, this chapter (***Chapter 62-624, F.A.C.***), and ***Rule 62-621.300(7)(a), F.A.C.***, which incorporates by reference FDEP’s Generic Permit for Discharge of Stormwater from Phase II MS4, and includes MS4 facilities owned or operated by the United States and MS4 facilities operated by the FDOT that are not covered by an existing Phase I MS4 permit.” Phase II MS4s are covered by a general permit. There are numerous general permits issued to FDOT for various Phase II designated areas.

Each regulated MS4 is required to develop and implement a ***SSWMP*** to reduce the contamination of stormwater runoff and prohibit illicit discharges.

12.2.2.4 Coastal Zone Management Act Consistency

Per the Operating Agreement between USACE, FDEP, and the WMDs, the ERP review process includes an assessment of whether an action proposed in Florida is consistent with the ***Coastal Zone Management Act (CZMA)***. Issuance of an ERP constitutes a

finding of consistency with, or waiver from, the ***Florida Coastal Management Program (FCMP)*** that implements the ***CZMA***. A Federal Consistency Determination is made by FDEP in coordination with other agencies early in the planning process for FDOT Federal Projects (see ***Part 2, Chapter 14, Coastal Zone Consistency***) and again in the ERP review process. More details on the ***FCMP*** can be found at the web link provided in ***Figure 12-2***.

12.2.2.5 Right of Way Occupancy Permit

A ROW Occupancy Permit is issued by a WMD or local water control district, if applicable, allowing for a compatible public or private use while protecting the WMD's or local water control district's ability to use the canal and levee rights of way of the USACE's Central and Southern Florida Flood Control Project, the related water conservation areas, and certain other canals and works or lands of a WMD. A ROW Occupancy Permit is a proprietary revocable license and does not convey property rights to the permittee. The WMD coordinates with the USACE through the ***Section 408*** process. In some instances, FDOT must coordinate directly with the USACE for ***Section 408*** permission. See ***Section 12.2.1.1*** for more information.

12.2.2.6 Coastal Construction Control Line

FDEP manages a CCCL Program to protect the coastal system from improperly sited and designed structures which can destabilize or destroy the beach and dune system. As defined in ***Rule 62B-33.002(6), F.A.C.***, the CCCL is "the line established pursuant to the provisions of ***Section 161.053, F.S.***, and recorded in the official records of the county, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions." A CCCL permit is required for construction activities seaward of the CCCL and fifty-foot setback. For projects within the CCCL, FDOT must coordinate with FDEP to ensure FDOT projects adhere to the special siting and design criteria established to eliminate or reduce impacts to the beach dune system, adjacent properties, native salt resistant vegetation, and marine turtles. Rules and procedures for obtaining this permit can be found in ***Chapter 62B-33, F.A.C***. More information on the CCCL permitting can be found in ***Figure 12-2***.

12.2.2.7 Consumptive Water Use Permits

Consumptive use of water is broadly defined as any use of water which reduces the supply from which it is withdrawn or diverted. The consumptive use of water is managed by the WMDs as prescribed in ***Part II of Chapter 373, F.S***. Each WMD regulates the use of water within its jurisdictional boundaries to ensure that permitted water uses are reasonable-beneficial, will not interfere with any presently existing legal uses of water, and are consistent with the public interest, as required by ***Section 373.223, F.S***. This authority applies to public water supplies, agricultural and landscape irrigation, contamination clean-up, commercial/industrial uses, and dewatering/mining activities. The WMDs issue general and individual consumptive water use permits. FDOT should

coordinate with the appropriate WMD to determine whether a water use permit will be required for a project.

12.2.2.8 Class V Stormwater Well Permits

FDEP's Aquifer Protection program protects Florida's underground sources of drinking water while maintaining the lawful option of disposal of appropriately treated fluids via underground injection wells. An underground source of drinking water is defined as an aquifer that contains a total dissolved solids concentration of less than 10,000 milligrams per liter. The program implements the Underground Injection Control regulations (***Chapter 62-528, F.A.C.***) and is dedicated to preventing degradation of the quality of other aquifers adjacent to the injection zone. Subsurface injection, the practice of emplacing fluids in a permeable underground aquifer by gravity flow or under pressure through an injection well, is one of a variety of wastewater disposal or reuse methods used in Florida.

Class V injection wells are used for storage or disposal of fluids into or above an underground source of drinking water. In locations where the available area for pond siting(s) is limited (e.g., urbanized coastal areas), FDOT may direct stormwater into shallow wells. These wells are considered non-major Class V wells that are permitted through FDEP District offices. More information on the permitting process for Class V stormwater well permitting can be found in ***Figure 12-2***.

12.2.3 Federal and State Protected Species Permits

Federal and state permits may be required for unavoidable impacts to or take of listed species. ***Table 12-4*** provides wildlife permit types that may be needed for FDOT projects. Wildlife within Florida is protected under federal regulation through USFWS and NMFS and state regulation through FWC. This section discusses the most common types of protected species permits required for transportation projects, but other species permits may be required. See ***Part 2, Chapter 16, Protected Species and Habitat***.

Species protected by the federal ***ESA*** may require an Incidental Take permit from the USFWS or NMFS. The ***ESA*** is designed to regulate a wide range of activities affecting plants and animals designated as endangered or threatened, and the habitats upon which they depend. With some exceptions, the ***ESA*** prohibits activities affecting these protected species and their habitats unless authorized by a permit from the USFWS or NMFS. Permitted activities are designed to be consistent with the conservation of the species. Incidental Take permits are required when activities will result in take of threatened or endangered species. A ***Habitat Conservation Plan (HCP)*** must accompany an application for an Incidental Take permit. The ***HCP*** associated with the permit ensures that the effects of the authorized incidental take are adequately minimized and mitigated. More information on this process can be found at the USFWS webpage (***Figure 12-3***).

In 2016, FWC developed ***Florida's Imperiled Species Management Plan (ISMP)*** to identify species-specific conservation actions for 57 state listed species. This plan

includes species action plans addressing individual species needs and conservation strategies that benefit multiple species. FWC is in the process of developing species conservation measures and permitting guidelines for all species in the ***ISMP***. Where required, the FWC issues Incidental Take permits for activities that may result in take of species listed only by the state. Incidental Take permits for federally listed species would be issued by USFWS or NMFS. Additional information on the ***ISMP***, ***HCPs***, and Incidental Take permits is available on the FWC and USFWS/NMFS websites (***Figure 12-3***).

Three avian species found in Florida, American bald eagle, Florida burrowing owl, and osprey, are not subject to ***ESA*** review, but receive federal protection under the ***Migratory Bird Treaty Act (MBTA)*** and/or the ***Bald and Golden Eagle Protection Act***. Pursuant to the ***MBTA***, it is unlawful to take, possess, buy, sell, purchase, or barter any migratory bird including feathers or other parts, nests, eggs, or products, except as allowed by implementing regulations. All non-exotic birds in the state of Florida are protected by the ***MBTA***. However, except as specifically discussed below for the bald eagle, burrowing owl, and osprey, the presence of other non-exotic avian species that could be affected by proposed FDOT projects are generally not addressed under the ***MBTA*** unless FDOT is specifically required to do so by USFWS on a project-by-project basis during project permitting.

The gopher tortoise receives state protection under ***Rule 68A-27.003, F.A.C.*** See ***Section 12.2.3.4*** for more information on gopher tortoise protections.

Permits may require pre-construction species-specific surveys prior to the initiation of construction activities, depending upon the species and habitats present within or near the project ROW.

12.2.3.1 American Bald Eagle

The American bald eagle (*Haliaeetus leucocephalus*) was removed from the federal endangered species list in August 2007 because its population recovered sufficiently. However, bald eagles and their nests remain protected under the federal ***MBTA*** and the ***Bald and Golden Eagle Protection Act***, and they are managed under FWC's ***A Species Action Plan for the Bald Eagle***.

On April 20, 2017, the FWC approved revisions to ***Rule 68A-16.002, F.A.C.***, which eliminated the need for applicants to obtain both a state and federal permit for activities with the potential to take or disturb bald eagles or their nests. Under the approved revisions, only a federal permit is required. The rule revisions became effective June 22, 2017. The ***A Species Action Plan for the Bald Eagle*** is a non-regulatory conservation plan to maintain a stable or increasing population of bald eagles in the state.

The federal ***Bald and Golden Eagle Protection Act*** prohibits anyone from taking, possessing, or transporting a bald eagle or golden eagle (*Aquila chrysaetos*), or the parts, nests, or eggs of such birds without prior authorization. This includes inactive nests as well as active nests. Rules promulgated under the ***MBTA (50 CFR Part 21)*** prohibit the

destruction of active (i.e., nests which contain eggs or flightless young) nests without a federal permit. The USFWS has ***Bald Eagle Monitoring Guidelines (USFWS, September 2007)*** that provides information for applicants proposing construction activities occurring within 660 feet of an active bald eagle nest during the nesting season (see ***Figure 12-3***).

Per the noted federal regulations, there are two permits that may be applicable to FDOT projects:

1. A permit to remove or relocate an eagle nest, called an Eagle Nest Take Permit, authorizes the removal or relocation of:

    a. An active or inactive nest where it is necessary to alleviate a safety emergency to humans or eagles (or both);

    b. An inactive nest to ensure public health and safety;

    c. An inactive nest to restore operation of a man-made structure that has been rendered inoperable by the presence of the nest; or

    d. An inactive nest in certain other instances where the removal or relocation of that nest (or the mitigation for its removal) will provide a clear and substantial benefit to eagles.

    The federal definition of inactive per ***50 CFR § 22.3*** is a bald eagle or golden eagle nest that is not currently being used by eagles as determined by the continuing absence of any adult, egg, or dependent young at the nest for at least 10 consecutive days immediately prior to, and including, at present. This differs from the state definition of inactive, referenced at ***Rule 68A-16.003(3), F.A.C.***, as meaning “a nest that does not contain eggs or flightless young.” See also web links included in ***Figure 12-3***.

2. There is also a General Permit for disturbing bald eagles at the nest location, provided there is no practicable alternative to avoid or minimize the disturbance. This type of take is referred to as "non-purposeful take" and is allowed under a General Permit for Bald Eagle Disturbance. Authorization is also subject to permit conditions to minimize impacts. The regulation authorizing Eagle Disturbance Permits for bald and golden eagles is found at ***50 CFR § 22.26***. The USFWS recommends that FDOT contact the USFWS eagle biologist in their area before submitting an application. A link to the application form is included in ***Figure 12-3***. Take of eagle nests, including by substantively modifying nesting substrate sufficient to render the substrate unsuitable for eagle nesting, is not authorized under a General Permit.

12.2.3.2 Florida Burrowing Owl

The Florida burrowing owl (*Athene cunicularia floridana*) is listed by the State of Florida, FWC as Threatened ***(Rule 68A-27.005, F.A.C.)***. It is illegal to take (pursue, hunt, capture, molest, or kill) burrowing owls and their nest burrows and eggs without a permit issued by FWC ***(Rules 68A-9.002 and 68A-27.005, F.A.C.)***. FWC's policy is to issue permits to destroy burrowing owl nest burrows only as a last resort, after all reasonable alternatives (such as realigning development to avoid the nest) have been shown to be impractical. When such permits are issued, they apply to inactive nest burrows (i.e., burrows containing no eggs or flightless young). Burrowing owl nest burrows can generally be considered inactive from July 10th to February 15th, although some nesting occurs as early as October each year. Between February 15th and July 10th, nest burrows attended by one or more burrowing owls are considered active unless information is available to suggest otherwise (i.e., proof that young fledged from the nest prior to July 10th). State burrowing owl nest burrow removal permits are applied for online. See ***Figure 12-3*** for a link to the FWC webpage.

Burrowing owls and their nest burrows are also afforded protection under the federal ***MBTA***. Rules promulgated under this act ***(50 CFR Part 21)*** prohibit the destruction of active (i.e., nests which contain eggs or flightless young) nests without a federal permit, which is issued by the USFWS Regional Office in Atlanta, Georgia. Federal permits are required only if the nest is active (i.e., has flightless young or eggs present). In practice, these permits are seldom issued by USFWS. Instead, activities that could adversely affect burrowing owl nests are typically scheduled strategically to avoid the burrowing owl nesting season when active nests may be present, so as to avoid the need for a ***MBTA*** permit. See ***Figure 12-3*** for a link to the USFWS web site describing the ***MBTA*** permitting process.

12.2.3.3 Osprey

The osprey (*Pandion haliaetus*) is no longer listed in Florida, but is part of the ***ISMP***. ***Rule 68A-16.003, F.A.C.*** eliminates the need for a FWC permit for on-site destruction of an inactive nest (a nest that does not contain eggs or flightless young) of non-listed birds which are protected by the ***MBTA***. The rule does not provide authorization for birds listed in ***Chapter 68A-27, F.A.C.*** (federal and state listed species) or ***Rule 68A-16.002, F.A.C.*** (bald eagles).

The osprey is federally protected by the ***MBTA (16 U.S.C. §§ 703 – 712)***. Coordinate with the USFWS Region 4 Migratory Bird Permit Office to determine what federal authorization or permits are required for any activity involving non-listed and listed migratory bird species, their nests, and any part thereof. See ***Figure 12-3*** for guidance on contacting the USFWS regarding osprey nests.

12.2.3.4 Gopher Tortoise

Gopher tortoises (*Gopherus polyphemus*) are protected by state law, ***Rule 68A - 27.003, F.A.C.*** . The FWC established a multi-tiered approach to permitting actions involving gopher tortoises.

These permits are divided into three main types:

1. **Authorized Agent Permits**, which authorize persons to capture, transport, and release tortoises;

2. **Site-Specific Relocation Permits**, which authorize capturing and relocating tortoises either within the boundaries of an area being impacted (on-site) or from an area being impacted to a permitted recipient site (off-site); and

3. **Recipient Site Permits**, which authorize the use of designated sites meeting specific criteria as recipient areas for tortoises.

Site-Specific Relocation permits are primarily applicable to FDOT projects, although knowledge of the overall permitting structure may be important to effective project management. Emergency Take Permits, Disturbed Site Permits, and Burrow or Structure Protection Permits are three additional permit types, which are only issued under unusual circumstances. The FWC gopher tortoise permitting program, including online permitting, is described on the FWC web site referenced in ***Figure 12-3***. For FDOT guidance on gopher tortoises, see FDOT's ***Protected Species and Habitat Website***.

In general, a permit is required for any activity that causes a take, harassment, molestation, damage, or destruction to gopher tortoises or their burrows (See ***Rule 68A-27.003, F.A.C.***). An exception that applies to roadway projects is that certain linear highway ROW vegetation maintenance activities, that may impact gopher tortoises or gopher tortoise burrows, do not require a permit. These activities include mowing and tree cutting.

Relocation permits vary depending upon the quantity of burrows and the condition of the site. The permit types include:

1. **10 or Fewer Burrows Relocation Permit** - for projects, which require the relocation of five or fewer tortoises (i.e., 10 burrows or less). Registered agents may obtain no more than two 10 or Fewer Burrows permits in a 12-month period.

2. **Conservation Permit** - for development projects which require the relocation of gopher tortoises when more than 10 burrows are proposed to be impacted on a development site. This permit allows for relocation either to an on-site preserve or off-site to a FWC-certified Recipient Site.

3. **Disturbed Site Permit** - May be required for development projects where premature disturbance to the ground has occurred before gopher tortoise burrow

surveys are complete or before gopher tortoise capture and relocation activities have been completed at the development site.

4. **Burrow or Structure Protection Permits** - Are available when the integrity or utility of an existing structure is jeopardized by one or two burrows and therefore poses a public safety concern (e.g., burrow under a propane tank, road, or other such structure), or if the safety of the resident tortoise is compromised (e.g., burrows in a grass parking lot, dirt driveway, etc.). This permit type may be applicable to FDOT projects. Application requirements and tortoise capture and handling procedures are similar to those for 10 or Fewer Burrows permits; however, tortoises relocated under a Burrow or Structure Protection permit shall only be relocated on-site. An after action report is not required for this permit type.

5. **Emergency Take without Relocation Permit** - Will be issued only under limited and specific circumstances, in cases where there is an immediate danger to the public's health and/or safety or in direct response (e.g., storm debris disposal) to an official declaration of a state of emergency by the Governor of Florida or a local governmental entity. Applications submitted for this permit must include all information that is required when seeking a conservation permit, along with a copy of the official declaration of a state of emergency, if applicable.

Due to the limited duration that gopher tortoise surveys are valid as well as the tendency for gopher tortoises to repopulate an area where relocation of the original population has occurred, FDOT typically does not conduct relocation until just prior to construction commencement. However, knowledge of the existing gopher tortoise population during the permitting process may be necessary to support the application review (i.e., with regard to indigo snake involvement/effects determination). In these cases, the Environmental Permits Coordinator may need to have at least 15% surveys of the potential gopher tortoise habitat conducted.

12.3 PROCEDURE

During the Planning phase, some projects may qualify for ETDM screening in the EST. ***Part 1, Chapter 2, Class of Action Determination for Federal Projects*** and the ***ETDM Manual, Topic No.650-000-002*** list the qualifications for ETDM screening. ***Figure 12-4*** provides a flow chart of the typical permitting process.

12.3.1 Projects Not Qualifying for Screening

Regardless of whether a project is screened in the EST, environmental permits may be needed. For transportation projects not qualifying for EST screening, anticipated environmental permits are documented as a part of discussion and coordination with the resource agency charged with regulating the activity. Identified permits should be documented in the Environmental Document and the StateWide Environmental Project Tracker (SWEPT) project file, and appropriately addressed through incorporation into the

final design contract documents. Documentation in the Environmental Document is as follows:

1. **Type 1 Categorical Exclusions (CEs)** - Type 1 CEs may occasionally need environmental permits. For these projects, a summary of anticipated permits is included in the ***Type 1 Categorical Exclusion Checklist (Part 1, Chapter 5, Categorical Exclusion)***. Documentation of permitting agency coordination and mitigation for impacts (as appropriate) is included in the project file.

2. **Non-Major State Actions (NMSAs)** - For a NMSA, a summary of anticipated permits and documentation of permitting agency coordination and mitigation for impacts (as appropriate) is included in the project file.

3. **Type 2 Categorical Exclusions (CEs)** Some Type 2 CEs may not require screening through the EST. For these projects, anticipated environmental permits are listed on the ***Type 2 Categorical Exclusion Determination Form*** and in the project file. See ***Section 12.3.3.1.2*** for guidance on documenting Type 2 CEs.

12.3.2 Projects Qualifying for Screening

For projects qualifying for EST screening, the proposed project is entered into a Planning or Programming Screen Event according to the ***ETDM Manual, Topic No. 650-000-002***. This screening initiates the project-level coordination with the regulatory agencies and includes a Preliminary Environmental Discussion (PED) (***Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification***). The District's initial assessment of the environmental permits that may be needed for the project is included in the Anticipated Permits section of the PED.

As Environmental Technical Advisory Team (ETAT) members, the agency representatives review the proposed project and provide comments identifying potential permits, mitigation opportunities, and technical studies. The ETAT should also provide recommendations and suggestions for minimizing potential environmental impacts to facilitate the permitting process. The EST documents and stores the ETAT review in the ***Planning or Programming Screen Summary Report***. This information supports development of the PD&E scope.

Coordination with the regulatory and resource agencies should be continuous throughout the ETDM process. The ETDM Coordinator and Project Manager should also coordinate internally with FDOT Environmental Permits Coordinators, District Environmental Offices, and others who may be involved in the PD&E process that follows the project screening.

12.3.2.1 Planning Screen

The Planning Screen may be used for the early identification of project permits. Regulatory agency ETAT members should identify the types of permits that may be

needed for the project, or they may agree with those already listed in the PED. Permits that may be needed for the project are listed in the "Anticipated Permits" section of the ***Planning Screen Summary Report***.

12.3.2.2 Programming Screen

In accordance with ***Part 1, Chapter 2, Class of Action Determination for Federal Projects***, qualifying projects must complete the ETDM Programming Screen regardless of whether they have completed the Planning Screen. If a Planning Screen was completed, the Programming Screen will build upon information from the Planning Screen.

12.3.2.2.1 Identification of Potential Permitting Needs

If the project completed a Planning Screen, the ETAT may confirm potential permits that were identified. If the project did not complete a Planning Screen, the PED created during the Programming Screen is the first record of potential permits that may be needed for the project. The regulatory agency ETAT members may identify additional permits, or confirm the potential permits identified in the PED. Potential permits identified by the regulatory agency ETAT are recorded in the "Anticipated Permits" section of the ***Programming Screen Summary Report***.

The District should coordinate with the USCG to determine if a bridge permit is required for the project during ETDM screening. The USCG representative can make the determination when the District provides the location of the project activity. See ***Part 1, Chapter 16, Navigation*** for detailed information on the USCG permitting process.

12.3.2.2.2 Opportunities for Mitigation

Through early coordination, a regulatory or resource agency may identify opportunities for mitigation to offset potential project impacts. If mitigation options are identified during the Programming Screen, they are recorded in the applicable section of the ***Programming Screen Summary Report***. Depending on the topic/resources and the agency providing the comments, the discussion of mitigation opportunities may be in the Wetlands and Surface Waters, Wildlife and Habitat, or Water Resources sections of the report. Mitigation opportunities are discussed in later in the Environmental Document and should be referred to during the permitting process.

12.3.3 Project Development and Environment Phase

Typically, information from ETDM screening should be used to prepare the PD&E scope of services and to focus the analysis/impact assessment. During PD&E, FDOT should use regulatory and resource agency comments from the ***Programming Screen Summary Report*** to anticipate a project's permitting needs.

It is recommended that District staff hold regular meetings or teleconferences with USFWS, NMFS, USACE, FDEP, FWC, or WMDs to discuss current project issues, mitigation needs, the status of ongoing PD&E Studies and mitigation projects, and review project status to see if there is anything the agencies may require to support their ongoing reviews. Other resource agencies (e.g., SHPO/FDHR) may need to be coordinated with based on project impacts to their resources which would have to be addressed in the anticipated permits. The frequency of the meetings is at the discretion of each District.

The District's Project Manager is responsible for collecting and maintaining correspondence with resource agencies (e.g., letters, emails), documenting coordination, and maintaining the project file. The documentation provides information for the next project phase.

12.3.3.1 Preparation for Permitting during PD&E

Information gathered during PD&E should inform project permitting. Early in PD&E, FDOT identifies the project's anticipated permitting needs from knowledge of regulations, agency comments and information included in the ***Programming Screen Summary Report*** (if the project was screened in the EST). The District should review ETAT comments for the "Coastal and Marine," "Wetlands and Surface Waters," "Water Resources," "Navigation," "Cultural Resources," and "Protected Species and Habitat" issues in the ***Programming Screen Summary Report***. FDOT should focus on the comments from the regulatory agencies in developing and conducting analysis. The ***Programming Screen Summary Report*** may specifically identify the types of permits that may be needed in the "Anticipated Permits" section of the report.

During PD&E, an impact assessment is conducted for direct and indirect/secondary impacts to wetlands/surface waters and impacts to protected species and their habitats according to ***Part 2, Chapter 9, Wetlands and Other Surface Waters*** and ***Part 2, Chapter 16, Protected Species and Habitat***. During this impact assessment, the District coordinates with the regulatory agencies to determine what permit types will be needed for the project based on anticipated project impacts. This coordination should involve the Environmental Permits Coordinator and compare the list of anticipated permits identified during the ETDM screening to those permits identified as necessary for the project from the analysis/impact assessment. Coordination may include a field review with appropriate resource agencies.

The impact assessment typically requires the preparation of a ***Natural Resources Evaluation (NRE)*** or a technical memorandum. Coordination between the Environmental Permits Coordinator and the Environmental Office during development of the ***NRE*** or technical memorandum will ensure the resulting report contains information sufficient to support subsequent permitting. Anticipated environmental permits that may be required for the project are listed in the ***NRE***. The ***NRE*** is sent to the resource agencies for review so they have an opportunity to review the project impacts and provide concurrence, as applicable, in advance of finalization of the Environmental Document. The District reviews the draft ***NRE*** prior to agency submittal. For FDOT Federal Projects, the Office of

Environmental Management (OEM) also reviews the draft ***NRE*** prior to agency submittal. See the ***Natural Resources Evaluation Outline and Guidance*** on FDOT's ***Protected Species and Habitat Website*** for guidance on preparing an ***NRE*** or technical memorandum.

During the PD&E process, the ***NRE*** is summarized in the Environmental Document. This includes any permits for unavoidable impacts to or take of listed species as well as any wetland permits listed in the ***NRE***.

It is important for the PD&E Project Manager to coordinate with the Environmental Permits Coordinator to discuss project schedules and timing of environmental permit applications. Several factors that may be discussed include:

- Information obtained during PD&E to support the permit application
- Environmental issues including agency consultation that may require additional time to obtain the environmental permit (i.e., protected species consultation)
- Timing of protected species surveys needed to support environmental permit applications
- The anticipated date of project construction
- If the project will need a State-Owned Submerged Lands authorization requiring a decision by the BOT
- Whether project funding is available to support the permitting effort, including mitigation

12.3.3.1.1 Consideration of Mitigation Options

During the PD&E phase, project design is developed in sufficient detail to quantify impacts to environmental resources such as wetlands and protected species. To the extent practicable, FDOT must demonstrate avoidance (elimination) and minimization (reduction) of impacts prior to the consideration of compensatory mitigation options. For those projects that have unavoidable wetland and species impacts, compensatory mitigation may be required. In accordance with the USACE's federal mitigation sequencing [***Compensatory Mitigation for Losses of Aquatic Resources (33 CFR §§ 325 and 332)***], wetland impacts must be addressed through: 1) avoidance, 2) minimization, and finally 3) compensatory mitigation. Environmental Resource Permits (ERPs) under state jurisdiction must follow criteria established under ***Chapter 62-330, F.A.C.*** and in the ***ERP Applicant's Handbook Volume I***, which is to reduce or eliminate wetland or other surface water impacts prior to mitigation. Additionally, impacts to certain protected species or their habitat may result in the need to mitigate potential impacts. FDOT mitigation options are further described in ***Section 373.4137, F.S***.

To validate the feasibility of a project design in PD&E (i.e., that it is reasonably anticipated to be permittable), the Environmental Document should include consideration of mitigation options to address anticipated unavoidable direct and indirect/secondary wetland impacts and impacts to listed species. Coordination is needed with the regulatory agencies when developing the mitigation plan to determine if proposed mitigation for wetland impacts may also satisfy mitigation needs for wetland dependent listed species. This helps to ensure FDOT provides the appropriate mitigation to offset project impacts and that mitigation used to satisfy one agency does not conflict with the mitigation recommendations of another agency. Mitigation options should be available and/or technologically feasible such that projects do not get advanced to Final Design without known viable means to adequately address unavoidable impacts.

The impact assessment may include a Uniform Mitigation Assessment Method (UMAM) in accordance with ***Chapter 62-345, F.A.C.***, conducted at a broader level than is needed for permitting. If a modified UMAM is being considered during PD&E, it should be coordinated with the applicable permitting agencies. Other suitable wetland assessment methods (e.g., Wetland Rapid Assessment Procedure) may be used depending on the available mitigation options in the service area of the proposed impacts. See ***Part 2, Chapter 9, Wetlands and Other Surface Waters*** for guidance on using UMAM during PD&E.

For wetland impacts, a conceptual mitigation plan may need to be prepared to identify compensatory mitigation opportunities. See ***Part 2, Chapter 9, Wetlands and Other Surface Waters***. The level of detail for the conceptual mitigation plan is determined through coordination with the appropriate regulatory agency(s) and is dependent upon the magnitude of mitigation required. The conceptual mitigation plan must demonstrate that mitigation is available to offset impacts to wetlands. In accordance with ***Section 373.4137, F.S.***, mitigation options may include “the use of mitigation banks and any other mitigation options that satisfy state and federal requirements” (e.g., mitigation bank credit purchases, funding to WMD for mitigation services and FDOT- responsible mitigation projects). These options are included in the Environmental Document. Mitigation options identified during PD&E are those available at that time; however, final mitigation is determined at the time the permit is obtained.

It is recommended that the Environmental Permits Coordinator assist with preparation, or review of the conceptual mitigation plan and mitigation discussion included in the Environmental Document. The Environmental Permits Coordinator may provide input on mitigation banks and credit availability in the project area, mitigation services available from FDEP or the WMDs, and other mitigation opportunities available for the project.

12.3.3.1.2 Environmental Commitments

FDOT may make environmental commitments to minimize potential adverse project effects. These commitments provide assurance to the reviewing agencies that the identified issues will be appropriately addressed during design and permitting – paving the way for a more efficient permit review process. Additionally, commitments provide

predictability to FDOT and to designers/consultants for the level of effort (cost) that will ensue during design and permitting. Project commitments must be documented in the Environmental Document and tracked in accordance with the ***Project Commitment Tracking, Procedure No. 650-000-003***. Some commitments made during PD&E may become permit conditions at the discretion of the regulatory agency. See ***Part 2, Chapter 22, Commitments*** and FDOT's ***Standard Environmental Commitments Guidance*** document for more information on project commitments.

12.3.3.1.3 Documenting Permits

Permits identified during the PD&E Study, including those permits identified as no longer being applicable to the project, must be documented in the Environmental Document. Permits that were identified as anticipated during the ETDM process that are no longer applicable to the project should be identified with an explanation as to why they are no longer needed. Documentation of regulatory agency coordination is uploaded to the project file.

Permits are documented in the Environmental Document as described below:

1. **Type 2 CE and SEIR –** For Type 2 CEs and SEIRs, environmental permits needed for the project are listed in the "Anticipated Permits" section. They are also discussed in the applicable Environmental Analysis section (Wetlands and Other Surface Waters, Protected Species and Habitat, Navigation) as part of the coordination with the resource agency requiring the permit. The Environmental Document should identify whether the USCG has determined if a bridge permit is required. See ***Part 1, Chapter 5, Categorical Exclusion***, or ***Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery*** for more detail on how to prepare these sections of the Type 2 CE or SEIR.

2. **Environmental Assessment (EA) –** Permits are documented in the Anticipated Permits section, as well as the applicable Environmental Analysis section (Wetlands and Other Surface Waters, Protected Species and Habitat, Navigation) as part of the coordination with the resource agency requesting the permit. See ***Part 1, Chapter 6, Environmental Assessment*** for more detail on how to prepare these sections of the EA.

3. **Environmental Impact Statement (EIS) –** Permits are documented in the Anticipated Permits section, as well as the applicable Environmental Analysis section (Wetlands and Other Surface Waters, Protected Species and Habitat, Navigation) as a part of the coordination with the resource agency requesting the permit. See ***Part 1, Chapter 8, Draft Environmental Impact Statement*** for more detail on how to prepare these sections of the EIS.

Permits that will be needed for the project are also listed in the Executive Summary of the Draft Environmental Impact Statement (DEIS) and the Final Environmental Impact Statement (FEIS) when it is to be submitted without a Record of Decision (ROD). In the

DEIS this section is titled “List of Other Government Actions Required” and in the FEIS it is titled “Other Government Actions and Permits Required”. See ***Part 1, Chapter 8, Draft Environmental Impact Statement*** and ***Part 1, Chapter 9, Final Environmental Impact Statement*** for more detail on how to prepare these sections of the EIS Executive Summary.

There may be occasions when associated federal agency approvals (e.g., USACE permit, USCG permit) will be received at or around the same time as the final ***NEPA*** approval. On those occasions, as part of the notice publication discussion, OEM and the District will confer as to whether one combined ***Limitations on Claims Notice*** should be published for the ***NEPA*** document and any associated federal agency actions. If other federal agency permits, licenses or approvals will be obtained at a later phase of the project, notice of limitations on claims would be published at that time for the subsequent approval. See ***Part 1, Chapter 11, Public Involvement*** for guidance on preparing a ***Limitations on Claims Notice***.

12.3.4 Re-evaluation

Changes after approval of the Environmental Document must be documented in a Re-evaluation per ***Part 1, Chapter 13, Re-evaluations***. Specific to permitting, the Re-evaluation should address any changes in laws, rules, or regulations that may impact project permitting, and provide a status of environmental permits required on the project. If a project’s design has changed, the Re-evaluation should also address whether the design changes impact permitting and associated mitigation. Permitting information should be included in the “Status of Permits” section of the ***Re-evaluation Form*** (***Part 1, Chapter 13, Re-evaluations***) or ***State Environmental Impact Report Re-evaluation Form (Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery).***

12.3.5 Design and Permitting

During the Design phase, the project design initiated in PD&E is refined and applications are prepared for federal and/or state environmental permits authorizing the construction of the proposed project. During this phase, it is important for the Environmental Permits Coordinator and Project Designer(s) to refer to information prepared during the PD&E phase or subsequent Re-evaluation, including the Environmental Document, technical reports, and agency coordination/consultation to appropriately incorporate agency input, design considerations, and project commitments into the project design and related permit application packages. Some project commitments made earlier in the project life-cycle may become permit conditions.

From the PD&E phase to the Design and Construction phases, projects generally follow one of two project delivery methods: Design-Bid-Build or Design-Build (DB). The Design-Bid-Build method is where FDOT obtains separate contractors for the Design phase and the Construction phase. The first contractor handles the project Design, including permitting. Once Design is complete, FDOT solicits a bid for another contractor to construct the project based upon the approved plans and specifications of which the

issued permits are a part. Alternatively, projects could proceed using the DB method where the design and construction are combined in a single contract. If the environmental permits have not been obtained prior to procurement of DB firm, then FDOT must work closely with the selected DB firm on obtaining or modifying permits, following the steps described in ***Section 12.3.5.2***. The DB firm is required to coordinate any permit modifications with FDOT. FDOT is responsible for maintaining oversight/review of the contractor throughout the permitting process. Whether Design-Bid-Build or DB, the District as the permittee is responsible for reviewing, approving, and signing permit applications.

For Local Agency Program (LAP) projects not on the SHS (off-system), the LAP agency is responsible for obtaining necessary permits and conducting regulatory agency coordination. This includes signature of permit applications and fulfillment of required mitigation, as applicable. FDOT may provide oversight of the LAP agency to assure completeness. FDOT Districts have LAP Coordinators to assist the LAP agencies. See ***Local Programs Manual, Topic No. 525-010-300***.

12.3.5.1 Finalize Mitigation

As the project design is refined and permitting is initiated, the impacts and mitigation options identified during PD&E are refined in consultation with the appropriate regulatory agency. The intent is to identify the appropriate mitigation, how much mitigation will be required to off-set unavoidable wetland impacts, and which mitigation option(s) will be incorporated into the respective state and federal permits. Since the state and federal permitting processes are independent in relation to quantifying wetland impacts and mitigation, it is possible that the quantities of compensatory mitigation required may differ between the state and federal permits.

In accordance with ***Section 373.4137, F.S.***, FDOT must consider any mitigation options that meet state and federal requirements. Mitigation for wetland impacts may also provide conservation benefit for listed species. When finalizing mitigation, coordination with regulatory agencies can help to determine whether identified mitigation may satisfy mitigation needs of multiple permits. The final mitigation plan is included in the permit application and becomes a condition of the environmental permits, as appropriate.

12.3.5.2 Permitting Process

Permits must be obtained before construction begins. For traditional Design-Bid-Build projects, dredge and fill permits (i.e., ERP and ***Section 404/10*** permits) are typically issued during the Design phase, in advance of letting. Ideally, the District should obtain the environmental permits prior to production and no later than the project letting date. For DB projects, permits may be obtained during procurement (in advance of project letting) or by the DB firm once the project is let. A project's contract letting date is the date the FDOT opens bid proposals from potential contractors.

It is important for the Environmental Permits Coordinator, environmental staff, and the Design Project Manager to coordinate during permitting to ensure that information gathered during the PD&E Study or subsequent Re-evaluation is utilized during permitting. The PD&E Project Manager should transmit the Environmental Document and relevant technical reports, such as the ***NRE***, ***Cultural Resource Assessment Survey (CRAS) Report***, and resource agency correspondence/concurrence, to the Environmental Permits Coordinator. In some cases, the Environmental Document or Re-evaluation may include agency concurrence documentation, which when submitted with the permit applications, may expedite agency review and identify important commitments which need to be addressed during the Design phase. It is the responsibility of the Environmental Permits Coordinator to review the documents and ensure that applicable information is used when preparing environmental permit applications.

In the Design phase, exact project alignment and the extent of resource impacts become known. During the permitting process alignment-specific or updated environmental analysis may be conducted to identify the presence or absence of state or federally listed or otherwise protected species, establish jurisdictional wetland and surface water boundaries, quantify wetland impacts and mitigation needs (using appropriate functional assessment method), determine seasonal high and average wet season water table elevations, delineate/document cultural resources, and identify other environmentally sensitive resources (such as seagrasses, mangroves, coral and associated benthic resources). Appropriate drainage requirements focusing on the development of, or improvement to the stormwater management system, and how the project meets state water quality and quantity criteria should be addressed. See ***Part 2, Chapter 11, Water Resources***, ***Part 2, Chapter 13, Floodplains***, and FDOT ***Drainage Manual, Topic No. 625-040-002*** for more information. This information provides the “facts on the ground” that complement or update the PD&E Study results and support pre-application communication with the regulatory agencies and permit application submittal(s). These activities should be done in coordination with the Environmental Office so these items/updates can be documented in Re-evaluations. ***Figure 12-1*** and ***Figure 12-2*** include links to web sites that itemize typical permit types and application content for FDEP, WMD, USCG, and USACE; links to digital application forms for these agencies; and descriptions of typical state and federal permit review processes.

12.3.5.2.1 Pre-application Conference

To facilitate project permitting, a pre-application conference can be scheduled to discuss the project and related requirements with the appropriate state or federal agency. These conferences are in addition to resource agency coordination during ETDM and PD&E. They are meant to:

1. Notify agency personnel of the pending application,
2. Establish agency expectations of application content, and
3. Identify project-specific issues that should be addressed in the application.

It is recommended that the Environmental Permits Coordinator or District designee attend this meeting, along with appropriate consultant staff and/or contractors. Other FDOT staff may also attend such as the Project Manager or Lead Designer. FDOT participation in these meetings help to ensure the agency coordination is in FDOT's interest. Such coordination typically facilitates a more complete application submittal and a more efficient permit application review process.

12.3.5.2.2 Application Preparation/Submittal

The state and federal "dredge and fill" permit applications, in general, describe who, what, when, where, and how through forms, narrative, tables, and graphics. The application for a state wetland permit also includes a section to request authorization to use state-owned submerged lands. Applicants are not required to submit a separate application for sovereign submerged lands authorization. The federal and state application packages are typically initiated when project design approaches Phase II design plans (60% design plans). At this point, the major components of the project (i.e., the project impact footprint) have been designed and environmental impacts and mitigation can be computed with relative certainty.

Initiation of the application process is directed by the Environmental Permits Coordinator, in coordination with the Design Project Manager and the Program Management Office. This coordination ensures that design, permitting, and construction are appropriately scheduled and funded to avoid extended periods between permit issuance and construction funding. When permit application packages are prepared by consultants, they are reviewed, approved, and signed by the Environmental Permits Coordinator, or their designee, since FDOT is responsible for the project. The use of an appropriate application checklist is recommended to ensure the application packages are complete.

Permit application packages are submitted to the applicable WMD or FDEP to initiate the state ERP permitting process. FDOT Districts can submit the ***NRE*** as supporting data along with any updated information. Upon receipt of the application, or of a notice to use a general permit or a determination of an exemption, FDEP or WMD staff will examine the application or notice to determine whether the activity appears to be located, in whole or in part, on state-owned submerged lands. The applicant may also indicate in the application the need for a proprietary authorization (e.g., a letter of consent, easement or lease) in addition to the regulatory authorization being requested. Where necessary, FDEP or WMD staff will request a title determination from FDEP's Division of State Lands as confirmation whether state lands would be affected by a proposed project. Activities located in one of the state's Aquatic Preserves must receive a separate written authorization prior to initiating any work.

If applicable, an application is submitted to the USACE for a federal dredge and fill permit. The FDOT uses ***Form ENG 4345*** to initiate the federal permitting process. The form and related instructions are available on the USACE web site ***(USACE, 2015)***. The Environmental Permits Coordinator with assistance from the Environmental Manager should coordinate with the USACE.

Application packages for USCG permits are submitted directly to the USCG. Typical contents of a USCG application package are described in detail in the ***Bridge Permit Application Guide (USCG, 2016)*** and the application review process is described in the ***Bridge Permit Processing Procedure (USCG, 2014)***. It is recommended that the Environmental Permits Coordinator work with the Design Project Manager to ensure permits are timed to avoid the need for a permit extension.

For CCCL permits, FDOT submits an ***Application for a Permit for Construction Seaward of the Coastal Construction Control Line or Fifty-Foot Setback*** to FDEP Office of Resilience and Coastal Protection according to ***Rule 62B-33.008, F.A.C., Permit Application Requirements and Procedures***.

Application fees are associated with state permit review. Refer to the rate schedule on either the FDEP or WMD web sites for current permit-specific rates (***Figure 12-2***). The federal review process does not exact an application fee when the applicant is a government agency.

Erosion and Sediment Control Plan

FDOT develops and submits an erosion and sediment control plan as part of the ERP application. This plan provides reasonable assurance that water quality standards will not be violated during the construction phase of a project. The plan must identify the location, relative timing, and specifications for all erosion and sediment control and stabilization measures that will be implemented as part of the project's construction. The plan must provide for compliance with the terms and schedule of implementing the proposed project, beginning with the initiation of construction activities. The plan may be submitted as a separate document, or may be contained as part of the plans and specifications of the construction documents. For more information on the development of an erosion and sediment control plan, refer to the ***ERP Applicant's Handbook, Volume I*** or ***Part 1 of the State of Florida Erosion and Sediment Control Designer and Reviewer Manual***.

Stormwater Pollution Prevention Plan for NPDES Requirements

A ***Stormwater Pollution Prevention Plan (SWPPP)*** is required to be developed and implemented for each FDOT construction project that disturbs one or more acres of total land area and discharges to waters of the United States. The objectives of a ***SWPPP*** are to:

1. Prevent erosion where construction activities are occurring,

2. Prevent pollutants from mixing with stormwater, and

3. Prevent pollutants from being discharged by trapping them on-site, before they can affect the receiving waters.

A complete ***SWPPP*** consists of: ***SWPPP*** sheets, other plan sheets and documents referenced in the ***SWPPP*** sheets, the contractor's approved Erosion Control Plan in

accordance with ***Standard Specifications, Section 104***, inspection reports, and documentation of field changes that were made to better address the objectives and is prepared in consultation with Drainage, Construction, and Environmental personnel. To comply with this requirement, FDOT develops a ***Stormwater Runoff Control Concept (SRCC)***. The ***FDOT Design Manual, Part 2, Section 251, Topic No. 625-000-002*** describes the purpose, objective, and signing and noticing requirements of the ***SRCC*** The ***SRCC*** developed as part of the ERP application package may not be of sufficient detail for a contractor to obtain an NPDES permit. The contractor is responsible for developing a project specific ***SWPPP*** to meet regulatory requirements to obtain an NPDES permit prior to construction.

12.3.5.2.3 Application Processing/Review

The duration of the state permitting process depends on the complexity of the construction and the environmental sensitivity of the project area, unless the project qualifies for a general permit, which takes approximately 30 days. ***Section 373.4141, F.S.***, provides FDEP or the WMD 30 days to request additional information on an application or in any subsequent submittal within 30 days after receipt of an application for permit or receipt of additional information. An application is considered complete by a regulatory agency when the applicant has provided sufficient information for the regulatory agency to make a final agency action. A permit is issued or denied within 60 days after the application has been deemed complete, or upon written request by an applicant for the regulatory agency to begin processing the application. The 60-day statutory deadline for permit issuance can be formally waived by the applicant, for a period of time identified by the applicant, using the ***Waiver of the 60 Day Review Time Limit Form*** available from FDEP or WMD.

The approval or denial of an ERP application is linked with the approval or denial of any required state-owned submerged lands application. Activities that require an ERP cannot become complete until all required state-owned submerged lands information has been submitted as part of the permit application. In addition, the ERP permit cannot be issued unless a determination has been made that the related state-owned submerged lands application can be issued. If an activity meets all the requirements for issuance of an ERP, but does not meet all the requirements for issuance of the state-owned submerged lands authorization, the ERP must be denied. Conversely, if the activity meets all the state-owned submerged lands requirements, but does not meet the conditions for issuance of the ERP, the state-owned submerged lands application and the ERP permit will be denied.

Activities that qualify for a general permit, or an exemption from the state, are not linked to a sovereign submerged lands authorization. In such cases, even though an activity may be authorized by the general permit or exemption, construction, alteration, modification, maintenance, operation, abandonment, or removal of the project may not commence until the required state-owned submerged lands authorization has also been granted.

The federal permitting process does not have a statutory timeframe for permit issuance. The USACE and USCG will notify an applicant of apparent errors or omissions in application materials and request additional information needed to clarify the information in an application. Concurrence for a Nationwide Permit typically takes 3 to 6 months from the date of application. For more complicated Standard Permits, the USACE may need 12 to 18 months from the date of application. The USCG permitting process for a minor deviation takes approximately 3 to 4 months. A bridge permit is typically issued or denied by the USCG within 180 days after an application has been deemed complete. More information on the USCG permitting process can be found in ***Part 1, Chapter 16, Navigation***.

When required, FDEP, USACE, or the USCG, solicit comments from the public and resource agencies (e.g., FWC, USFWS, NMFS, SHPO, EPA) by publishing a public notice during the permitting process. The period for the public to submit comments is identified in the public notice (i.e., typically between 15 and 30 days). Once the public comment period closes, the permit issuing agency consolidates the public comments with merit and conveys them to the applicant. The applicant then responds to the comments in the same manner as the typical request for additional information process.

As commenting agencies for federal permits, the USFWS and/or NMFS may request additional data, including recent species-specific field surveys, confirmation of habitat mapping and characterization, and data on any observed listed species occurrences. Issuance of federal permits from USACE and/or USCG is contingent upon approval from USFWS and/or NMFS as appropriate that the project “may affect, is not likely to adversely affect” federally listed species, or that the action “may affect, likely to adversely affect” one or more listed species and incidental take is authorized. A review by wildlife agencies for listed species may take 180 days or longer, depending on the level of impact proposed.

For ERPs, the WMD or FDEP may solicit comment from FWC regarding a proposed project’s potential effect on listed wildlife. In turn, FWC may request additional data, including recent species-specific field surveys, confirmation of habitat mapping and characterization, and data on any observed listed species occurrences to support the state permitting process. The WMD or FDEP may solicit comment from SHPO regarding a proposed project’s potential effect on historic resources. The applicant then responds to the comments in the same manner as the typical request for additional information process described previously.

Issuance of a state general, individual, or conceptual ERP from a WMD or FDEP requires that the activity “will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters.” (e.g., ***Rule 62-330.301(1)(d), F.A.C.***). Additionally, the applicant must provide reasonable assurance that the project will not be contrary to the public interest for activities located in, on, or over wetlands or other surface waters - or in the case where impacts are proposed in an Outstanding Florida Water, the applicant must provide reasonable assurance that the project is clearly in the public interest; that the project will not adversely affect navigation; and that the project will not result in harm to listed wildlife species ***Rule 62-330.302(1),***

F.A.C. The Project Manager and Environmental Permits Coordinator should facilitate the communication of FWC decisions and commitments (if any) to the WMD or FDEP as part of the ERP application process, and should obtain documentation from the WMD that the wildlife and habitat commitments sufficiently meet the conditions for permit issuance.

Incidental Take permits are issued for activities that may result in take of federal or state protected species. Applications for take of federally listed species are contingent upon a USFWS ***HCP*** which defines the full impact on the species, describes methods proposed to minimize take, and outlines mitigation which may be implemented to offset the take. Additional information on ***HCPs*** and Incidental Take permits is available on the USFWS ***Ecological Services*** site. The NMFS website has information on permits related to protected marine resources. The USFWS and NMFS have a ***Habitat Conservation Planning and Incidental Take Permitting Processing Handbook*** that provides guidance on this permitting process. See ***Figure 12-3*** for links to these resources.

FWC will approve or deny a complete Incidental Take permit application for state listed species within 90 days of receipt. A complete application includes all relevant information as attachments (e.g. scientific project proposals, educational plans and brochures, site plans, photographs, etc.). Additional information on state Incidental Take permits can be found online in FWC's ***Florida Wildlife Conservation Guide***. See ***Figure 12-3***.

12.3.5.2.4 Noticing Permits

Noticing requirements vary between federal and state agencies. The information in this section provides an overview of permit noticing requirements. The District should coordinate with the appropriate regulatory agency to ensure proper noticing of permits.

In accordance with ***33 CFR § 325.2(a)(8)***, for USACE standard permits, the USACE's District Engineer will publish monthly a list of permits issued or denied during the previous month. The list will identify each action by public notice number, name of applicant, and brief description of activity involved. This list will be distributed to all persons who may have an interest in any of the public notices listed. USACE general permits do not typically require noticing upon receipt (verification or authorization is the term used in the letter to FDOT). The USACE provides a public notice in the ***FR*** announcing the availability of general permits.

For USCG bridge permits, the applicant may publish a public notice to known navigation and other interested parties, news media, adjacent property owners, public officials and local government agencies. The public notice contains a description of the proposed bridge project and includes location maps and bridge drawings with navigational clearances. FDOT should coordinate with the USCG for details on the information to include in the public notice.

For ERPs, it is recommended that the FDOT District publish a notice of agency action in a newspaper of general circulation in the county where the proposed activity is to occur. Publication of notice informs third parties of their right to challenge the regulatory agency's

action. If proper notice is provided by publication, third parties have 21 days in which to file a petition opposing the agency's action. A shorter 14-day time limit applies to an agency action regarding ERPs linked with an authorization to use State Owned Submerged Lands. Agency actions regarding issuance or denial of a permit, petition or qualification for exemption, only become closed to future legal challenges if third parties have been properly notified and no third-party objects within a specific period. Upon request FDEP or WMD staff will provide the applicant (FDOT) with the information for publishing such a notice. The District can also contact the Office of General Counsel for assistance.

12.3.5.2.5 Permit Distribution and Tracking

Upon issuance of environmental permit(s), the Environmental Permits Coordinator utilizes a ***Permit Transmittal Memorandum, Form No. 650-040-01*** or the form in SWEPT to transfer the permit(s) to the District Construction Engineer and posts the permit(s) to ***FDOT's File Transfer Protocol (FTP) site***. A sample of the ***Permit Transmittal Memorandum, Form No. 650-040-01*** is provided in ***Figure 12.5***. Posting to the FTP site is part of the official contract package. Potential contractors use the FTP site to obtain copies of the permits when preparing their bids. The Construction Office, CEI team, winning contractor, and Maintenance Office review the environmental permits to ensure permit compliance.

Each District must implement a means to track execution of the various conditions associated with each permit issued to FDOT – including but not limited to pre-construction wildlife surveys/permitting, mitigation implementation/purchase, ***ESA*** consultation, resource protection during construction, permit expiration dates, monitoring and inspection schedules, and post-construction notification and reporting. They may be tracked using SWEPT, SharePoint, Excel spreadsheets or permit tracking databases. Tools that automatically notify the user of approaching permit expiration dates are especially helpful.

For LAP agency projects, the LAP agency must provide documentation to FDOT demonstrating that the appropriate environmental permits have been obtained. More information on LAP projects can be found in the ***Local Programs Manual, Topic No. 525-010-300***.

12.3.6 Construction

The Environmental Permits Coordinator should participate in the pre-construction meeting to brief Construction staff and Contractor on permitting and environmental issues. The Environmental Permits Coordinator should also send a pre-construction environmental permit briefing memorandum that includes the ***FDOT Contractor Requirements for Unanticipated Interaction with Protected Species*** to the Construction Project Administrator. ***Section 8.2*** of the ***Construction Project Administration Manual, Topic No. 700-000-000*** provides guidance on:

1. Providing a comprehensive review of all permits at the preconstruction conference
2. Monitoring regulated activities to assure they are conducted in accordance with permits
3. Special requirements of NPDES
4. Reporting and Enforcement

In addition, the Construction Office should coordinate with the Environmental Office and Environmental Permits Coordinator to ensure permit condition familiarity and to ensure that the intent and timeline of the environmental permit conditions are being met.

During the Construction phase, a contractor may request modification of existing permits. FDOT may authorize the contractor's request to proceed with a permit modification, if it is in compliance with FDOT design criteria and state and federal regulatory requirements and is not anticipated to adversely affect project schedule or cost. FDOT will review and approve of the modification prior to submittal, as described in ***Section 12.3.5.2.2***.

12.3.6.1 Permit Compliance

FDOT, as the permittee, is responsible for compliance with the permit prior to, during, and, after Construction. Failure to comply with issued permits may result in enforcement action by the regulatory agencies. Therefore, it is important for FDOT to inform construction contractors and/or DB firms of their contractual obligation to follow approved commitments, permit conditions and project design in order that the project remains compliant with permit requirements. While FDOT may face liability for non-compliance due to its status as permittee, a contractor or DB firm may also be liable to regulatory agencies as a responsible party.

In accordance with ***Section 8.2*** of the ***Construction Project Administration Manual, Topic No. 700-000-000***, the Project Administrator is responsible for overseeing permit compliance during Construction. The Project Administrator should meet with the Environmental Permits Coordinator and Environmental Manager prior to construction to be briefed on the content of project permits and design plan notes (if any) as they relate to protection of environmental resources. The Project Administrator should continue to coordinate with the Environmental Permits Coordinator and the Environmental Manager throughout the Construction phase to assure the Project Administrator's full knowledge of the regulatory requirements included in the permits, sediment erosion plan, ***SWPPP***, and design plans and to provide awareness of project progress to the Environmental Office, particularly if environmental issues arise.

Once construction is complete, the Project Administrator is responsible for addressing post-construction permit conditions. Post-construction activities may include, but are not limited to:

1. Notifying the USACE of project completion via written correspondence

2. Notifying FDEP or WMD of construction completion and requesting conversion of the project to the operation phase via submittal of the electronic form ***Form 62-330.310(1) - As-Built Certification and Request for Conversion to Operation Phase, Rule 62-330.310(4)(a)1, F.A.C.***

3. Submitting an as-built certification form to the USACE (typically an attachment to the permit)

4. Submitting as-built drawings to FDEP/WMD and USACE showing how project construction either complied with, or deviated from, permitted project design

5. Notifying wildlife agencies about completion of species permit activities (e.g., After Action reports for Gopher Tortoise permits)

Permit conditions typically define the required submittal information to assist FDOT in completing the forms and compiling required information. Species permits may also include conditions requiring documentation that must be submitted to the wildlife agencies. For project continuity, the Construction Office should additionally notify the Environmental Office of construction completion.

The Project Administrator is also responsible for monitoring all permit expiration dates and advising the Environmental Permits Coordinator at least 6 months prior to a permit expiring. For projects requiring USFWS or NMFS consultation, notification of permit expiration should be up to twelve 12 months in advance of permit expiration, to allow ample time for coordination/consultation with the agencies. The Environmental Permits Coordinator is responsible for acquiring necessary permit extensions and/or renewals from the appropriate regulatory agency in the event work is not anticipated to be completed within the time authorized by the permit.

12.4 REFERENCES

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Chapter 18-21, F.A.C., Sovereignty Submerged Lands Management. https://www.flrules.org/gateway/ChapterHome.asp?Chapter=18-21

Chapter 62B-33, F.A.C., Rules and Procedures for Coastal Construction and Excavation (Permits for Construction Seaward of the Coastal Construction Control Line and Fifty Foot Setback)

Chapter 62-113, F.A.C., Listing of regulatory delegation agreements

Chapter 62-330, F.A.C., Implements the comprehensive statewide environmental resource permit (ERP) program

Chapter 62-340, F.A.C., Method for delineating the landward extent of wetlands and surface waters

Chapter 62-621, F.A.C., Generic Permits

Chapter 62-624, F.A.C., Municipal Separate Storm Sewer Systems

Chapter 68A-1, et seq. F.A.C., Establishes wildlife code of the state of Florida

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FDEP, Form 62-330.310(1). As-Built Certification and Request for Conversion to Operation Phase. http://www.flrules.org/Gateway/reference.asp?No=Ref-09384

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FDOT, FDOT Design Manual, Topic No. 625-000-002.
https://www.fdot.gov/roadway/fdm

FDOT, Efficient Transportation Decision Making Manual, Topic No. 650-000-002.
https://www.fdot.gov/environment/oem-divisions/qa-qc/etdm-manual

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https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/final-mitigation-payment-handbook2025.pdf?sfvrsn=cf429d13_1

FDOT, Construction Project Administration Manual, Topic No. 700-000-000.
https://www.fdot.gov/construction/manuals/cpam/cpammanual.shtm

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Title 33 CFR Part 328, Definition of Waters of the United States. http://www.ecfr.gov/cgi-bin/text-idx?SID=30ea9056a7eb08f3f433ac58b032b795&mc=true&node=pt33.3.328&rgn=div5

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12.5 FORMS

Permit Transmittal Memorandum, Form No. 650-040-01

Table 12-1 Legislation Related to Environmental Permitting

Title and Citation	Relevance to Permitting	Lead Agency/ Required Commenters
Federal Legislation		
Clean Water Act (Federal Water Pollution Control Act) of 1972, Section 404, (33 U.S.C. §1344) as amended; (40 CFR Part 230)	The Clean Water Act (CWA) is the primary federal law related to protection of surface waters and wetlands. Section 404 regulates the discharge of dredged and fill material into waters of the United States, including wetlands. Dredge and fill activities are regulated by a permit process administered by the U.S. Army Corps of Engineers (USACE) and overseen by the U.S. Environmental Protection Agency (EPA). This process most commonly creates a "federal nexus" for wildlife consultations under the Endangered Species Act. USACE functions as the lead agency, while U.S. Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service (NMFS) serve as cooperating agencies for Section 404 federal actions. Under Section 401, states are provided authority to ensure that federal permits do not violate state water quality standards.	USACE / EPA, USFWS, and/or NMFS.
Rivers and Harbors Act of 1899, Section 10	Section 10 of the Rivers and Harbors Act prohibits the unauthorized obstruction or alteration of any navigable water of the United States. The construction of any structure in or over any navigable water of the United States, the excavating from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters is unlawful unless the work has been permitted by the USACE.	USACE
General Bridge Act of 1946	Under the General Bridge Act of 1946 (33 U.S.C. *§§* 525-533), construction of a bridge over a navigable U.S. waterway requires the Coast Guard to grant a bridge permit	USCG
National Pollutant Discharge Elimination System (NPDES) (*40 CFR Part 122*) and Section *403.0885, F.S*,	NPDES requires the development of a Stormwater Pollution Prevention Plan (SWPPP) for construction project sites greater than 1 acre in size, if stormwater from the activity has the potential to enter a surface water of the State or a municipal separate storm sewer system.	FDEP (delegated from EPA)
Section 106 of the National Historic Preservation Act of 1966, as amended, *16 U.S.C. § 470f*	The Act requires the federal agency to take into account the effects that activities authorized by federal permits are likely to have on historical properties listed in, or eligible for listing in, the National Register of Historic Places.	USACE / State Historic Preservation Officer (SHPO)

Table 12-1 Legislation Related to Environmental Permitting (Page 2 of 3)

Title and Citation	Relevance to Permitting	Lead Agency/ Required Commenters
Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. §§ 1531-1541); 50 CFR Part 402	Section 7 of the ESA requires federal agencies, in consultation with the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS), to ensure that effects of actions that they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species, or result in the destruction or adverse modification of designated critical habitat of such species. This congressional policy states that "All Federal departments and agencies shall seek to conserve endangered and threatened species and shall utilize their authorities in furtherance of the purposes of the Act". In the absence of a federal nexus, Section 10 of the ESA allows for the "incidental take" of listed species when a Habitat Conservation Plan (HCP) is developed and approved. 50 CFR § 402.08 allows FDOT to conduct informal ESA consultations with USFWS on behalf of FHWA.	USFWS or NMFS
Federal Migratory Bird Treaty Act (16 U.S.C. §§ 703-712), as amended	The Act states that "it shall be unlawful at any time…..to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess…..any migratory bird, any part, nest, or egg of any such bird…". This governs avian species such as the Florida burrowing owl, osprey, and American bald eagle.	USFWS
The Federal Bald and Golden Eagle Protection Act, (16 U.S.C. §§ 668-668c), as amended	The Act prohibits anyone, without a permit issued by the Secretary of the Interior, from "taking" bald eagles, including their parts, nests, or eggs. The Act provides criminal penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." The Act defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb."	USFWS
State Legislation		
Chapter 62-330, F.A.C.	Establishes the SWERP program to provide more consistency throughout Florida in state permitting thresholds, requirements and processes. The SWERP program governs the following: construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on or over wetlands or other surface waters.	FDEP or WMD / FWC and SHPO

Table 12-1 Legislation Related to Environmental Permitting (Page 3 of 3)

Title and Citation	Relevance to Permitting	Lead Agency/ Required Commenters
State Legislation		
Chapter 68A-27, F.A.C.	Rules Relating to Threatened or Endangered Species. This chapter provides the purpose, definitions, species designations, permitting requirements, and other rules associated with the regulation of potential impacts to state listed species in Florida.	FWC
Gopher Tortoise (68A - 27.003 F.A.C.)	As a Threatened species, a permit is required for any activity that causes a take, harassment, molestation, damage, or destruction to gopher tortoises or their burrows.	FWC

*In accordance with Section 335.02(4), F.S., FDOT is not bound by county, municipal, or special district regulations for projects on the State Highway System; however, Broward and Hillsborough Counties have been delegated regulatory authority to administer the state wetland permitting program.

Table 12-1 Federal Permit Types

Lead Agency	Action/Permit Type	Permit Number/Name or Activity Description	Commenting Agency	Remarks
U.S. Army Corps of Engineers	No Section 404 Permit Required	N/A	N/A	Utilize Permit Involvement Form or other checklist to ensure correct determination.
	Section 404 Nationwide Permit (NWP)	54 NWPs exist as of March 2017	N/A	NWPs are reviewed every 5 years, and changes are made, as appropriate. Some NWPs subject to Pre-Construction Notice (PCN). Special conditions apply to some NWPs. Refer to USACE Source Book
	Section 404 Regional General Permit (RGP)	SAJ-92, FDOT and Florida's Turnpike Enterprise	USFWS (SAJ-92, p. 4), SHPO	Capacity improvement projects. RGPs are reviewed every 5 years, and changes are made, as appropriate.
	Section 404 Letter of Permission	Letter of Permission	USFWS, NMFS, SHPO	Refer to USACE Source Book
	Section 404 Standard Permit	Standard Permit	USFWS, NMFS, EPA, SHPO	Refer to USACE Source Book
	408 Permit	Permission	WMDs	Refer to USACE Section 408 Guidance
U.S. Coast Guard	Bridge Permit	Bridge Permit	NMFS, USFWS, EPA, SHPO	Refer to USCG Bridge Permit Application Guide

Table 12-2 State Permit Types

Lead Agency	Action/Permit Type	Permit Number/Name or Activity Description	Commenting Agency	Remarks
Florida Department of Environmental Protection or Water Management District	Conceptual Permit	Conceptual Permit	FWC, SHPO	Conceptual permit may also authorize the first phase of project. Refer to Rule 62-330.056, F.A.C.
	General Permit	General Permit	N/A	Refer to Rules 62-330.401 through 62-330.635, F.A.C.
	Individual Permit	Individual Permit	FWC, SHPO	Refer to Rule 62-330.054, F.A.C.
FDEP	National Pollutant Discharge Elimination System (NPDES)	NPDES Permit	N/A	Typically acquired by construction contractor

Table 12-3 Listed Wildlife Permit Types

Lead Agency	Species	Permit Type/Name	Remarks
Florida Fish and Wildlife Conservation Commission (FWC)	Gopher Tortoise	10 of Fewer Burrows Relocation Permit	All named permits require the involvement of and Authorized Gopher Tortoise Agent permitted by FWC – except for on-site relocation of 10 or fewer burrows IF all of the tortoises are captured via live or bucket trapping or by hand shovel excavation
		Conservation Permit	
		Disturbed Site Permit	
		Burrow or Structure Protection Permit	
		Emergency Take without Relocation Permit	
	Florida Burrowing Owl	Migratory Bird Nest Removal Permit	Only allowed during non-nesting season (July 11 through February 14)
	ISMP	Species Specific	Species specific
U.S. Fish and Wildlife Service (USFWS)	American Bald Eagle	Nest Take Permit	Only for inactive eagle nests, unless necessary to alleviate safety emergency to humans or eagles (then can include active nest removal)
		General Permit for Bald Eagle Disturbance	The take (disturbance) must be necessary for the project purpose, despite implementation of all practicable measures to avoid and minimize the impact to eagles

Federal permitting information can be obtained from the following sources:

United States Coast Guard

See Part 1, Chapter 16, Navigation for information sources.

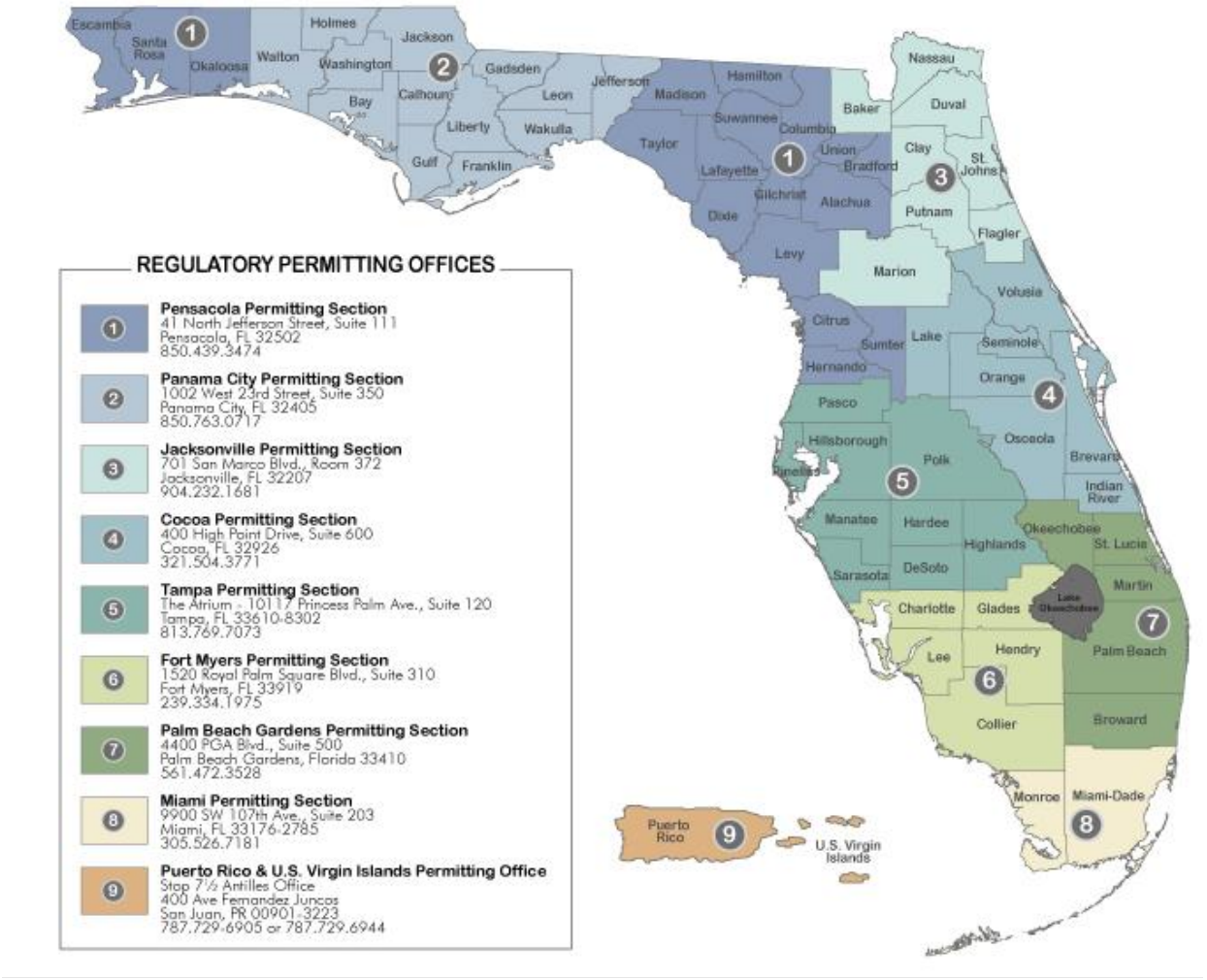
United States Army Corps of Engineers

1) A comprehensive and detailed listing of USACE permit types, application forms, wetland data forms, wetland mitigation requirements, endangered species requirements, and an overall description of the permitting process, can be found at http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx

2) Information on exemptions for very narrowly-defined activities that result in incidental impacts to wetlands or surface waters in accordance with ***Section 404(f)(1)*** of the ***CWA*** are provided at https://www.epa.gov/cwa-404/exemptions-permit-requirements

3) USACE regions of responsibility and office addresses: See next page.

Figure 12-1 Federal Permitting Information Sources



*The Corps office location map in the figure is located at:
http://www.saj.usace.army.mil/Missions/Regulatory/OfficeLocations.aspx

Figure 12-1 Federal Permitting Information Sources (Page 2 of 2)

State permitting information can be obtained from the following sources:

FDEP's Permitting Portal is the umbrella web link that provides access to following links as well as other state water resource regulation: http://flwaterpermits.com/

Statewide Environmental Resource Permitting (SWERP)

1) The state (all five WMDs and FDEP) has consolidated its environmental permitting process and has described it in a two-volume set of the Environmental Resource Permit Applicant's Handbook.

2) Volume I applies state-wide and includes a comprehensive and detailed listing of WMD permit types, application forms, wetland delineation process, criteria for project evaluation, and an overall description of the permitting process. It can be found at https://www.sfwmd.gov/sites/default/files/documents/swerp_applicants_handbook_vol_i.pdf

3) Five versions of Volume II, one specifically tailored to the unique soil and water conditions of each of the five WMDs, include design and performance standards for water quality, water quantify, and flood control within the respective WMD generally, and within special basins within the respective WMD. The individual region-specific Volume II handbooks can be found at:

- Northwest Florida WMD: https://www.nwfwater.com/Permits/Environmental-Resource-Permits/Applications-Forms
- St. Johns River WMD: https://www.sjrwmd.com/static/permitting/PIM-20180601.pdf
- Suwannee River WMD: http://www.srwmd.state.fl.us/DocumentCenter/View/8654
- Southwest Florida WMD: https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/06-04-18%20FINAL%20AH%20II%20%28materials%20incorporated%20by%20reference%29.pdf
- South Florida WMD: http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/swerp_applicants_handbook_vol_ii.pdf

4) Water Management District regions of responsibility and office addresses: See next page

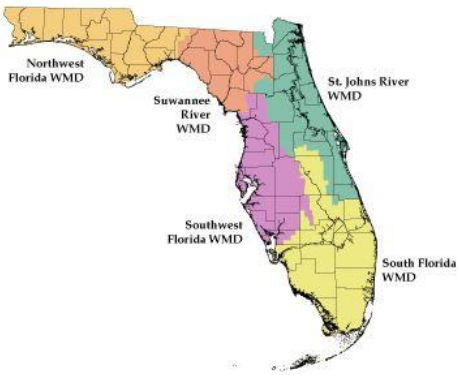
Figure 12-2 State Permitting Information Sources

Water Management Districts

The Department of Environmental Protection is involved in managing the quality and quantity of water through its relationship with the state's five water management districts: Northwest Florida Water Management District, Suwannee River Water Management District, St. Johns River Water Management District, South Florida Water Management District and Southwest Florida Water Management District.

The water management districts administer flood protection programs and perform technical investigations into water resources. The districts also develop water management plans for water shortages in times of drought and to acquire and manage lands for water management purposes under the Save Our Rivers program. Regulatory programs delegated to the districts include programs to manage the consumptive use of water, aquifer recharge, well construction and surface water management.

As part of their surface water management programs, the districts administer the Department's stormwater management program. This increases the districts' contacts with local governments by directing the districts to help with the development of the water elements in local government comprehensive plans.



WMD	JURISDICTION	OFFICE
Northwest Florida WMD	Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson (western half), Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, & Washington	81 Water Management Drive Havana, FL 32333 850/539-5999
Suwannee River WMD	Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Madison, Suwannee, Taylor, Union and portions of Alachua, Baker, Bradford, Jefferson & Levy	9225 CR 49 Live Oak, FL 32060 386/362-1001 800/226-1066 (Florida only)
St. Johns River WMD	Brevard, Clay, Duval, Flagler, Indian River, Nassau, Seminole, St. Johns, Volusia, and portions of Alachua, Baker, Bradford, Lake, Marion, Okeechobee, Orange, Osceola & Putnam	P.O. Box 1429 Palatka, FL 32178-1429 386/329-4500 800/451-7106
Southwest Florida WMD	Citrus, DeSoto, Hardee, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Sarasota, Sumter, and portions of Charlotte, Highlands, Lake, Levy, Marion & Polk	2379 Broad Street Brooksville, FL 34604-6899 352/796-7211 800/423-1476 (Florida only)
South Florida WMD	Broward, Collier, Dade, Glades, Hendry, Lee, Martin, Monroe, Palm Beach, St. Lucie, and portions of Charlotte, Highlands, Okeechobee, Orange, Osceola & Polk	3301 GunClub Road West Palm Beach, FL 33406-3089 561/686-8800 800/432-2045 (Florida only)

*The WMD district map is located at: http://www.dep.state.fl.us/secretary/watman/

Figure 12-2 State Permitting Information Sources (Page 2 of 3)

5) Section 373.413(6), F.S., describes flexibility for FDOT stormwater permitting. The statute can be found within: http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=373.413&URL=0300-0399/0373/Sections/0373.413.html

6) More information on SWERP is available on the FDEP website, including links to applicable rules and application forms:

http://www.dep.state.fl.us/water/wetlands/swerp

National Pollutant Discharge Elimination System (NPDES)

The NPDES Construction Generic Permit (CGP), administered by FDEP, can be found at: http://www.dep.state.fl.us/water/stormwater/npdes/construction1.htm

Florida Coastal Management Program

Florida Coastal Management Program Guide at: https://www.dep.state.fl.us/cmp/publications/FCMP_Program_Guide_2014.pdf

Class V Stormwater Well Permits

Class V Stormwater Well Permits are regulated under FDEP's Aquifer Protection program. More information about Class V Stormwater permits can be found at: http://dep.state.fl.us/water/uic/forms.htm

State Programmatic General Permit

http://www.dep.state.fl.us/water/wetlands/erp/spgp.htm

Coastal Construction Control Line (CCCL)

General information on the CCCL Program can be found at https://floridadep.gov/CCCL

To locate the CCCL, use Map Direct. A link to the tool can be found at https://floridadep.gov/rcp/coastal-construction-control-line/content/locate-coastal-construction-control-line-cccl

Figure 12-2 State Permitting Information Sources (Page 3 of 3)

Wildlife permitting information can be obtained from the following sources:

Animal species regulated by **Florida Fish and Wildlife Conservation Commission (FWC),** plant species regulated by the **Florida Department of Agriculture & Consumer Services (FDACS)**, and further species specific information, expert interviews, habitat or GIS data can be found in Part 2, Chapter 16, Protected Species and Habitat, of the PD&E Manual.

Osprey Permitting:

1) Contact USFWS for Osprey nest permitting information by phone at (404) 679-7070 or email permitsR4MB@fws.gov

2) No federal Incidental Take permits are currently available for the take of active osprey nests. USFWS should be contacted to discuss permitting potential/strategy. Refer to the appropriate link for contact information:

North Florida Ecological Services Field Office
http://www.fws.gov/northflorida/

Panama City Ecological Services Field Office
http://www.fws.gov/PanamaCity/

South Florida Ecological Services Field Office
http://www.fws.gov/verobeach/

Burrowing Owl Permitting:

1) State burrowing owl permits are issued only for the removal of inactive owl nests (burrows). Applications are submitted on line at a link included at the bottom of the following link: https://myfwc.com/media/11362/burrowingowlsupplementalapplication.pdf

2) No federal Incidental Take permits are currently available for the take of active burrowing owl nests (burrows). USFWS should be contacted at the appropriate link to discuss permitting potential/strategy:

North Florida Ecological Services Field Office
http://www.fws.gov/northflorida/

Figure 12-3 Protected Wildlife Permitting Information Sources

Panama City Ecological Services Field Office
http://www.fws.gov/PanamaCity/

South Florida Ecological Services Field Office
http://www.fws.gov/verobeach/

Bald Eagle Permitting:

1) On April 20, 2017, the Florida Fish and Wildlife Conservation Commission approved revisions to the state's bald eagle rule (68A-16.002, F.A.C.). The approved rule revisions eliminate the need for applicants to obtain both a state and federal permit for activities with the potential to take or disturb bald eagles or their nests. Under the approved revisions, only a federal permit is required. The rule revisions became effective June 22, 2017.

http://myfwc.com/license/wildlife/protected-wildlife/eagle-permits/

2) Federal bald eagle permit application for eagle depredation permits (this includes disturbance, harassment, and/or trap-relocate) can be found at http://www.fws.gov/forms/3-200-16.pdf. The web site includes a list of the USFWS regional permitting offices that are available to provide assistance in the permitting process.

3) The application for a General Permit for Bald Eagle Disturbance, including a fact sheet of the most commonly asked questions about this permit type, can be found at http://www.fws.gov/forms/3-200-71.pdf. The web site includes a list of the USFWS regional permitting offices that are available to provide assistance in the permitting process. Also see the General Permit Standard Conditions for Bale Eagle Nest Disturbance at https://www.fws.gov/media/general-permit-standard-conditions-bald-eagle-nest-disturbance.

Gopher Tortoise Permitting:

Gopher tortoises are protected by Florida state law. The Gopher Tortoise Permitting Guidelines, which include links to specific permit types, can be found at: http://myfwc.com/license/wildlife/gopher-tortoise-permits/

Incidental Take Permitting:

Additional information on Habitat Conservation Plans and Incidental Take permits is available on the USFWS Ecological Services site: https://www.fws.gov/service/habitat-conservation-plans and in the online FWC Florida Wildlife Conservation Guide: http://myfwc.com/conservation/value/fwcg/

Figure 12-3 Protected Wildlife Permitting Information Sources (Page 2 of 2)

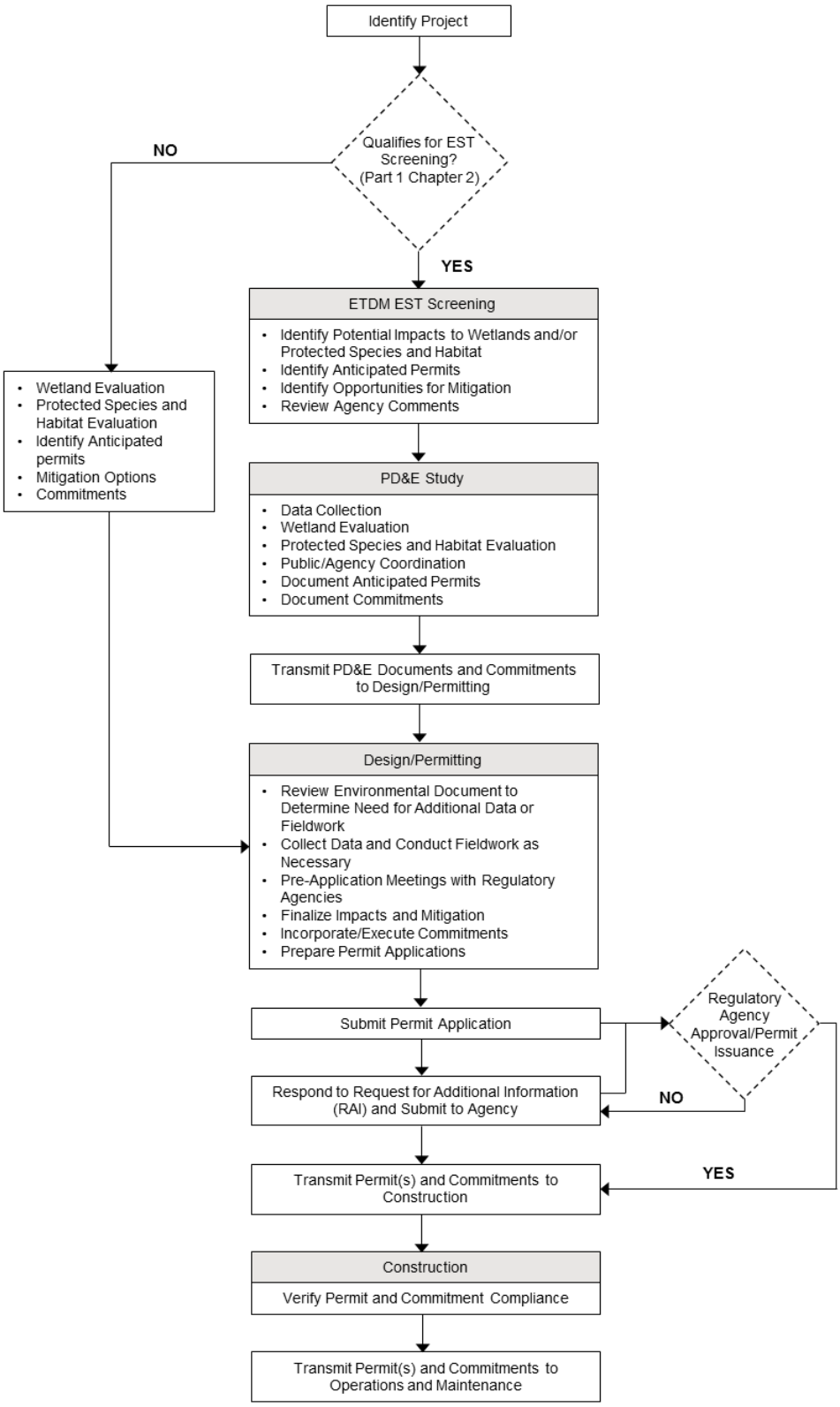


Figure 12-4 Typical Permitting Process

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

PERMIT TRANSMITTAL MEMORANDUM

650-040-01
CONSTRUCTION
02/12

DATE: _____

TO: DISTRICT CONSTRUCTION ENGINEER

FROM: _____
District Permit Coordinator

PERMITS ATTACHED FOR:

Financial Project No.: _____

Federal Aid No.: _____

County: _____

Description: _____

THE FOLLOWING PERMITS ARE REQUIRED FOR THIS PROJECT:

FDEP ☐; USACE ☐; USCG ☐; WMD ☐;

LOCAL ☐; _____ ☐;

_____ ☐; _____ ☐.

The valid permits are attached. Please note the "particular and specific conditions" and the expiration dates. Construction Engineer: Please comply with all permit conditions. Please provide me with copies of all permitted work started and permitted work completed notices you send to regulatory agencies. Please notify me six (6) months before the permit expiration date if it will occur prior to completion of the permitted work.

TOTAL STATUS OF PERMITS: ☐ CLEAR ☐ PENDING ☐ MODIFIED ☐ EXTENDED

Remarks: _____

For each permit, indicate below AGENCY and permit TYPE (NW, GP, IND, etc.):

_____ Permit No. _____ ; Type: _____ ; Expiration Date: _____
☐ Permit Pending ☐ Permit in hand
Remarks: _____

_____ Permit No. _____ ; Type: _____ ; Expiration Date: _____
☐ Permit Pending ☐ Permit in hand
Remarks: _____

_____ Permit No. _____ ; Type: _____ ; Expiration Date: _____
☐ Permit Pending ☐ Permit in hand
Remarks: _____

_____ Permit No. _____ ; Type: _____ ; Expiration Date: _____
☐ Permit Pending ☐ Permit in hand
Remarks: _____

_____ Permit No. _____ ; Type: _____ ; Expiration Date: _____
☐ Permit Pending ☐ Permit in hand
Remarks: _____

CC: DISTRICT OFFICE NO. _____
- ☐ District Drainage Engineer
- ☐ District Central File
- ☐ District Design Engineer
- ☐ District Project Manager
  (Legible permit in contract file)
- ☐ District Maintenance Engineer
- ☐ District Production Mgmt (copy this memo only)
- ☐ District ROW - State Lands Acq.
- ☐ District Specifications Engineer
- ☐ Other _____
- ☐ Other _____

CENTRAL OFFICE
- ☐ FHWA (by separate letter)
- ☐ Other _____

Figure 12-5 Permit Transmittal Memorandum