PART 2, CHAPTER 9

WETLANDS AND OTHER SURFACE WATERS

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PART 2, CHAPTER 9

WETLANDS AND OTHER SURFACE WATERS

9.1 OVERVIEW

Wetlands and other surface waters provide important and beneficial functions including: protecting and improving water quality, providing fish and wildlife habitat, and storing floodwaters. They are protected at the federal and state level because of the important functions they perform. The ***Rivers and Harbors Act***, ***Clean Water Act (CWA)***, and associated regulations aim to restore and maintain existing aquatic resources. These require that agencies strive to first avoid adverse impacts, and then minimize adverse impacts, and finally offset unavoidable adverse impacts to existing aquatic resources; and for wetlands, strive to achieve a goal of no overall net loss of values and functions. This chapter provides procedures for identifying, evaluating, and documenting potential wetland and other surface water impacts associated with transportation projects and describes regulatory mitigation requirements.

At the federal level, waters of the United States (wetlands and other surface waters) are regulated by the United States Army Corps of Engineers (USACE) with support from United States Environmental Protection Agency (EPA), United States Fish and Wildlife Service (USFWS), and the National Marine Fisheries Service (NMFS). In Florida, wetlands and other surface waters are regulated by the Florida Department of Environmental Protection (FDEP) and the Water Management Districts (WMDs).

When it is determined that there are unavoidable adverse impacts to wetlands, compensatory mitigation is required pursuant to ***33 Code of Federal Regulations (CFR) Part 325 and 332, 40 CFR Part 230, 33 United States Code (U.S.C.) § 1344, and Sections 373.4137 and 373.414, Florida Statutes (F.S.)***.

This chapter includes the same terminology as provided in the Definitions Section of ***Part 1, Chapter 12, Environmental Permits***.

9.1.1 Regulation of Wetlands and other Surface Waters

The USACE authority to regulate work in the Nations' waters comes from ***Section 10*** of the ***Rivers and Harbors Act of 1899 (33 U.S.C. § 403)***, which established permit requirements to prevent unauthorized obstruction or alteration of any navigable water of the United States, and ***Section 404*** of the ***CWA (33 U.S.C. § 1344)***, which authorizes the USACE to require permits for the discharge of dredged or fill material into waters of the United States at specified disposal sites.

In Florida, state authority over activities in surface waters and wetlands is administered by the FDEP and the five WMDs. The Florida Fish and Wildlife Conservation Commission

(FWC) advises the FDEP and WMDs on wildlife issues as a requirement under Florida's Environmental Resource Permitting (ERP) Program.

Wetlands are one of the public interest factors identified in ***33 CFR § 320.4, Public Interest Review***. If a ***Section 404*** permit is being pursued, the public interest factors relevant to each alternative should be evaluated and balanced. Relevant factors may include conservation, economics, aesthetics, wetlands, cultural values, navigation, fish and wildlife values, water supply, water quality, and any other factors judged important to the needs and welfare of the people.

A methodology for identifying and delineating wetlands in Florida is provided in ***Chapter 62-340, Florida Administrative Code (F.A.C.), Delineation of the Landward Extent of Wetlands and Surface Waters***. This methodology is a unified statewide approach to wetland and other surface water delineation and recognizes the vegetation, hydrologic, and soil features that specifically exist in Florida. The USACE uses the ***Corps of Engineers Wetland Delineation Manual, 1987*** and ***Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region, 2010*** to determine the federal wetland jurisdictional boundary. State and federal wetland boundaries may or may not match one another, so confirmation on this boundary should be obtained from each agency.

The Uniform Mitigation Assessment Method (UMAM) detailed in ***Chapter 62-345, F.A.C.***, is the state-wide method to determine the functional value provided by wetlands and other surface waters. In some cases, a different type of functional assessment may need to be used in order to utilize a mitigation bank that was not permitted under UMAM. Regulatory agency coordination is required for sites where other assessment methodologies were used.

9.1.2 Federal Highway Administration Wetlands Policy and Guidance

Presidential Executive Order (EO) 11990 entitled "Protection of Wetlands" establishes a National Policy to "avoid to the extent possible the long and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative."

The U.S. Department of Transportation (USDOT) in implementing ***EO 11990*** set forth its policy on wetlands in ***USDOT Order 5660.1A***, Preservation of the Nation's Wetlands, which is "to assure the protection, preservation, and enhancement of the Nation's wetlands to the fullest extent practicable during the planning, construction and operation of transportation facilities and projects. New construction in wetlands shall be avoided unless there is no practicable alternative to the construction and the proposed action includes all practicable measures to minimize harm to wetlands which may result from such construction. In making a finding of no practicable alternative, economic, environmental, and other factors may be taken into account. Some additional cost alone will not necessarily render alternatives or minimization measures impracticable, since

additional cost would normally be recognized as necessary and justified to meet national wetland policy objectives." More guidance on practicable alternatives is provided in ***40 CFR § 230.10(a)***.

To fulfill the requirements of ***USDOT Order 5660.1A***, the Federal Highway Administration (FHWA) has issued a ***Technical Advisory T6640.8A***, which provides guidance on the preparation of Environmental Documents, including the assessment of project impacts on wetlands.

As stated in ***Technical Advisory T6640.8A***, for an Environmental Impact Statement (EIS) or an Environmental Assessment (EA), the Environmental Document should:

1. Identify the type, quality and function of wetlands involved
2. Describe the direct and indirect impacts to the wetlands that may result from the proposed alternative(s)
3. Evaluate alternatives which would avoid wetland impacts
4. Identify practicable measures to minimize harm to wetlands

In evaluating the impact of the proposed project on wetlands, the following should be addressed:

1. The importance of the impacted wetland(s)
    a. The primary functions of the wetlands (e.g., flood control, wildlife habitat, ground water recharge)
    b. The relative importance of these functions to the total wetland resource of the area
    c. Other factors such as uniqueness that may contribute to the wetlands importance
2. The severity of the impact
    a. The analysis should show the project's effects on the stability and quality of the wetland(s)
    b. The analysis should consider the short and long-term effects on the wetlands and the importance of any loss

FHWA's policy and procedures for the evaluation and mitigation of adverse environmental impacts to wetlands and natural habitat resulting from Federal Projects are contained in ***23 CFR Part 777***. ***FHWA's Environmental Policy Statement (1990, amended 1994)***, provides that FHWA will "participate to the fullest extent permitted by law, in funding

mitigation and enhancement activities required by Federal, State, and local statutes and regulations for project related impacts to the natural environment, neighborhoods, and communities."

9.2 PROCEDURE

9.2.1 FDOT Wetland Evaluation Process

Involvement with wetlands and other surface waters should be evaluated regardless of whether the project is an FDOT Federal Project, FDOT State Project, or qualifies for Environmental Screening Tool (EST) screening. See ***Part 1, Chapter 2, Class of Action Determination for Federal Projects*** for project types qualifying for EST screening. ***Figure 9-1*** provides a flow chart of the wetland evaluation process.

For projects that do not qualify for EST screening, a field visit or a desktop analysis using the EST's Area of Interest tool, or other mapping tools can be used to determine if a project will impact wetlands or other surface waters. This information can be documented in the ***Type 1 Categorical Exclusion Checklist*** or the ***Non-Major State Action Checklist***, as appropriate.

For projects qualifying for EST screening, the District uses information from the ***Programming Screen Summary Report*** to initially determine the project's involvement with wetlands. The analyst should review the Environmental Technical Advisory Team (ETAT) comments made for the "Navigation" and "Wetlands and Surface Waters" issues and coordinate with appropriate District staff (e.g., Environmental Manager, Environmental Permits Coordinator). It may also be helpful to review ETAT comments on other related issues such as "Coastal and Marine," "Water Resources," and in some cases "Protected Species and Habitat." Comments from agencies that regulate wetlands (such as USACE, FDEP, and WMDs) are especially important. The results of the screening can help the District identify the level of evaluation that may be needed, if permits may be necessary, and whether potential mitigation opportunities in the project area exist. The report may state specifically that a ***Natural Resource Evaluation (NRE)*** is needed in the "Anticipated Technical Studies" section of the report. Other sections of the report may be useful such as the "General Project Recommendations" and "Anticipated Permits" sections. At the beginning of the Project Development and Environment (PD&E) process, it is important to contact the commenting agencies to confirm their recommendations made during the EST screening events and to ensure wetland issues are addressed.

Wetland evaluations and impact analyses conducted during the PD&E phase are detailed in the Wetland Evaluation section of an ***NRE*** or in a technical memorandum ***(Section 9.2.2)***. Wetland and other surface water impacts requiring either a standard/individual permit or a regional general permit must be documented in an ***NRE***. For a Type 1 Categorical Exclusion (CE), if an ***NRE*** is only required due to the type of USACE permit, a technical memo or other information to support the permit application is sufficient if

saved in the project file and described in the Environmental Document. For projects with impacts allowable under a federal USACE Nationwide permit, or a general 404 permit or ERP, a technical memorandum discussing wetland and other surface water impacts may be sufficient.

The analysis and the results of agency coordination/consultation are then summarized in the Environmental Document. Regardless of the Environmental Document to be produced, wetland involvement or impacts are addressed in the appropriate wetland section. For the purposes of this chapter, the term "wetland section" means the location where wetland involvement or impacts are discussed in the Environmental Document. See ***Section 9.2.4*** for details on documentation.

In accordance with ***EO 11990*** and ***USDOT Order 5660.1A***, a formal "Wetlands Finding" is required for projects processed as a CE, EA, or an EIS as described in ***Section 9.2.4***. Non-Major State Actions and State Environmental Impact Reports (SEIRs) are not subject to ***EO 11990*** and do not require a "Wetlands Finding." Potential wetland involvement must also be made available for early public review through various public involvement mechanisms. If a public hearing is required for a project, wetland impacts are identified in the public hearing advertisement and presentation as described in ***Section 9.2.5***.

The integration of the *National Environmental Policy Act (NEPA)* process with *Section 404(b)(1) Guidelines* of the *CWA* is desirable for projects requiring a USACE standard/individual permit *(**Section 9.2.6**)*. More information can be found in ***Part 1, Chapter 12, Environmental Permits***.

9.2.2 Wetland Evaluation

The wetland evaluation is recorded in the Wetland Evaluation section of the ***NRE***, which is an FDOT technical report that documents protected species and habitat, wetlands and other surface waters, and Essential Fish Habitat issues to support the Environmental Document. Each wetland and other surface waters with potential involvement is identified and evaluated. The District should consider commentary from the ETAT with wetland jurisdictional responsibility when preparing the ***NRE***.

The Wetland Evaluation section of the ***NRE*** should follow the ***Natural Resources Evaluation Outline and Guidance***, as applicable and include:

1. The identification of existing wetlands and other surface waters within the project area. Include maps of the wetlands and other surface waters in the project area.

2. A delineation of each wetland as detailed in the ***Corps of Engineers Wetland Delineation Manual, 1987***; ***Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region, 2010***; ***The Florida Wetlands Delineation Manual, 1995; and Rule 62-340, F.A.C., Delineation of the Landward Extent of Wetlands and Surface Waters,*** as appropriate.

3. A description of wetlands in the project area according to the Florida Land Use Cover Classification System (FLUCCS) and the USFWS Classification System as described in ***Classification of Wetlands and Deepwater Habitats of the United States***.

4. An evaluation of the potential direct and indirect effects the project will have on the wetlands. Wetland impacts regulated under Florida's ERP Program or USACE's ***Section 10 of the Rivers and Harbors Act/Section 404*** of the ***CWA*** process need to be identified and evaluated.

5. A discussion of the proposed project's potential contribution to cumulative impacts on the identified wetlands per ***Section 404*** of the ***CWA***.

6. A discussion of practicable measures to avoid minimizing harm to wetlands and other surface waters. Minimization could involve measures included in FDOT's ***Standard Specifications for Road and Bridge Construction***.

7. A functional assessment of the wetlands in accordance with UMAM.

8. A discussion of the potential mitigation options available and description of how those measures can be incorporated into the project.

The District must submit the draft ***NRE***, for FDOT Federal Projects, to the Office of Environmental Management (OEM) for review prior to submitting to the appropriate agencies for coordination/consultation. The ***NRE*** should be retained in the project file, and it is recommended that it be placed within the Natural Resources Evaluation folder within the StateWide Environmental Project Tracker (SWEPT).

9.2.3 Conceptual Mitigation Plan

9.2.3.1 Federal Highway Administration Policy and Funding

23 CFR Part 777, Mitigation of Impacts to Wetlands and Natural Habitat, provides FHWA policy and procedures that apply to FDOT Federal Projects regarding wetland impact and mitigation. FDOT projects should avoid and minimize wetland impacts to the extent practicable and provide compensatory mitigation for unavoidable wetland impacts. The ***USDOT Order 5660.1A, Preservation of the Nation's Wetlands, 1978*** provides similar guidance regarding avoidance and minimization strategies prior to the use of compensatory mitigation for unavoidable wetland impacts. This policy requires demonstration that "there is no practicable alternative to the use of the wetlands and that all practicable measures to minimize harm to the wetlands have been included." While the lead agency has the authority to restore and enhance existing wetlands and to create new wetlands, these do not counterbalance the effects of adverse impacts to wetlands which are avoidable or satisfy USDOT policy for the "protection, preservation and enhancement of the nation's wetlands to the fullest extent practicable."

33 CFR Part 332, Compensatory Mitigation for Losses of Aquatic Resources, details the USACE's standards and criteria for the use of compensatory mitigation, "including on-site, off-site permittee-responsible mitigation, mitigation banks, and in-lieu fee mitigation to offset unavoidable impacts to waters of the United States authorized by USACE permits". Additional mitigation information is detailed in the USACE's Final Rule: ***Compensatory Mitigation for Losses of Aquatic Resources FR, Vol. 73, No. 70, April 8, 2008]***, "Compensatory mitigation can be carried out through four methods: the restoration of a previously-existing wetland or other aquatic site, the enhancement of an existing aquatic site's functions, the establishment (i.e., creation) of a new aquatic site, or the preservation of an existing aquatic site."

FHWA will fund the appropriate compensatory mitigation for FDOT Federal Projects as per the ***Federal Highway Administration Environmental Policy Statement, 1994***. "It is FHWA policy to fully participate in the costs of environmental mitigation for project impacts that are necessary to satisfy Federal law while ensuring that mitigation necessitated by State law and all environmental enhancement measures represent a reasonable expenditure of highway funds." In order for FHWA to participate in the funding of mitigation, the wetland analysis must meet the requirements of ***23 CFR Part 777***.

9.2.3.2 Wetland Mitigation

During the PD&E phase, FDOT considers a project's impacts to wetlands. Projects should first avoid and minimize wetland impacts to the extent practicable. Then any unavoidable wetland impacts must be addressed with compensatory mitigation detailed in a conceptual mitigation plan. The level of detail for the conceptual mitigation plan is determined through coordination with the appropriate regulatory agency(s) and is dependent upon the amount of mitigation required. These considerations should be discussed during interagency coordination and documented in the Environmental Document. During permitting, the District will coordinate with the permitting agencies and finalize the mitigation plan.

As per ***Section 373.4137, F.S.***, compensatory mitigation of wetland impacts resulting from FDOT projects "will be funded by the Department of Transportation and be carried out by the use of mitigation banks and any other mitigation options that satisfy state and federal requirements." Specific information concerning the procedure for implementing the provisions of ***Section 373.4137, F.S.***, is included in ***Part 1, Chapter 12, Environmental Permits***.

For projects which cannot be mitigated through the purchase of mitigation bank credits due to credit availability or use of WMDs mitigation services due to site availability, FDOT will propose alternative mitigation and the general type(s) of mitigation (creation, restoration, enhancement, or preservation) to be used in the conceptual mitigation plan.

Early resolution of state and federal permit agencies' concerns and joint agreement on appropriate mitigation is promoted by OEM. Early agreements may substantially reduce

delays during the permitting process and should be documented in the Environmental Documents.

FDOT documents compensatory mitigation for unavoidable impacts through discussion of mitigation options available and through the use of standard statements (see ***Section 9.2.4***). If additional project-specific information (e.g., site selection, conceptual planning) is available on the individual mitigation project to be used, this information is also included in the Environmental Document.

The Environmental Document should describe the proposed mitigation opportunities considered and demonstrate that mitigation is available to offset impacts to wetlands. FDOT Districts should review mitigation information available on FDEP, WMD and USACE websites (***Figure 9-2***). This information is documented in the wetland section of the Environmental Document. District staff should coordinate with the District Environmental Permits Coordinator when considering mitigation opportunities.

9.2.4 Documentation

The Environmental Document includes a summary of the ***NRE*** including relevant wetland information, evaluations, and proposed mitigation. If there is more than one alternative, the discussion should provide adequate information to compare alternatives ***(Part 2, Chapter 3A, Alternatives Analysis)***.

9.2.4.1 Categorical Exclusions

A UMAM or other functional assessment is conducted per state and federal guidelines as appropriate, based on interagency coordination and existing permitting thresholds, for proposed CE projects involving wetlands.

Wetland involvement may be identified for projects that do not require EST screening and immediately advance to the Design phase. For these projects, a summary of wetland impacts, agency coordination, the mitigation standard statement, and a “Wetlands Finding” (as appropriate) is provided in the ***Type 1 Categorical Exclusion Checklist (Part 1, Chapter 5, Categorical Exclusion)***. The appropriate wetland evaluation is included in the project file. Should this analysis indicate a significant impact, the project cannot be processed as a CE.

For Type 2 CE projects, documentation includes a concise summary of wetland and other surface water impacts, their approximate acreage, agency coordination, the UMAM or other functional assessment, and if applicable, the mitigation standard statement and a “Wetlands Finding.” This information should be added to the wetland section of the ***Type 2 Categorical Exclusion Determination Form***. The appropriate wetland evaluation is included in the project file. It is recommended that these documents be placed within the Wetlands and Other Surface Waters folder within SWEPT.

Wetland mitigation should be documented by use of the following standard statement:

Wetland impacts which will result from the construction of this project will be mitigated pursuant to Section 373.4137, F.S., to satisfy all mitigation requirements of Part IV of Chapter 373, F.S., and 33 U.S.C. §1344.

The "Wetlands Finding" references ***EO 11990*** and includes the rationale used to reach the determination that:

1. The proposed project will have no significant short-term or long-term adverse impacts to wetlands,

2. There is no practicable alternative to construction in wetlands, and

3. Measures have been taken to minimize harm to wetlands.

This finding should be concisely summarized in the wetland section of the ***Type 2 Categorical Exclusion Determination Form*** with detailed information contained in the project file.

9.2.4.2 Environmental Assessment and Environmental Impact Statement

The Environmental Analysis section of an EA or EIS should include a description of the wetland environment within the proposed project alternatives. Documentation includes:

1. A description of wetland systems in the project vicinity (i.e., size and function)

2. A map showing the relationship of the project to the wetlands identified

Documentation for EA and EIS projects involving new construction in wetlands contains an evaluation of potential wetland impacts to the level of detail appropriate for the involvement. The results of the wetland evaluation and relevant elements of the ***NRE***, including the UMAM or other functional assessment, are summarized in the wetland section of the Environmental Analysis section. The following impact discussion is included in the wetland section of the EA or EIS:

1. An identification of wetlands impacted by the proposed project alternatives using the USFWS Classification System and Florida Land Use, Cover and Forms Classification System (FLUCCS)

2. A discussion of the importance of the wetlands impacted by the proposed project alternative to the surrounding biological community. This includes consideration of:

    a. Primary functions of the wetlands (e.g., flood control, wildlife habitat, erosion control)

b. Relative importance of these functions to the total wetland resources of the area

c. Other factors, such as uniqueness, that may contribute to the wetland's importance

3. A description of the impacts of each alternative on the wetlands identified, including the approximate area impacted per site (both directly affected by dredge and fill and indirectly affected by project activities) and the potential loss of wetland function. This includes evaluation of:

    a. Effects on the stability and quality of the wetlands

    b. Short-term and long-term effects on the wetlands

    c. Significance of any wetland loss on primary functions and values

4. An identification and evaluation of alternatives which would avoid and/or minimize wetland impacts

5. An identification of all practicable measures used to minimize wetland impacts

6. Maps showing the location of wetlands identified in relation to each alternative under consideration including alternatives to avoid and/or minimize construction in wetlands

7. A discussion of conceptual mitigation efforts necessary to compensate for unavoidable impacts to wetlands, based on the results of the UMAM or other functional assessment. Mitigation measures which should be considered include:

    a. Compensatory mitigation pursuant to ***Section 373.4137, F.S.***, and as appropriate, ***33 CFR § 332***

    b. Creation of new wetlands from upland areas

    c. Acquisition of private wetlands for preservation, restoration or enhancement

8. A discussion of agency coordination on the proposed avoidance and minimization activities and conceptual mitigation measures to limit adverse impacts

For EA or EIS projects, a standard statement is used to provide information on the mitigation for the purposes of public information. The standard statement is included in the Environmental Analysis section. EA and EIS projects should include information on the conceptual mitigation plans and add the following standard statement:

Wetland impacts which will result from the construction of this project will be mitigated pursuant to Section 373.4137, F.S., to satisfy all mitigation requirements of Part IV of Chapter 373, F.S., and 33 U.S.C. §1344. Compensatory mitigation for this project will be completed through the use of mitigation banks and any other mitigation options that satisfy state and federal requirements.

When there is no practicable alternative to an action which involves new construction in wetlands, the EA or the Draft Environmental Impact Statement (DEIS) also includes the "Wetlands Finding".

The “Wetlands Finding” is required by ***EO 11990*** and ***USDOT Order 5660.1A***. Approval of the EA with Finding of No Significant Impact (FONSI), Final Environmental Impact Statement (FEIS), or FEIS/Record of Decision (ROD) containing the “Wetlands Finding” documents compliance with the requirements of ***EO 11990***.

The “Wetlands Finding” includes in summary form the following information:

1. A reference to ***EO 11990***

2. A discussion of the basis for the determination that there are no practicable alternatives to the proposed action

3. A discussion of the basis of the determination that the proposed action includes all practicable measures to minimize harm to wetlands

4. A standard concluding statement as follows:

   Based upon the above considerations, it is determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

If there is no wetlands involvement on a project, a finding is still provided. The wetland finding states that there is no wetland involvement and cites ***EO 11990***, as provided below:

The proposed project does not impact any wetlands, and, therefore, Executive Order 11990 does not apply.

The “Wetlands Finding” statement is documented in the Environmental Analysis section of the EA or DEIS and remains in the subsequent EA with FONSI or FEIS/ROD. It is included in the Executive Summary of a FEIS if one is prepared separately from the ROD (***Part 1, Chapter 9, Final Environmental Impact Statement***).

Documentation of coordination with applicable agencies (e.g., letters, meetings, emails) should be included in the Appendix.

9.2.4.3 State Environmental Impact Report

SEIRs follow the same process for wetland evaluation as FDOT Federal Projects. The results of the wetland evaluation and relevant elements of the ***NRE*** or technical memorandum, including the UMAM or other functional assessment and potential mitigation options are summarized in the wetlands section of the SEIR (***Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery***).

Wetland mitigation should be documented by use of the following standard statement:

> *Wetland impacts which will result from the construction of this project will be mitigated pursuant to Section 373.4137, F.S., to satisfy all mitigation requirements of Part IV of Chapter 373, F.S., and 33 U.S.C. § 1344.*

9.2.5 Public Notice of Wetland Involvement

In compliance with ***EO 11990***, the FDOT "shall provide an opportunity for early public review of any plans or proposals for new construction in wetlands". This opportunity is typically accomplished through traditional public involvement procedures during the ***NEPA*** process including but not limited to public meetings, workshops, flyers, or project websites. For projects requiring a public hearing, the public hearing notices must include a statement informing the public of any wetland involvement on a project, as described in ***Part 1, Chapter 11, Public Involvement***. In addition, FDOT's public hearing presentation must also mention any wetland involvement for a project in order to increase public awareness of wetland impacts and provide an opportunity for public comment.

9.2.6 Merging the NEPA Process and Section 404 of CWA

In 1988, federal agencies including FHWA and the USACE developed a handbook titled ***Applying the Section 404 Permit Process to Federal-Aid Highway Projects***, also known as the ***Red Book***. It emphasized how the synchronization of ***NEPA*** and other federal regulatory reviews can help expedite project delivery. This handbook was updated in the ***2015 Red Book Synchronizing Environmental Reviews for Transportation and Other Infrastructure Projects***. This concurrent review by the lead transportation agency and the USACE for projects requiring a standard or individual ***Section 404*** permit can reduce duplication of analysis and allows for joint decision-making resulting in time and cost savings. The ***NEPA/404*** merger expedites project delivery for transportation projects and allows FDOT and the USACE to coordinate common elements under ***NEPA*** as both agencies are required to evaluate alternatives, assess impacts to resources, and balance resource impacts prior to making a ***NEPA*** decision. Information gathered during the FDOT's ***NEPA*** process is coordinated with the USACE to ensure compliance with both agency's requirements. For transportation projects requiring a standard/individual permit,

the USACE may be invited by FDOT to be a cooperating agency for the action of preparing a ***NEPA*** document. A ***NEPA/404*** merger may not be warranted for projects requiring a general permit (e.g., Nationwide or Regional General Permits) as the consideration of alternatives is not directly applicable to general permits ***(40 CFR Part 230.7)***.

The common elements under ***NEPA*** and ***Section 404 of the CWA*** are:

1. Project Need
2. Wetlands Identification, Delineation (as coordinated with USACE or WMD), and Classification
3. Wetlands Impact Assessment
4. Alternatives Analysis
5. Avoidance and Minimization Analysis
6. Conceptual Mitigation
7. Coordination

9.2.6.1 Process

The ***NRE*** developed during the PD&E Study provides technical information on wetland impact assessment and mitigation analysis which supports the ***NEPA*** decision making process. It can also provide preliminary information toward satisfying the USACE's regulatory requirements in accordance with the ***Section 404(b)(1)*** Guidelines. The ***NRE***, including the UMAM or other functional assessment, will be contained in the project file. Based on the information in the ***NRE*** a "Wetlands Finding" is included in the ***NEPA*** document. The common elements documented in the ***NRE*** which are relevant to both ***NEPA*** and ***Section 404(b)(1)*** Guidelines are detailed below:

1. **Project Need** - The project need typically contains capacity information, system linkage, transportation demand, modal interrelationships, safety information, and roadway deficiencies as supporting evidence for the project.

2. **Wetlands Identification, Delineation, and Classification** - The identification, delineation, and classification is developed according to the procedures described in ***Section 9.2.2***. The USACE Jacksonville District has a process for preparing preliminary jurisdictional determinations.

3. **Wetlands Impact Assessment** - The assessment of potential impacts to wetland functions is developed using the information obtained in the identification and delineation procedure, and utilizing UMAM or other functional assessment.

4. **Alternatives Analyses** - Each alternative, including the No-Build alternative is analyzed for wetland involvement. For a Type 2 CE typically only the preferred alternative is included in the ***NRE***.

5. **Avoidance and Minimization Analysis** - The analysis will document practicable measures considered to avoid and/or minimize wetland impacts. The Environmental Document should clearly indicate the steps taken for avoidance and minimization of impacts in order to eliminate the need to reassess and justify project design during the permitting phase.

6. **Conceptual Mitigation Plan** - A conceptual mitigation plan for unavoidable wetland impacts is developed in the PD&E phase and refined during the permitting process. The conceptual mitigation plan should identify the estimated amount of mitigation necessary to replace the loss of wetland functions as identified by UMAM or other functional assessment. It should also identify mitigation opportunities that FDOT will implement to off-set adverse impacts such as the purchase of mitigation credits from a permitted mitigation bank, payment to FDEP/WMD for mitigation services, development of its own mitigation site, or any other option that meets state and federal requirements. Appropriate regulatory agency coordination regarding the conceptual mitigation plan is necessary.

7. **Coordination** - Coordination on the elements contained in the ***NRE*** will be included in the Environmental Document. Coordination with federal, state and local regulatory agencies is necessary to the point that the environmental permits are achievable.

9.2.7 Permits for Wetland Impacts

FDOT is required to obtain authorization for wetland impacts pursuant to state and federal regulatory requirements. Refer to ***Part 1, Chapter 12, Environmental Permits*** for more information regarding FDOT procedures for obtaining permits and providing wetland mitigation.

9.2.8 Re-evaluation

Change in wetland impacts or mitigation strategies after approval of the Environmental Document must be documented per ***Part 1, Chapter 13, Re-evaluations***.

9.2.9 Design and Construction

Wetland impacts and mitigation established during the PD&E Study and/or agency coordination must be addressed through the permitting process. Wetland impact review during Design and permit compliance during Construction consists of the following:

1. Plans Received - Review for completeness; identify/confirm project limits.

2. Field Review - Conduct on-site field review(s) with appropriate professionals to confirm existing wetland resources within project limits that are addressed in the plans.

3. Regulatory Agency Coordination and Permitting - The District coordinates with regulatory agencies. Review mitigation specific to wetlands and coordinate with appropriate environmental staff to ensure wetland mitigation is addressed.

4. Impact Review - Review plans and provide comments on wetlands that were identified and resolutions that should be coordinated with appropriate regulatory agencies or incorporated into the contract documents.

5. Bid Document Review - Verify that completed final design plans and specifications incorporate required mitigation into the bid documents, as applicable.

6. Compliance during Construction - The Construction Office verifies compliance with permit conditions and commitments, as appropriate.

7. Construction Final Acceptance - Ensure that the wetland mitigation, as appropriate, is addressed as specified in the contract plans, including modifications approved during construction. This is done by the Construction Office, but may require the Environmental Office involvement (***Construction Project Administration Manual (CPAM), Topic No. 700-000-000, Chapter 12, Section 12.1***). Permit and mitigation sign-off is done through a separate process with the regulatory agency.

The District should verify regulatory compliance as the project advances. Additional minimization actions can be conducted during the project Design phase. These additional actions may need to be addressed in permitting.

9.3 REFERENCES

Chapter 62-340 Florida Administrative Code (F.A.C), Delineation of the Landward Extent of Wetlands and Surface Waters

Chapter 62-345 F.A.C., Uniform Mitigation Assessment Method

Chapter 373 Part IV, F.S., Water Resources. Management and Storage of Surface Waters. http://www.flsenate.gov/Laws/Statutes/2016/Chapter373/Part_IV

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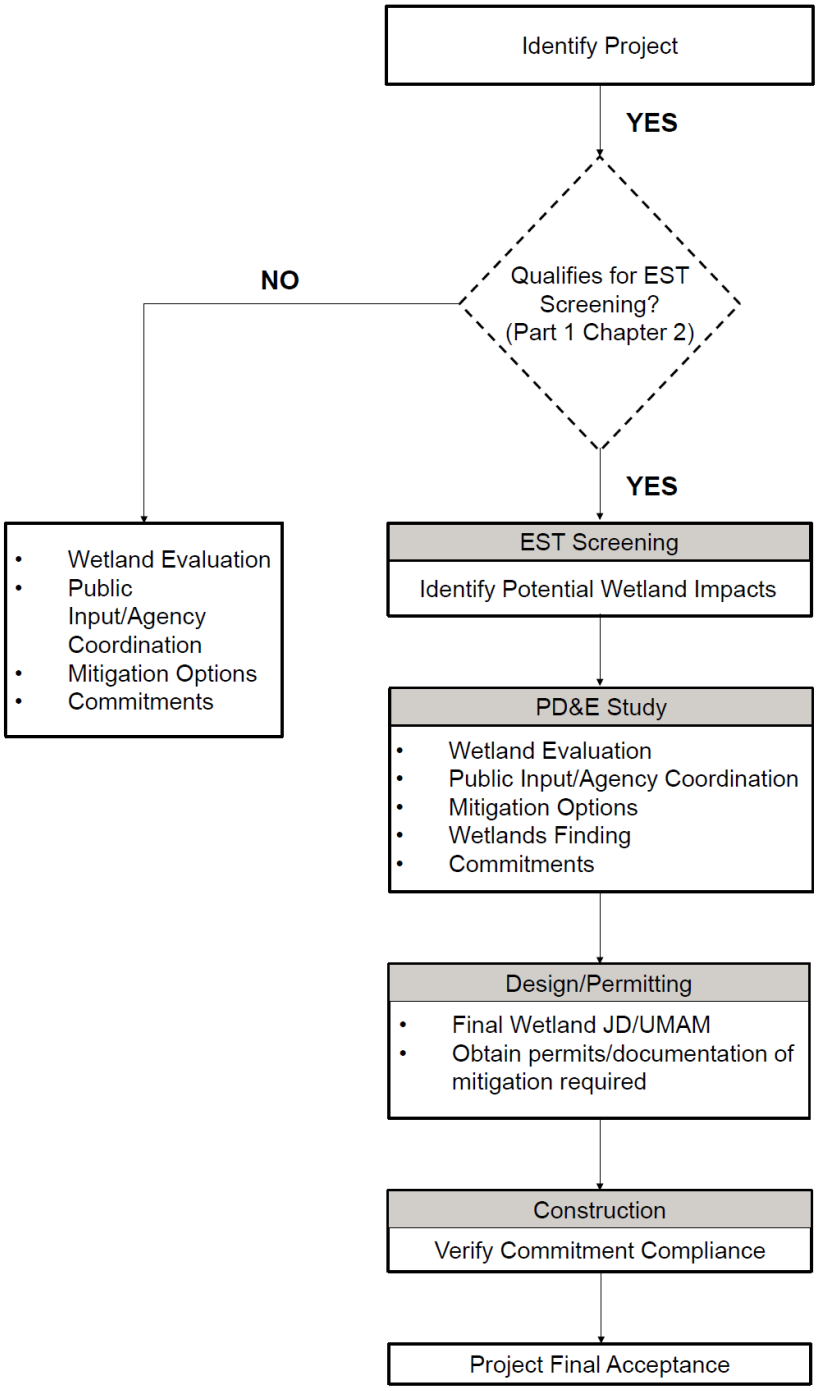

Figure 9-1 Wetland Evaluation Process

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Figure 9-2 FDEP, WMDs, and USACE Mitigation Information