

PART 1, CHAPTER 7

FINDING OF NO SIGNIFICANT IMPACT

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PART 1, CHAPTER 7

FINDING OF NO SIGNIFICANT IMPACT

7.1 OVERVIEW

Pursuant to **23 United States Code (U.S.C.) § 327** and the implementing Memorandum of Understanding (MOU) executed on December 14, 2016, the Florida Department of Transportation (FDOT) has assumed Federal Highway Administration's (FHWA's) responsibilities under the **National Environmental Policy Act (NEPA)** for highway projects on the State Highway System (SHS) and Local Agency Program (LAP) projects off the SHS. In general, FDOT's assumption includes all highway projects in Florida whose source of federal funding comes from FHWA or which constitute a federal action through FHWA. This includes responsibilities for environmental review, interagency consultation and other activities pertaining to the review or approval of **NEPA** actions. Consistent with law and the MOU, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

A Finding of No Significant Impact (FONSI) is the **NEPA** decision document which briefly describes why the project will not have any significant environmental effect. This determination is based on the analysis contained in an Environmental Assessment (EA) which primary purpose is to determine the significance of impacts associated with a project. If there are significant impacts, an Environmental Impact Statement (EIS) must be prepared. If there are no significant impacts, a FONSI is prepared. Since a FONSI is attached to the EA, the term "EA with FONSI" is used for the final Environmental Document throughout this Manual. The EA with FONSI should document compliance with **NEPA** and other applicable environmental laws, Executive Orders, and related requirements (**Technical Advisory T6640.8A**). The EA with FONSI establishes the decisions reached by FDOT regarding a project and details the rationale behind the alternative selection and the finding itself. The EA documents the assessment, evaluation, and recommended action and resolves the question of significance. The FONSI serves as the decision-making document for the project. It discusses the environmental issues and reaches appropriate decisions regarding mitigation and other commitments.

7.2 PROCEDURE

7.2.1 Preparation of the EA with FONSI

As part of the 30 day public review period for an EA, which at times may also include a public hearing, the public as well as agencies can provide comments on the EA. Comments received during the public review period must be addressed by the District and added to the Comments and Coordination Section along with the responses if a hearing is held. The District updates the EA to address any changes that have occurred

since the document became publically available. The District prepares the EA with FONSI if there are no significant impacts. The FONSI process is shown in [Figure 7-1](#).

7.2.1.1 Preparation of the Finding of No Significant Impact

The FONSI is a separate document attached to the EA, which serves as the decision-making document for the project and identifies the preferred alternative. The FONSI is based on OEM's independent review of the analysis and technical documentation in the EA and is OEM's determination that the impacts for the proposed project are not significant. The FONSI determines that no significant impacts will occur as a result of the project and provides the rationale behind the decision.

7.2.1.1.1 Finding of No Significant Impact Cover Page

The EA cover page is removed and replaced with a FONSI cover page. Sample cover pages, both with and without **Section 4(f)** evaluations are provided in [Figure 7-2](#) through [Figure 7-4](#). These cover pages are available as electronic forms, see [Section 7.4](#) for form numbers and hyperlinks.

7.2.1.1.2 Contents of a Finding of No Significant Impact

The FONSI documents the decisions reached by OEM regarding the proposed project. It includes discussion of only those issues for which significance was in question and the determination that impacts were not significant. The FONSI briefly describes the preferred alternative and references the appropriate sections of the EA.

The FONSI determination is made by OEM and in its findings, OEM takes full responsibility for the accuracy, scope, and contents of the Environmental Document.

7.2.1.2 Updating the Environmental Assessment

A divider page is placed between the FONSI and the EA, (in lieu of the EA cover page) which contains only the words "Environmental Assessment" in the center of the page.

Appropriate sections of the EA are modified to reflect changes in environmental impact(s), cost, design, or other changes since approval of the EA.

7.2.1.2.1 Updating the Project Description and Purpose and Need and the Alternatives Sections

In the Project Description and Purpose and Need section, the applicable planning consistency form should be referenced and the form and Long Range Transportation Plan (LRTP), Transportation Improvement Program (TIP), and current State Transportation Improvement Program (STIP) pages should be included in the Appendix. The form must include information demonstrating the project's fulfillment of planning consistency

requirements. Planning consistency must be met prior to requesting Location and Design Concept Acceptance (LDCA). See [Part 2, Chapter 1, Project Description and Purpose and Need](#) for guidance on updating this section.

In the Alternatives section, the Recommended Alternative subsection is replaced with a Preferred Alternative subsection. See [Part 2, Chapter 3, Engineering Analysis](#) for more information on preparing the Preferred Alternative section of the EA.

7.2.1.2.2 Updating the Comments and Coordination Section

The Comments and Coordination section is updated to include a summary of comments along with a response to each substantive comment received during the document review period. This should include documentation of subsequent coordination and consultation.

The Concluding Statement subsection should be deleted and any new concurrence and coordination letters should be referenced and included in the Appendix.

A new subsection should be added on the public hearing titled “Public Hearing”. This new subsection should include the date, time, and place of the hearing; describe the format of the public hearing and include the start and end time; provide a summary of the comments received (written and oral) regarding the proposed action both positive and negative, and the District’s response to those comments; and a reference that the comments and responses are included in the Appendix.

7.2.1.2.3 Updating the Commitments Section and the Appendix

The Commitments section is updated to include any commitments made by FDOT since the EA was prepared. Any new commitments require internal coordination and once coordinated with the appropriate District office are included in the EA with FONSI and **Project Commitment Record (PCR), Form 700-011-35** by the appropriate Project Manager. See [Part 2, Chapter 22, Commitments](#) for more information.

The Appendix should be updated and separated into pre-hearing and post-hearing sections. New materials should be added to the post-hearing section, as applicable.

7.2.2 FDOT Document Review Process

The FDOT Document Review Process is provided in [Figure 7-5](#). After preparing the EA with FONSI, the District conducts a quality control review and uses the StateWide Environmental Project Tracker (SWEPT) application to complete the **Environmental Document Submittal Form, Form No. 650-050-15** for initial OEM review. The District uploads the EA with FONSI into the FDOT’s Electronic Review and Comment (ERC) application. The public hearing transcript (if a public hearing was held) and new materials incorporated by reference must be uploaded into SWEPT.

The Project Delivery Coordinator (PDC) confirms that the document is complete and ready for review. If necessary, the District schedules a project briefing for OEM and the Office of General Counsel (OGC) reviewers. The OEM and OGC review team will have 30 calendar days to review the documents. OEM submits comments in the ERC. If necessary, the District will schedule a meeting with the project review team to discuss comments.

If there are Cooperating Agencies [e.g. United States Coast Guard (USCG), United States Army Corps of Engineers (USACE)], the District uploads the EA with FONSI to the EST and initiates the Cooperating Agency review concurrent with OEM review. The District will address Cooperating Agency comments in the EST.

Once comments have been addressed, the District submits the revised document along with the ***Environmental Document Submittal Form, Form No.650-050-15*** for approval. The form is completed in SWEPT and the revised documents are uploaded in SWEPT. The OEM project review team has a 15-day period to confirm that comments have been addressed. Following confirmation from the PDC the document can advance to OEM Environmental Process Administrator review.

The OEM Environmental Process Administrators recommend the EA with FONSI for approval. The Director of OEM, or designee, then approves the EA with FONSI, granting LDCA using SWEPT.

Districts should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

7.2.3 Actions Taken After Approval of the EA with FONSI

Once the EA with FONSI is approved, the District must provide notification that LDCA has been granted concurrently with approval of the EA with FONSI.

Distribution to Agencies and Stakeholders

The District shares the approved document with the recipients of the EA using the EST. An electronic copy of the document is sent to the Florida State Clearinghouse and the Environmental Technical Advisory Team (ETAT), which includes the Cooperating Agencies (e.g., USCG, USACE) and Participating Agencies. The District should also send the document to other interested state and federal agencies, other stakeholders, and those who submitted substantive comments on the EA. The document should be sent to Native American tribes according to their requested method of communication as established on the [OEM Native American Coordination website](#). Others should be sent an electronic link to the document, unless a paper copy is requested.

Public Announcement of LDCA

The District must publish an Announcement of LDCA in the same local newspaper(s) used for the public hearing notification or notice for public review if no hearing was held, informing the public that the project has received LDCA and is being advanced. The District ensures the EA with FONSI is available upon request by the public.

7.2.4 Guidance on Limitation of Claims Notice

Title 23 U.S.C. § 139(I) includes a provision for limiting the time period for filing claims and seeking judicial review of permits, licenses, or approvals issued by federal agencies for a highway or public transportation capital project. The provision establishes a statute of limitations period of 150 days for filing a challenge following publication of the notice in the **Federal Register (FR)** of the agency action(s).

Upon submittal of an EA with FONSI to OEM for review, the District must discuss with OEM and OGC the need for publication of a **Limitations of Claims Notice** under **23 U.S.C. § 139 (I)**. The District provides the necessary information for the **Limitations of Claims Notice** to OEM.

OEM will provide FHWA the project information needed to publish the **Limitations of Claims Notice** in the **FR**. FHWA submits the notice to the **FR**.

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 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 of claims would be published at that time for the subsequent approval.

7.3 REFERENCES

Council of Environmental Quality. 1978. Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act. 43 CFR § § 55978-56007 and 40 CFR § § 1500-1508

FHWA, 1987. Guidance for Preparing and Processing Environmental and Section 4(f) Documents. <http://environment.fhwa.dot.gov/projdev/impta6640.asp>

Memorandum of Agreement Between FHWA and FDOT Concerning the State of Florida's Participation in the Surface Transportation Project Delivery Program Pursuant to 23 U.S.C. 327, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

NEPA of 1969, as amended (42 U.S.C. § 4321 et seq.).

http://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/Req-NEPA.pdf

Title 23 CFR Part 771, Environmental Impact and Related Procedures.

<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=3f0e8ae65ee76fc13c0bc7a240e9fc59&mc=true&r=PART&n=pt23.1.771>

Title 23 U.S.C. § 139(l), Efficient environmental reviews for project decision making

Title 23 U.S.C. § 327, Surface Transportation Project Delivery Program.

[http://uscode.house.gov/view.xhtml?req=\(title:23%20section:327%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title23-section327\)&f=treesort&edition=prelim&num=0&jumpTo=true](http://uscode.house.gov/view.xhtml?req=(title:23%20section:327%20edition:prelim)%20OR%20(granuleid:USC-prelim-title23-section327)&f=treesort&edition=prelim&num=0&jumpTo=true)

7.4 FORMS

Environmental Document Submittal Form, Form No. 650-050-15*

Finding of No Significant Impact Cover Page, Form No. 650-050-33*

Finding of No Significant Impact/Final Section 4(f) Evaluation Cover Page, Form No. 650-050-34*

Finding of No Significant Impact/Final Section 4(f) de minimis Approval Cover Page, Form No. 650-050-35*

[Project Commitment Record, Form No. 700-011-35](#)

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

7.5 HISTORY

11/1/2002, 1/31/2007, 5/30/2014, 8/11/2016

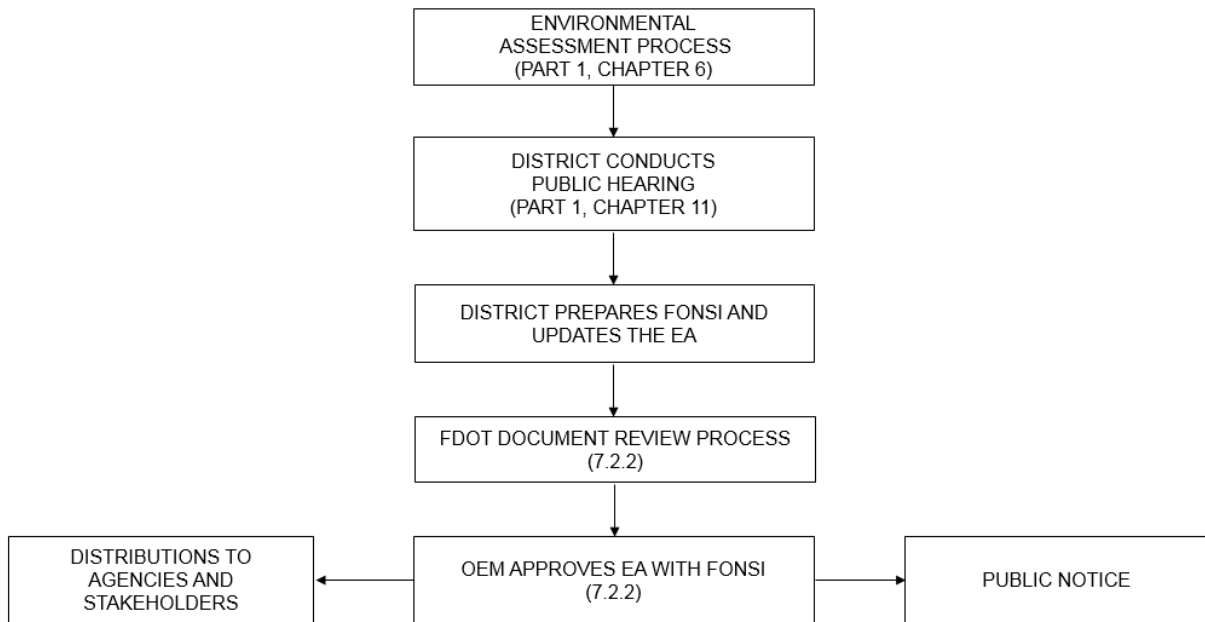


Figure 7-1 Finding of No Significant Impact Process

ADMINISTRATIVE ACTION
FINDING OF NO SIGNIFICANT IMPACT

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(Brief description of the project)

XX

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

The FDOT takes full responsibility for the accuracy, scope, and contents of the attached Environmental Assessment.

The FDOT Office of Environmental Management (OEM) has determined that this project will not have any significant impact on the human environment. The Finding of No Significant Impact is based on the attached Environmental Assessment which has been independently evaluated by FDOT OEM and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required.

____/____/____
Date

Director of the Office of Environmental Management
Florida Department of Transportation

(Abstract of EA)

XX

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

Figure 7-2 Finding of No Significant Impact Sample Cover Page

ADMINISTRATIVE ACTION
FINDING OF NO SIGNIFICANT IMPACT/FINAL SECTION 4(f) EVALUATION

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

XXXXXXXXXXXXXXXXXXXXX(Brief description of the project)XXXXXXXXXXXXXXXXXXXXX

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

The FDOT takes full responsibility for the accuracy, scope, and contents of the attached Environmental Assessment.

The FDOT Office of Environmental Management (OEM) has determined that this project will not have any significant impact on the human environment. The Finding of No Significant Impact is based on the attached Environmental Assessment which has been independently evaluated by FDOT OEM and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required.

Submitted pursuant to 49 U.S.C. § 303.

___ / ___ / ___
Date

Director of the Office of Environmental Management
Florida Department of Transportation

XXXXXXXXXXXXXXXXXXXXX(Abstract of EA)XXXXXXXXXXXXXXXXXXXXX

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

**Figure 7-3 Finding of No Significant Impact/Final Section 4(f) Evaluation
Sample Cover Page**

ADMINISTRATIVE ACTION
FINDING OF NO SIGNIFICANT IMPACT/FINAL SECTION 4(f) *de minimis* APPROVAL

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(Brief description of the project)

XX

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

The FDOT takes full responsibility for the accuracy, scope, and contents of the attached Environmental Assessment.

The FDOT Office of Environmental Management (OEM) has determined that this project will not have any significant impact on the human environment. The Finding of No Significant Impact is based on the attached Environmental Assessment which has been independently evaluated by FDOT OEM and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required.

Submitted pursuant to 49 U.S.C. § 303.

___ / ___ / ___
Date

Director of the Office of Environmental Management
Florida Department of Transportation

(Abstract of EA)

XX

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

**Figure 7-4 Finding of No Significant Impact/Final Section 4(f) *de minimis*
Approval Sample Cover Page**

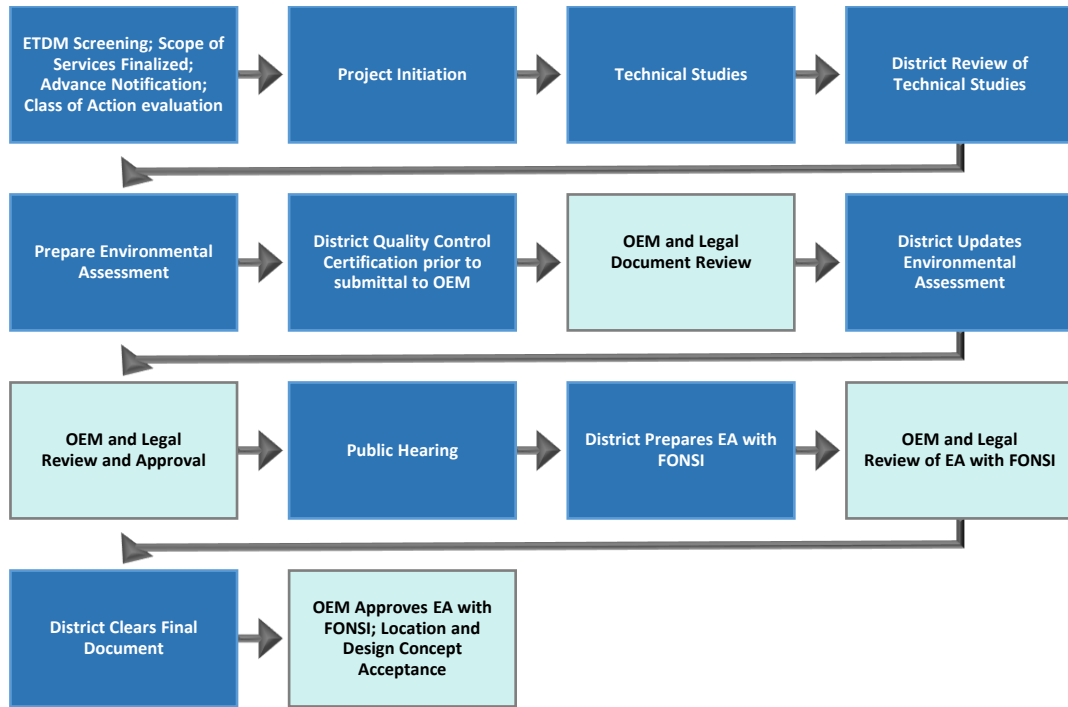


Figure 7-5 FDOT Document Review Process for EA with FONSI