

# ***Environmental Permits, Mitigation & Compliance***

*Presented by:*  
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# *Activities requiring permits*

- ◆ Any activity which is expected to be a source of air, ground, or surface water pollution, including the discharge of untreated rainfall moving over and through the ground; for dredging or filling in, on, or over waters of the State or the United States, including wetlands;
- ◆ Activities occurring in navigable waters of the US; and
- ◆ Activities where listed species and/or their habitats may be impacted

# ***Federal Permits***

- ◆ USACE: Section 404
- ◆ USCG: Bridge Permit
- ◆ \*USFWS/NMFS: Section 10
  - For projects without a USACE Section 7 nexus

# *State Permits*

- ◆ WMD:
  - Environmental Resource Permit (62-330, FAC)
  - State Owned Submerged Lands (18-21, FAC)
- ◆ FWC
  - Species permits
- ◆ DEP: \*NPDES permit
  - obtained by the contractor

# ***Local Permits***

“Notwithstanding any general law or special act, regulations of any county, municipality, or special district, including any instrumentality thereof, **shall not** apply to existing or future transportation facilities, or appurtenances thereto, on the **State Highway System.**” (section 335.02, F.S.)

# ***Who is responsible for obtaining the permit?***

Permit Coordinator is responsible

- FDOT is the permittee
- FDOT has oversight responsibilities
  - Coordination with regulatory agencies
  - Correspondence to regulatory agencies

# ***ETDM***

- ◆ Potential permitting needs
  - FDOT Project Manager - may already know permitting needs based potential resource impacts
  - ETAT- may comment on permits required as well as mitigation opportunities

# ***PD&E***

- ◆ Potential impacts are evaluated and technical reports are developed
- ◆ Agency coordination and consultation takes place
- ◆ Mitigation options are considered

This information can help with the permit application!

# *Design*

- ◆ Permit application is submitted
- ◆ Mitigation is coordinated with agencies and finalized
- ◆ Timing of permits is important
  - If obtained too soon, run the risk of permit expiring and needing to obtain a permit modification
  - If obtained too late, run the risk of missing letting date

# *Transfer Permits to Construction*

- ◆ Permit Transmittal Memo
- ◆ The Permit Coordinator is responsible for posting the permit on FTP site
  - The contractor pulls permits from the site

# Construction

- ◆ FDOT must comply with conditions of the permit
  - Document compliance and submit reports to regulatory agencies
- ◆ Monitor permit duration
  - At least six months from permit expiration, determine whether permit needs time extension
- ◆ Coordination between Environment Office, Permit Coordinator and Construction

# ***Mitigation – Federal (40 CFR 1508.20)***

Mitigation includes:

- Avoiding the impact...
- Minimizing impacts ...
- Rectifying the impact ...
- Reducing or eliminating the impact ...
- Compensating for the impact by replacing or providing substitute resources or environments

40 CFR Part 230 - Compensatory Mitigation for Losses of Aquatic Resources; Final Rule 2008

# ***Mitigation – State (ERP Handbook)***

The state agencies use the terms elimination and reduction prior to the requirement for mitigation.

Mitigation usually consists of restoration, enhancement, creation, preservation, or a combination thereof.

# ***Uniform Mitigation Assessment Method (Ch. 62-345, F.A.C.)***

Determines the amount of mitigation needed to offset adverse impacts to wetlands and other surface waters and to award and deduct mitigation bank credits

# ***Mitigation requirements for specified transportation projects ( s. 373.4137, F.S.)***

“... to offset the adverse effects of these transportation projects 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 in a manner that promotes efficiency, timeliness in project delivery, and cost-effectiveness.”

# ***Mitigation Bank Credits***

- ◆ Federal Credits – RIBITS
- ◆ State Credits – DEP and WMD
  - Credits are purchased after an ITB
  - Use MFMP to purchase credits
  - Obtain ledger from the Banker

# *Mitigation Services*

- ◆ DEP or the WMD
- ◆ FDOT must submit project inventory to the WMD by July 1<sup>st</sup>
  - Projects in the first year of the inventory is our commitment to the WMD
- ◆ DEP or WMD develops a mitigation plan by March 1<sup>st</sup> of the following year
  - DEP or WMD invoices for mitigation services
  - No longer paying cost per impact acre
  - Mitigation services based on UMAM

# *Permittee Responsible*

- ◆ When the other two options are not available, the Department must develop an appropriate mitigation plan
  - Plan, Design, Construct, Monitor and Maintain the mitigation site

# *When is all of this done?*

- ◆ EST Screening – ETAT comments
- ◆ PD&E – look for mitigation opportunities; coordinate with agencies
- ◆ Design – continue agency coordination; refine and finalize during permitting

# ***Documenting Mitigation***

- ◆ PD&E – included in technical reports, final Environmental Document and is identified as a commitment
- ◆ Design – becomes a permit condition
- ◆ Providing documentation to the regulatory agencies
  - Proof of credit purchase
  - Documentation that mitigation services have been completed by WMD
  - As-builts for FDOT built mitigation; monitoring reports

# *Keys to Mitigation Success*

- ◆ Permittee is responsible for mitigation
- ◆ Look at mitigation options early, refine as the project advances
- ◆ Coordinate mitigation option with regulatory agencies
- ◆ For WMD Services – go on site visits, review monitoring reports – verify that mitigation work is being completed
- ◆ Track mitigation credits purchased – especially advance credit purchases

# *Permit Compliance*

## Section 8.2 - ENVIRONMENTAL PERMIT COMPLIANCE

“To assure effective compliance within all areas of environmental concern during construction projects.”

# ***Construction Project Administration Manual (CPAM)***

The Project Administrator shall review and be familiar with all contract documents for the project and the project site including all natural features protected by federal and state regulations.

# ***Construction Project Administration Manual (CPAM)***

## Preconstruction Conference:

The Project Administrator shall notify each outside agency and all Department offices having jurisdiction or input into areas of construction covered by project permits that a Preconstruction Conference with the contractor has been scheduled.

# ***Construction Project Administration Manual (CPAM)***

## Monitoring Regulated Activities:

The Project Administrator shall monitor all regulated activities to assure that they are conducted in accordance with the permit(s) and all permit conditions are met.

# *Keys to Compliance*

- ◆ Know your permit
  - Read the permit, understand the conditions, keep track of expiration date, etc.
- ◆ Coordination between Construction Project Administrator, Permit Coordinator and Environment Office
- ◆ Document and send appropriate information to the regulatory agency

# ***Resources***

Permitting:

USACE Source Book

<http://www.sam.usace.army.mil/Missions/Regulatory/SourceBook.aspx>

USCG Bridge Permit Application Process

[http://www.uscg.mil/hq/cg5/cg551/BPAG\\_Page.asp](http://www.uscg.mil/hq/cg5/cg551/BPAG_Page.asp)

DEP and WMD Environmental Permitting

<http://dep.state.fl.us/water/wetlands/erp/>

Applicant's Handbook Vol I & Vol II

# *Resources*

## Mitigation:

- ◆ Section 373.4137, F.S.
- ◆ Environmental Mitigation Payment Processing Handbook – July 2015
- ◆ Uniform Mitigation Assessment Method – 62-345, F.A.C.
- ◆ 40 CFR Part 230 - Compensatory Mitigation for Losses of Aquatic Resources

# ***Resources***

Compliance:

Construction Project Administration Manual

<http://www.dot.state.fl.us/construction/Manuals/cpam/CPAMManual.shtm>

Chapter 8.2 – Environmental Permit  
Compliance

# ***For More Information***

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