Natural Resources Evaluation Outline and Guidance

This document provides guidance and a suggested outline for the development of a Natural Resources Evaluation (NRE) as well as technical memorandums for projects and information needed for re-evaluations.

Guidance:

An NRE should be prepared for projects that meet or involve one or more of the following:

- Federal listed and candidate species/critical habitat consultation (informal or formal)
- Wetland impacts require either a standard/individual or regional general permit (SAJ – 92)
- Substantial adverse effects to Essential Fish Habitat (EFH)

If an NRE is required for one resource (species, wetland, or EFH), a section for the other resources present in the project area should also be included. For example, a project requires the development of an NRE because of species consultation, but has minor wetland impacts, and no EFH impacts. The NRE developed should include a Protected Species and Habitat and Wetlands Sections with a statement in the project overview that EFH is not applicable. The Protected Species and Habitat section needs to include information sufficient to complete agency consultation and the Wetlands section should include a discussion of the minor wetland impacts.

For projects that have natural resource impacts that do not exceed any of the thresholds listed above, a technical memorandum discussing the impacts may be sufficient. See page 8 of this document for more details.

NREs require review by the Office of Environmental Management (OEM) regardless of federal Class of Action. NREs for State Environmental Impact Reports (SEIRs) or Non-major State Actions (NMSAs) will not require OEM review.

Outline:

Cover Page and NRE Content

- Technical Report Cover Page, Form No. 650-050-38
- Table of Contents (Executive Summary, Project Overview, Protected Species and Habitat, Wetlands and Other Surface Waters, and Essential Fish Habitat, Conclusion)
- List of Tables
- List of Figures
- List of Appendices (as applicable to the specific project)

Items such as FNAI data reports, soil descriptions, land use descriptions, photos, pond site descriptions, species surveys, UMAMs, species protection measures may be included as Appendices.

ETDM Summary Report should be referenced only and should NOT be included as an Appendix.

Executive Summary

Include a brief project description and results of the evaluation including species impacts with effect determinations, wetland impacts, and EFH impacts.

Be as concise as possible. Suggest use of tables to provide the summary when there are several species and/or wetlands. Do not re-state commitments in this section.

Project Overview

I. Briefly describe the proposed project, including project location and purpose and need. Describe alternatives, if applicable. This should include proposed drainage (i.e. ponds and flood plain compensation) and activities related to construction known at the time (i.e. temporary detours, bridge demolition). Provide a brief summary of the ETDM screening and ETAT comments as appropriate. Include a location map with alternatives, as appropriate.

II. Define the study area/action area including proposed drainage. State the report contents and purpose (i.e. how each of the three apply to the project: protected species and habitat, wetlands, EFH).

III. Describe the existing conditions

   a. Existing land use (including any conservation lands within or adjacent to the project area). Data sources include Environmental Screening Tool (EST), FLUCCS, USFWS National Wetland Inventory; Florida Natural Areas Inventory's Guide to the Natural Communities of Florida EST screening information, USGS Topographic maps, aerial photographs.

   b. Existing soils using NRCS Soil Surveys.

   c. Other existing natural features.

The EST is a great source for gathering existing data/information.

Protected Species and Habitat Section

I. Provide brief section introduction noting applicable laws and agencies with jurisdiction. Indicate that the analysis is consistent with Part 2, Chapter 16, Protected Species and Habitat of the PD&E Manual. Include applicable ETAT comments for projects that were screened in the EST.

II. Describe prior agency coordination and methodology used to determine involvement of protected species and critical habitat within the action area.

Include discussion of any agency coordination since the ETDM Screening (or start of the study) that may be relevant to the methodology (i.e. survey methods, change in species list)

III. Federal Listed Species and Designated Critical Habitat

a. Provide short introductory paragraph for each federal listed wildlife and plant species (including ESA candidate species) with potential to be in the project area. Include the listing status (i.e. endangered, threatened, and species proposed for listing) and brief background information for each species. If there is designated critical habitat for the species, include a brief description of the habitat as part of the species summary. Include a general comment that federally listed species are also considered state listed species (no need to repeat for each species). Should also include a discussion of any documented occurrences of listed species.

b. Include maps when applicable.

c. Where applicable, include specific discussion of survey methodology and note if further survey may be required. Include a summary of data gaps if any.

d. Evaluate and describe specific aspects of the project (including proposed drainage) that may have an effect on the species or critical habitat (includes direct, indirect and cumulative impacts).

e. Discuss efforts to avoid, reduce or compensate for adverse impacts. Include Standard Protection Measures, Modified Special Provisions, and/or other Best Management Practices.

f. Use the standard federal effect determinations.

   i. No Effect

   ii. May Affect, Not Likely to Adversely Affect

   iii. May Affect, Likely to Adversely Affect

   iv. If the USFWS/NFMS has previously concurred with the determination, include the date of concurrence.

Tip: Longer, detailed species survey information can be included as an appendix with a summary of the survey included within the body of the NRE.

g. Be sure to include a statement for critical habitat as well regarding whether the proposed action will result in the “destruction or adverse modification of critical habitat”

IV. State Listed Species

a. For state imperiled wildlife species, follow the outline above for federally listed species in Section III - Federal Listed Species and Designated Critical Habitat. Note any permits that may be required in the future.

b. Use the following effect determinations for state imperiled wildlife species:

i. No effect anticipated

ii. No adverse effect anticipated

iii. Potential for adverse effect

c. For state listed plants, provide a short paragraph for each plant species with potential to be in the project area (including proposed drainage areas) and include an effect determination. Include listing status (i.e. endangered, threatened, or commercially exploited). Reference the Regulated Plant Index from Chapter 5B-40.0055, F.A.C., for a list of regulated plants.

d. Use the following effect determinations for state listed plants:

i. No effect anticipated

ii. No adverse effect anticipated

iii. Potential for adverse effect

V. Other Protected Species or Habitats (i.e. Black Bear, Bald Eagle, Strategic Habitat Conservation Areas)

a. Provide a short paragraph for each protected species or habitat with the potential to be in the project area (including proposed drainage areas). Include the regulations providing protection as well as the anticipated effects to the species. Effect determinations are not necessary. Note any environmental permits that may be required in the future.

Wetland Evaluation Section

I. Provide a brief introduction to the wetland section and note applicable laws and agencies with jurisdiction. Include Executive Order 11990, Protection of Wetlands and Part 2, Chapter 9 of the PD&E Manual. Include applicable ETAT comments for projects that were screened in the EST.

II. Include a discussion of methodology used to determine wetlands and other surface waters boundaries, classification, and functional value; include data sources.

a. Appropriate methodologies for wetland determination include:

i. Corps of Engineers Wetland Delineation Manual, 1987; Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region, 2010;

ii. The Florida Wetlands Delineation Manual, 1995; and

iii. Rule 62-340, F.A.C., Delineation of the Landward Extent of Wetlands

and Surface Waters as appropriate.

b. Appropriate functional assessment is the Uniform Mitigation Assessment Method (Chapter 62-345, F.A.C.).

III. Identify and describe wetlands within the project area (including proposed drainage areas). Include maps showing location, boundaries, and FLUCCS/USFWS classification of wetlands and other surface waters in the project area. Include anticipated wetland regulatory agency jurisdiction (federal and/or state).

IV. Estimate the wetland and surface water impact acres by comparing wetland and surface water boundaries with each project alternative footprint, if applicable. For projects with multiple alternatives, it will be helpful to present this information in a table. Determine each alternative's impact on each wetland/surface water, including:

a. Effects on flood control, erosion control, water pollution abatement, and wildlife habitat value

b. Effect on stability and quality of the wetland system

c. Short-term vs. long-term effects

V. Evaluate and describe the potential direct and indirect effects each project alternative (including proposed drainage areas) will have on the wetlands and other surface waters. Identify any alternatives that avoid wetland impacts.

VI. Discuss the practicable measures to minimize harm to each wetland/surface water site. Discussion of minimization or avoidance could include shift in project alignment to avoid/minimize wetland impacts or reduction of the typical section in a sensitive area.

Minimization could involve measures included in FDOT's Standard Specifications for Road and Bridge Construction (i.e. temporary turf, rolled erosion control products, sediment containment systems, runoff control structures, sediment barriers, inlet protection systems, silt fences, and turbidity barriers).

VII. Provide the functional assessment of the wetlands. Consider presenting this information in a table. UMAM forms should be included in the Appendices.

VIII. Discuss the potential mitigation options available. The mitigation discussion should provide sufficient evidence to show that project impacts can be fully mitigated.

IX. Discuss the proposed project's potential contribution to cumulative impacts (i.e. no net loss) on the identified wetlands/surface water. Consider losses resulting from direct and indirect effects of the project.

X. Include wetlands finding and mitigation standard statement, if applicable.

Mitigation options to consider include: Mitigation bank credits, WMD mitigation services, and FDOT designed, constructed, and maintained sites.

Essential Fish Habitat Discussion

I. Provide brief section introduction noting applicable law and agency with jurisdiction. Include citation of Part 2, Chapter 17, Essential Fish Habitat of the PD&E Manual. Include applicable ETAT comments for projects that were screened in the EST.

II. Describe methodology used to determine involvement of protected species and critical habitat within the action area.

Include discussion of any agency coordination since the ETDM Screening (or start of the study) that may be relevant to the methodology (i.e. survey methods, change in species list)

III. If there is involvement with EFH, identify EFH, Habitat Areas of Particular Concern (HAPC(s)), and managed species that may be affected. Describe the action in more detail specific for impacts to EFH/HAPC(s) if necessary. Include how and when the action is expected to occur and if it is temporary or permanent in nature.

IV. Provide an analysis of the adverse effects, including indirect and cumulative effects, of the project on EFH, HAPC(s), the managed species, and associated species by life history stage. Include anticipated duration of action and the magnitude of effects in the discussion.

V. Summarize proposed measures to avoid, minimize, mitigate or otherwise offset adverse effects on EFH.

VI. Include FDOT's determination regarding the potential adverse effects of the project on EFH:

   a. Minimal

   b. More than minimal but less than substantial

   c. Substantial

Anticipated Permits

List the anticipated environmental permits that may be required for the project. Tables are encouraged.

Conclusion

I. Provide a brief summary for each of the applicable resource sections. Tables are encouraged.

II. List Implementation Measures/Design Considerations

Implementation Measures are actions that FDOT would be required to take per procedure, standard specifications, or other agency requirements that will be implemented at a later project phase, but which will help address or reduce project effects and that need to be relayed to the agencies during review of the NRE. These measures are not tracked as commitments since they would already be required at some stage of the project. The following list provides examples but is not all inclusive. Some items potentially could become commitments depending on project specific circumstances:

1. Using Best Management Practices for Erosion Control
2. Conducting Gopher Tortoise Surveys and Permitting
3. Conducting Bald Eagle or Osprey nest Surveys
4. Updated wildlife or plant surveys during the design phase (i.e. depending on species, such as Crested Caracara, could become commitment)

III. List Commitments

a. Refer to PD&E Manual, Part 2, Chapter 22, Commitments for guidance on commitments.

Tips:

1. Species Special Provisions (FDOT or Agency) can be listed as commitments because they are not part of Standard Specifications.
2. The best practice is to state that the provisions in place at the time of construction will be followed. A reference and/or link to the current version is preferable to attaching the current version to the NRE.
3. Continued agency coordination is required throughout project development and should not be listed as a commitment. Include this discussion as noted in Section IV below.

IV. Describe the next steps for agency consultation/coordination. Include the USACE, USFWS, EPA, NMFS, FDEP, WMDs and other appropriate federal, state, and local agencies.

Agency Submittal and Revisions

DO NOT include “DRAFT” watermarks or notations on the NRE for submittal to the agencies for review.

USFWS, NMFS and FWC are the most likely agencies to provide feedback on the NRE. However, the NRE should be submitted to the USACE and DEP/WMD for informational purposes. Submittal of the NRE to resource agencies helps to keep them informed on the status/progress of the project. Should the agencies request additional information to be

able to complete consultation/coordination, responses should be provided in an NRE addendum. Include the agency comments in the addendum to provide a clear timeline and explanation of the revisions/updates to the originally submitted information. The NRE, any addendums, and the agency concurrence letter(s) should be uploaded to SWEPT project file.

An NRE should only be revised should agency comments be so substantial that an addendum would not suffice to address the comments.

After consultation has been completed, the NRE, any addendums, and the agency concurrence letters should be uploaded to SWEPT.

Technical Memos

A technical memo is a brief document that can be prepared for projects with minimal impacts to protected species and habitat, wetlands, or EFH. For Type 1 CE and NMSA projects, a technical memo is not required if desktop analysis is sufficient to document that the project will have minimal or no impact on these resources and supports the determination of a Type 1 CE or NMSA. Include a map with natural resource location(s) and project alignment/area showing the minimal or no impact to the resource.

For Protected Species and Habitat, technical memos may be used for federally listed species and designated critical habitat when the project evaluation results in either "no effect" and/or "may affect, not likely to adversely affect" determinations as a result of using a species key. Other federally protected species or state listed species that do not require consultation may also be addressed in a technical memo.

For Wetlands and Other Surface Waters, a technical memo may be prepared for projects where wetland impacts may be authorized under a DEP or WMD general permit or a USACE Nationwide permit. Projects requiring an individual/standard or regional general permit must be supported with an NRE.

For EFH technical memos may be appropriate for project impacts that are expected to be minor.

Any technical memo needs to include the NEPA standard statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

OEM review of technical memos is not required.

Re-evaluations

Documentation for re-evaluations should be commensurate with the project changes being evaluated. Therefore documentation could range from a desktop review to an NRE addendum (i.e. if consultation was not completed during PD&E, a species with potential involvement becomes newly listed, or other project changes warrant this level of

evaluation). If agency consultation was completed during the re-evaluation, documentation of consultation (letters, emails, concurrence, etc.) with the appropriate agency must be maintained in the SWEPT file (i.e., typically uploaded as a supporting document for the re-evaluation).

Information needed by NMFS for Pile Driving Analyses

Some basic information on the pile driving activity is required to conduct an effects analysis. The basic information required includes:

- the material composition of the piles (steel, concrete, wood, composite);
- the type of pile (e.g., sheet, H, tubular, square, etc.);
- the diameter of the piles;
- the number of piles driven;
- the number of hammer strikes per pile;
- the duration to drive a single pile;
- the number of piles driven per day;
- the time of year of the activity;
- the type of pile driving method (e.g., hydraulic, diesel, vibratory hammer);
- other pile driving methods (e.g., drilling, jetting);
- vessels required;
- the total duration of the project;
- depth, bottom, type, and habitat characteristics; and
- a map of the project area.