

ORIGINATION FORM

THE INFORMATION BELOW IS TO BE PROVIDED BY THE ORIGINATOR

Modify Specification _____007_____.
Section/File number

New Section _____.
Section number

Subject: Legal Requirements and Responsibility to the Public – Compliance with Federal Endangered Species Act

Origination date: August 15, 2006

Originator: Josh Boan

Office/Phone: Environmental Management Office/850-414-5266

Email address/ Joshua.boan@dot.state.fl.us

Userid:

Problem statement: There is no uniform, statewide procedure detailing how contractors must handle unexpected encounters with certain endangered species, on the job site.

Information source: Varied and numerous District requests for special provisions to specify requirements by which the Contractor must abide, when encountering endangered species on the job site.
The State Environmental Office.

Background data: This undertaking is to update the procedure for off site activities by which contractors must comply with state and federal wildlife regulations. To standardize the requirements when there is no existing permit.

Recommended

Usage Note: All Jobs

**Estimated fiscal
impact, if
implemented:**

Minimal

Implementation of these changes, if and when approved, will begin with the July 2007 letting.



Florida Department of Transportation

JEB BUSH
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

DENVER J. STUTLER, JR.
SECRETARY

MEMORANDUM

DATE: November 1, 2006
TO: Specification Review Distribution List
FROM: Duane F. Brautigam, P.E., State Specifications Engineer
SUBJECT: Proposed Specifications Change: 0070104

In accordance with Specification Development Procedures, we are sending you a copy of a proposed new specification change for Legal Requirements and Responsibility to the Public-Compliance with Federal Endangered Species Act and Other Wildlife Regulations.

This change was proposed by Josh Boan of the State Environmental Management Office to provide specific requirements to the Contractors when handling unexpected encounters with certain endangered species on the job site. This will update the procedures for state and federal wildlife regulations and will standardize the requirements when there is no existing permit.

Please share this proposal with others within your responsibility. Review comments are due within four weeks and should be sent to Mail Station 75 or to my attention via e-mail at SP965DB or duane.brautigam@dot.state.fl.us. Comments received after November 29, 2006 may not be considered. Your input is encouraged.

DFB/sh
Attachment

COMMENTS:

Submitted by:

Phone #:

LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC-COMPLIANCE WITH FEDERAL ENDANGERED SPECIES ACT *AND OTHER WILDLIFE REGULATIONS.*

(REV 9-18-06)

SUBARTICLE 7-1.4 (Pages 62 and 63) is deleted and the following substituted:

Compliance with Federal Endangered Species Act *and other Wildlife Regulations:*

The Federal Endangered Species Act requires that the Department investigate the potential impact to ~~an~~ *a threatened or* endangered species prior to initiating an activity performed in conjunction with a highway construction project. If the Department's investigation ~~identifies~~ *determines* that there is a potential impact ~~on~~ *to a protected or* an endangered species, the Department will ~~make~~ *conduct* a biological assessment ~~an~~ *evaluation* to determine what measures ~~are~~ *may be* necessary to mitigate such impact. When mitigation measures and/or special conditions are necessary, ~~cooperate as necessary to comply with such measures~~ these measures and conditions will be addressed on the plans or in permits as identified in 7-2.1.

In addition, in cases where certain protected species may unexpectedly be found or appear within close proximity to the project boundaries, the Department has established guidelines that will apply when interaction with certain species occurs, absent of any special mitigation measures or permit conditions otherwise identified for the project.

These guidelines are posted at the following URL address:

www.dot.state.fl.us/specificationsoffice/endangeredwildlifeguidelines.pdf

Take responsibility to obtain this information and take all actions and precautions necessary to comply with the conditions of these guidelines during all project activities.

Prior to establishing any off-project activity in conjunction with a project, notify the Engineer of the proposed activity. Covered activities include but are not necessarily limited to borrow pits, concrete or asphalt plant sites, *disposal sites, field offices,* and material or equipment storage sites. Include in the notification the ~~State Job Number~~ *Financial Project ID*, a description of the activity, the location of the site by township, range, section, county, and city, a site location map including the access route, ~~and~~ the name of the property owner, *and a person to contact to arrange a site inspection.* Provide this notification sufficiently in advance of planned commencement of the off-site activity, to allow a reasonable period of time for the Engineer to conduct an investigation without delaying job progress.

Do not perform any off-project activity without obtaining written clearance from the Engineer. ~~In the event that the Department's biological assessment indicates that mitigation measures are necessary, cooperate as necessary to comply with such measures.~~ *In the event the Department's investigation determines a potential impact to a protected or endangered species and mitigation measures or ~~a~~ permits are necessary, coordinate with the appropriate resource agencies for clearance, obtain permits and perform mitigation measures as necessary. Immediately notify the Engineer in writing of the results of this coordination with the appropriate resource agencies. Additional compensation or time will not be allowed for permitting or mitigation, associated with Contractor initiated off-project activities.*