

PART 1, CHAPTER 8

DRAFT ENVIRONMENTAL IMPACT STATEMENT

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PART 1, CHAPTER 8

DRAFT ENVIRONMENTAL IMPACT STATEMENT

8.1 OVERVIEW

A Draft Environmental Impact Statement (DEIS) is prepared when a proposed project is anticipated to have a significant impact on an issue and/or resource. Council on Environmental Quality (CEQ) regulations (**40 CFR §§ 1500-1508**) require lead agencies to “rigorously explore and objectively evaluate all reasonable alternatives” for a transportation project. Each alternative should be considered in an unbiased manner so related benefits and impacts can be evaluated and compared across alternatives. When applicable, reasonable alternatives should be documented through the Alternative Corridor Evaluation (ACE) process ([Part 2, Chapter 6, Engineering Analysis](#)). This chapter provides guidance for the development of a DEIS when Federal Highway Administration (FHWA) is the Lead Federal Agency. For Environmental Impact Statements (EISs), the regulations dictate that the study “shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.”

Districts should maintain accurate and up-to-date project files throughout the project and include all decision making materials. The **National Environmental Policy Act (NEPA)** process necessitates a project file be maintained, creating the Administrative Record (AR). The AR is the written record supporting FHWA decisions.

After the Class of Action (COA) determination is approved, the FHWA Division Office publishes a **Notice of Intent (NOI)** to prepare an EIS in the **Federal Register (FR)**. A public involvement program is developed and administered for the preparation of the DEIS in accordance with procedures in [Part 1, Chapter 11, Public Involvement](#). **Figure 8-1** shows the DEIS process. For Local Agency Program (LAP) projects, the Florida Department of Transportation (FDOT) provides oversight and is the liaison with FHWA.

After the District prepares a DEIS and completes a quality control review, it submits the DEIS and supporting technical documents to the State Environmental Management Office (SEMO) for technical and procedural review. SEMO coordinates its 30-day review with the District and upon SEMO approval, the District submits the DEIS to FHWA. Submittal of documents to FHWA is through FDOT Districts. A copy should also be sent to the cooperating agencies. Comments from the cooperating agency(s) and the FHWA Division Office are evaluated and incorporated into the DEIS by the District, and the DEIS is resubmitted to FHWA for approval for public availability.

Upon approval, the District publishes a notice of public availability for the document in a local newspaper(s) and sends the DEIS to the Florida State Clearinghouse (SCH) and all interested state and federal agencies. The Districts should use the Environmental

Screening Tool (EST) to distribute the DEIS. Paper copies are mailed to applicable Native American Tribes and other stakeholders who request it or those without electronic access. The approved DEIS is filed electronically by FHWA with the U.S. Environmental Protection Agency (EPA) (via e-NEPA) for publication in the *FR*, as required by **23 CFR § 771.123**. Upon publication, a 45-day comment period is provided for the review of the DEIS and a public hearing is held.

After the public hearing, the combined Final Environmental Impact Statement/Record of Decision (FEIS/ROD) or FEIS is prepared according to procedures in [Part 1, Chapter 9, Final Environmental Impact Statement](#).

8.2 PROCEDURE

The following activities should be carried out by the District for EIS projects during project screening through the EST or before the initiation of the Project Development and Environment (PD&E) phase.

1. Initiate the Programming Screen and/or prepare the Advance Notification (AN).
 - a. Begins the consultation process and provides notification to agencies that the project is beginning.
 - b. Provides status of project as it relates to inclusion in the cost feasible element of the Long Range Transportation Plan (LRTP), Transportation Improvement Plan (TIP), and State Transportation Improvement Plan (STIP) and provides opportunity for public and agency input.
2. Identify Participating and cooperating agencies.
3. Develop the Consultant Scope of Services based on Environmental Technical Advisory Team (ETAT) commentary.
4. Identify initial purpose and need.
5. Identify Range of Reasonable Alternatives.
6. Development of Coordination Plan.
 - a. Fulfilled by Efficient Transportation Decision Making (ETDM) process through agency agreements, project screening, preparation of preliminary project schedule and by preparation of the **Public Involvement Plan (PIP)** as memorialized in the **ETDM Agreement between FDOT and FHWA** as approved.
7. Develop Project Schedule.
 - a. Developed in consultation with FHWA, cooperating and participating agencies.

8. Prepare draft **NOI**

Public involvement and outreach activities which take place before and during the EST screening events must be documented in the **Programming Screen Summary Report**. The information gathered is used to develop the Scope of Services for the PD&E Study. The Scope of Services is not the same as project scoping required for an EIS discussed in **Section 8.2.1**.

8.2.1 Scoping

Scoping is a formal process for projects requiring an EIS (**23 CFR Part 771**). Scoping is an early and open process for determining the significant issues related to a proposed action and is required by **40 CFR § 1501.7 (CEQ Regulations)**. Scoping begins with ETAT reviews during the ETDM EST screening events. Pursuant to **Section 1313** of the **Fixing America's Surface Transportation (FAST) Act**, concurrence or issue resolution on the purpose and need must be achieved during the scoping process of an EIS.

In addition to project screening and the AN, a District may hold a formal scoping meeting early in the project development process. To determine whether a formal scoping meeting should be held, information from the ETDM screening process and input from the agencies, as well as coordination with FHWA, should be considered. Details on the scoping process and how to conduct a scoping meeting are included in [Part 1, Chapter 11, Public Involvement](#).

The results of the ETDM Programming Screen and environmental scoping process should be used to identify the affected environment and to focus the environmental analysis in the EIS on the relevant issues. The EIS must discuss the scoping process, including all meetings held, coordination with participating and cooperating agencies, issues raised, and the District's response and commitments. The scoping process is summarized in the Comments and Coordination section of the EIS ([Part 2, Chapter 31, Comments and Coordination](#)).

8.2.2 Preparation of the Notice of Intent

After FHWA approval of the Class of Action Determination and project schedule, a **NOI** is published in the **FR** which informs stakeholders of the proposed project and that an EIS is being prepared (A sample **NOI** is shown in **Figure 8-2**). Based on federal guidelines, the **NEPA** process for an EIS begins with the **NOI** and ends with the FEIS/ROD or ROD.

After the District drafts the **NOI**, it is forwarded to the FHWA Division Office for publication in the **FR**. **Figure 8-3** is a sample transmittal letter for a **NOI**. A copy of the published notice must be included in the project file. FHWA will not publish the **NOI** in the **FR** until the project schedule has been approved. A copy of the published **NOI** must also be included in the Appendix of the FEIS/ROD or FEIS.

8.2.2.1 Notice of Intent Format

The **NOI** must be prepared on 8 ½" X 11" white paper and typed in black ink. The margins must be 1 ½" for the left and 1" for all other margins. The text must be double-spaced (except heading title), and the heading must contain the following items:

1. Billing Code No. 4910-22 (typed in brackets or parentheses)
2. DEPARTMENT OF TRANSPORTATION (all in upper case letters)
3. Federal Highway Administration
4. ENVIRONMENTAL IMPACT STATEMENT; COUNTY OR CITY, STATE (all in upper case letters and single spaced)

The body of the **NOI** must contain five (5) sections: AGENCY, ACTION, SUMMARY, FOR FURTHER INFORMATION CONTACT, and SUPPLEMENTARY PROJECT INFORMATION (Each section title is in upper case letters followed by a colon).

Following these sections the **NOI** must specify:

1. Issued on: (indent 5 spaces and enter the date the document is signed).
2. Signature line: [begin in the middle of the page; enter name and title of the FHWA Division Administrator, and City and State (Tallahassee, Florida) under the signature].

Two or more **NOIs** can be included in a single document by making appropriate revisions to the heading and text of the notice. This should be coordinated with FHWA prior to development of such a **NOI**.

8.2.2.2 Notice of Intent Content

The **NOI** should be written in plain English for ease in understanding. Avoid the use of technical jargon. The project should always be referred to as the "proposed project". Before using an acronym, fully define the term. FHWA should always be listed first when other agencies are listed as being involved in the preparation of the EIS.

The following information must be contained in a **NOI**:

1. AGENCY: FHWA, U.S. Department of Transportation (USDOT), FDOT
2. ACTION: **NOI** to prepare an EIS
3. SUMMARY: Begin this section with the following statement:

The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed project in _____ County, FL.

4. **FOR FURTHER INFORMATION CONTACT:** This section should name the FHWA Division Office and FDOT contacts who can answer questions about the proposed project and the EIS as it is being developed.
5. **SUPPLEMENTARY PROJECT INFORMATION:** This section should contain the following information:
 - a. A brief description including location and termini, length, purpose and need;
 - b. A brief description of the reasonable alternatives to accomplish the purpose and need. The no action alternative should always be listed;
 - c. A statement disclosing that the agencies intend to prepare a FEIS/ROD for the proposed project. The following statement must be included:

The FHWA will issue a single Final Environmental Impact Statement and Record of Decision document pursuant to Title 23 U.S.C. Chapter 139.

- d. A brief description of the proposed scoping process. If a scoping meeting is scheduled, provide meeting information including time and location;
- e. The website address if available; and
- f. Place the following statement in parentheses directly above the signature and date of issuance:

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

The **NOI** is transmitted by the District to FHWA which then submits it to the EPA for publication in the **FR**. The **NOI** begins the **NEPA** process.

8.2.3 Project Status Update

Once the **NOI** is issued and **NEPA** has begun, the project **is not** required to go back through the Programming Screen. Instead, the District will prepare a project status fact sheet, if any of the following events have occurred:

1. Four years have passed after the project has been initiated and no EIS has been approved for public availability; or
2. The project termini have changed (expanded); or
3. The project concepts have changed resulting in a change in anticipated impact(s).

The project update fact sheet is sent to the same recipients as the Programming Screen Notification and/or AN and includes:

1. Details about the project (project title, ETDM number, Financial Management Number, DEIS number if it applies)
2. Brief project description including the Class of Action
3. Brief statement regarding current status of project, including any changes which have occurred since the original submittal
4. Current schedule of the project
5. Contact Information

8.2.4 Assigning an EIS Number

An EIS number is assigned to the proposed project and included on the DEIS cover page. It is simply a combination of Agency-State-EIS-Year-Document Number-D (for Draft) for example: FHWA-FLA-EIS-13-01-D would be the first DEIS in Florida for the calendar year 2013. Contact SEMO for assistance when assigning the document number. It is important to note that this document number is updated with the submittal of the FEIS document (See [Part 1, Chapter 9, Final Environmental Impact Statement](#)).

8.2.5 Draft Environmental Impact Statement Format

The content items and formatting of the DEIS should be as described in ***FHWA Technical Advisory T6640.8A*** and shown in ***Figure 8-6***. The DEIS must include a cover page, table of contents, executive summary, list of preparers, list of agencies, organizations, and persons to whom copies of the statement are sent, and an index. The DEIS must also include the purpose and need for action, alternatives including the proposed action, affected environment, environmental consequences, and an appendix. The environmental consequences section must include a discussion of potential impacts to issues/resources identified in ***Figure 8-6*** for each reasonable alternative. Based on the affected environment, the project specific issues/resources may need to be modified. Once the analysis is completed a determination of significance is made for relevant issues/resources in coordination with FHWA. Guidance to address specific issues/resources is provided in [Part 2 of this Manual](#).

The DEIS document must include information reflecting the project's planning consistency (LRTP, STIP, and TIP). Guidance on planning consistency is in ***Guidance for Meeting Planning Requirements for NEPA Approval*** and [Part 2, Chapter 4, Project Description and Purpose and Need](#). Planning consistency must be met prior to requesting Location and Design Concept Acceptance. In addition, commitments made to date should be documented ([Part 2, Chapter 32, Commitments](#)).

The DEIS may be presented in a different format per ***40 CFR § 1502.10***. It is important to coordinate with FHWA when considering the use of an alternative format. A reader-

friendly format may be used as long as the required information is included. For suggestions on reader-friendly Environmental Documents see the ***Improving the Quality of Environmental Documents*** report by American Association of State Highway and Transportation Officials (AASHTO) and FHWA.

8.2.6 Intradepartment and FHWA Review Process

After preparing the DEIS, the District conducts a quality control review and sends the DEIS, including any technical support documents to SEMO. Upon receipt, SEMO will coordinate its 30-day review schedule with the District. SEMO will provide a technical and procedural review of the documents and provide comments to the District. The Districts should allow sufficient time in their schedules to address SEMO comments and allow for additional review or coordination, as necessary.

After SEMO has completed its review and comments have been addressed by the District, SEMO will email the Districts approval to submit the DEIS to FHWA. The DEIS and two (2) copies of each supporting report must be submitted directly by the District to the FHWA Division Office for its internal distribution. The Districts must contact the FHWA Division Office to determine the number of DEIS copies needed. A transmittal letter from the District to FHWA should accompany the DEIS and related reports. A sample letter is provided in **Figure 8-4**.

The FHWA Division Office may request a legal sufficiency review of the DEIS from the Atlanta Regional Office. Depending on the scope of the project, the Division may also ask for review by the FHWA Office in Washington, D.C. These additional reviews may impact the project schedule.

The District submits the DEIS to cooperating agencies for review and comment. Cooperating agencies are only provided the technical documents that pertain to their area of statutory or regulatory jurisdiction.

Technical documents and other supporting reports that led to the decision and required coordination with another agency may include the ***Conceptual Stage Relocation Plan (CSRP), Noise Study Report, Preliminary Engineering Report, and Natural Resources Evaluation***. For a complete list of technical documents see [Part 1, Chapter 4, Project Development Process](#).

Within thirty (30) days of receipt of the DEIS, FHWA and the cooperating agencies should review and provide comments to the District. Additional reviews may be required. The FHWA Division Office will either provide a statement that the document is not ready for review, or approve the DEIS for public availability. If FHWA or a cooperating agency submits comments, the District must address the comments and make any necessary revisions.

8.2.7 Actions Taken After FHWA Approval of the DEIS

When FHWA approves the DEIS for public availability they sign and date the cover page and send it to the District. After receiving the signed cover page, in coordination with FHWA, the District enters the deadline for formal comment submittal on the cover page established by calculating 45 calendar days after posting on EPA's e-NEPA website indicating publication of the **Notice of Availability** in the **FR**.

Distribution of the DEIS and publication in a local newspaper(s) must occur before FHWA sends the e-NEPA request for the publication of the **Notice of Availability** in the **FR** to EPA (**23 CFR § 771.123**). The District transmits the approved document to the organizations and stakeholders listed in [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#). The District should upload the approved DEIS to the EST. If uploaded, an electronic copy of the DEIS is sent to the Florida State Clearinghouse, cooperating agencies, ETAT, and other contacts to which the AN was originally sent. Paper copies of the DEIS are sent to applicable Native American tribes, and other stakeholders who request it or those without electronic access.

The District places a notice in the local newspaper(s) which advertises the public hearing, that the approved document is available for public review, and provides the location(s) where the approved document can be inspected by the public ([Part 1, Chapter 11, Public Involvement](#)). The public hearing is held a minimum of 21 days after notification of public availability is placed in the local newspapers.

The **Notice of Availability** is initiated when FHWA files the DEIS with EPA. All DEISs must be electronically submitted to EPA using their e-NEPA online tool.

The scanned document must meet the following requirements for submittal:

1. PDF files must be no greater than 50MB. If the document is larger, divide it into chapters or subchapters
2. Format the filenames with the chapter or subchapter number first, followed by its name. Example: Chapter 1- Purpose and Need
3. If submitting a single file, use the full EIS title as the filename
4. All PDF documents must be formatted to be searchable
5. All PDF files should have chapters and subchapters bookmarked and the bookmark view should be displayed upon opening the file

After formatting the document for e-NEPA, the District sends it to FHWA, identifying the Title, Subject, Author, and Keywords for use as metadata for the submittal. EPA then publishes the **Notice of Availability** of the FEIS in the **FR** for a 45-day comment period (**23 CFR § 771.123**). **Figure 8-5** is an example of a **Notice of Availability** in the **FR**.

The District must monitor the **FR** for publication of the notice and place a copy in the project file.

After the public hearing has been held and all issues have been resolved, where possible, the District prepares a FEIS/ROD or FEIS according to procedures in [Part 1, Chapter 9, Final Environmental Impact Statement](#).

8.3 REFERENCES

23 Code of Federal Regulations (CFR) Part 771. Environmental Impact and Related Procedures

American Association of State Highway and Transportation Officials (AASHTO). May 2006. Improving the Quality of Environmental Documents: A Report of the Joint AASHTO/ACEC Committee in Cooperation with the Federal Highway Administration

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

Federal Highway Administration (FHWA). 1987. Technical Advisory T6640.8A. Guidance for Preparing and Processing Environmental and Section 4(f) Documents. October 30, 1987

Fixing America's Surface Transportation (FAST) Act

Florida Department of Transportation (FDOT). 2003. Federal Highway Administration and Federal Transit Administration Agency Operating Agreement Florida Department of Transportation

FDOT. Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002. <http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>

Title 23 United States Code (USC) 139

8.4 HISTORY

11/25/2002, 1/31/2007, 4/22/2011, 2/03/2014

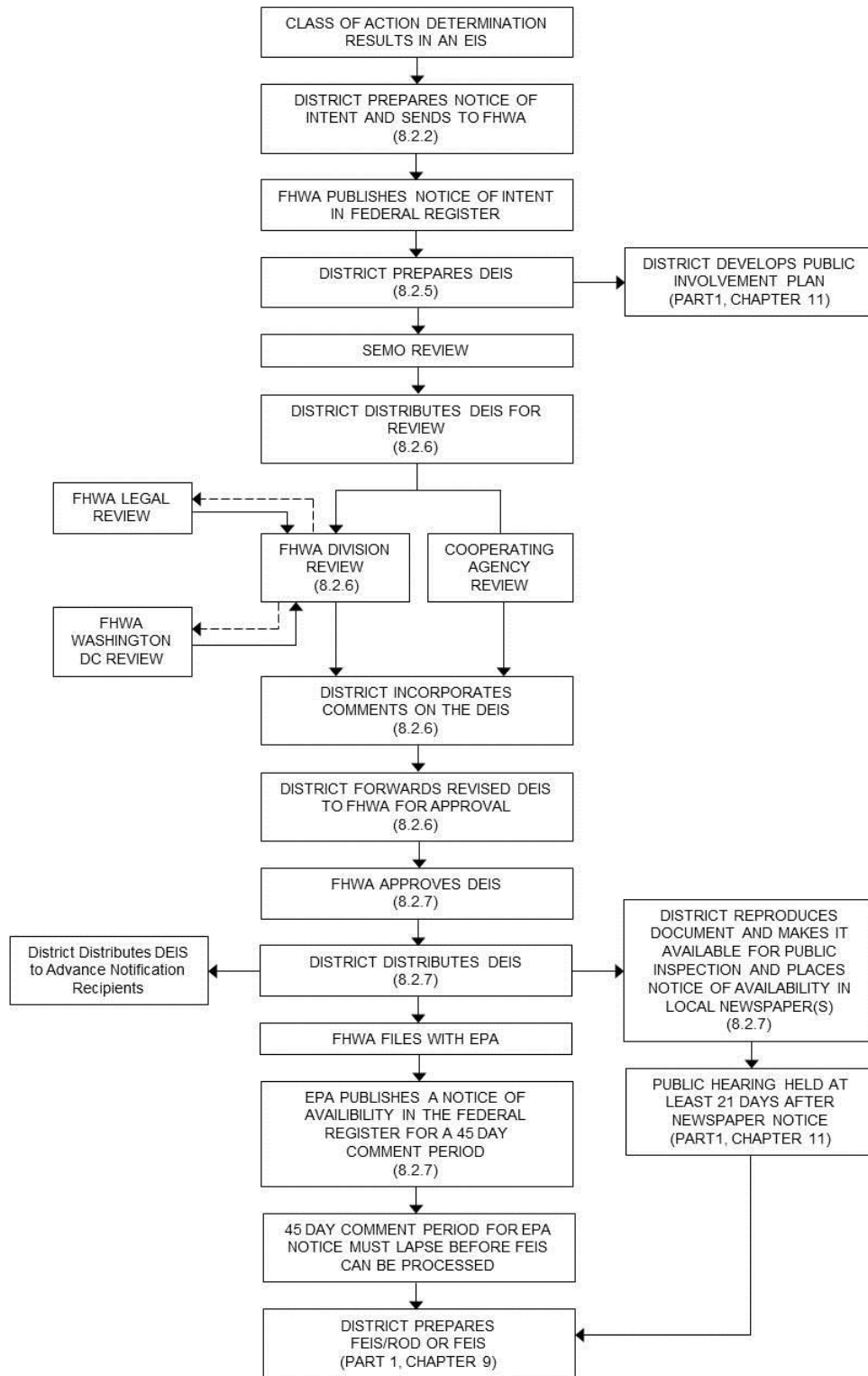


Figure 8-1 Draft Environmental Impact Statement Process

(4910-22)

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

ENVIRONMENTAL IMPACT STATEMENT; _____ COUNTY, FLORIDA

AGENCY: Federal Highway Administration (FHWA), DOT

ACTION: Notice of Intent

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in _____ County, Florida.

FOR FURTHER INFORMATION CONTACT: (Name), Environmental Coordinator, Federal Highway Administration, 3500 Financial Plaza, Suite 400, Tallahassee Florida 32312

(Name), (FDOT Contact), (District Address)

SUPPLEMENTARY PROJECT INFORMATION: The FHWA, in partnership with the Florida Department of Transportation will prepare an EIS for a proposal to improve SR XX in _____ County, Florida. The FHWA will issue a single Final Environmental Impact Statement and Record of Decision document pursuant to Title 23 U.S.C. Chapter 139. In the DEIS the FDOT recommended alternative would become FHWA preferred alternative if no substantial controversy or issues arise through the public and agency comment period.

The proposed improvement would involve the reconstruction of SR XX from Interstate Route XX to SR XX, a distance of X miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) widening to a six or eight lane divided roadway; (3) widening to a six lane plus frontage roads on the portion of the project west of SR XX; and (4) alternate corridors.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have expressed interest in this proposal.

Figure 8-2 Sample Notice of Intent

A series of public meetings will be held in _____ City, _____ County between (month) and (month), (year). In addition a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be made available for public and agency review and comment. A formal scoping meeting is planned at the project site during the early part of (year). Additional project information can be found at the following web address: _____

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding inter-governmental consultation on Federal programs and activities apply to this program.)

Issued On: (Month Date, Year)

Division Administrator, or designee
Tallahassee, Florida

Figure 8-2 Sample Notice of Intent (Page 2 of 2)

(DATE)

Division Administrator
Federal Highway Administration
3500 Financial Plaza, Suite 400
Tallahassee, Florida 32312

Subject: Notice of Intent

Financial Management Number XXXXX-XXXX
Federal-Aid Project. No. X-XXX(X)-X
Any County, Florida

Dear Mr. /Ms.:

Attached is a Notice of Intent to prepare an Environmental Impact Statement for the subject project. Please publish this Notice in the Federal Register as required by 23 CFR Part 771.

Sincerely,

District Environmental Office

Attachment

Figure 8-3 Sample Transmittal Letter for Notice of Intent

(DATE)

Division Administrator
Federal Highway Administration
3500 Financial Plaza, Suite 400
Tallahassee, Florida 32312

Subject: Draft Environmental Impact Statement
Financial Management Number XXXXX-XXXX
Federal-Aid Project No. X-XXX(X)-X
Any County, Florida

Dear Mr. /Ms.:

Enclosed are ____ copies of the Draft Environmental Impact Statement for the project as required by the National Environmental Policy Act of 1969 and submitted in compliance with 23 CFR Part 771.

In addition, copies of the Preliminary Engineering Report, Conceptual Stage Relocation Plan, and Noise Study Report (and any other supporting reports) are enclosed as reference material. The Planning Requirements for Environmental Document Approvals Form is also enclosed.

Please advise us if the document is approved, or if there are comments that must be addressed.

Sincerely,

District Environmental Office

Enclosures

cc: Manager, Environmental Management Office / with enclosure
Federal-Aid Programs Coordinator

Figure 8-4 Sample Transmittal Letter to FHWA for DEIS and Associated Reports

33722 Federal Register / Vol. 49, No. 166 / Friday, August 24, 2005 / Notices

[ER-FRL-2659-1]

**Availability of Environmental Impact
Statements Filed August 13, 2015
Through August 17, 2015**

Responsible Agency: Office of Federal Activities.
General Information (202) 382-5073 or
(202) 382-5075

EIS No. 840363. Draft. FS. WY.
Bighorn National Forest Land and
Resource Management Plan.
Bighorn. Sheridan Cos. Due: November 26, 2015.
Contact Elana Green (702) 447-4710.



**EIS No. 840384. Draft.
FHWA. FL.FL-44 Upgrading.
CR 581 to Eastern Intersection of
FL 44/45 (US-41). Citrus County.
Due: October 9, 2015.
Contact: James Christian
(904) 681-7223**

EIS No. 840385. Dsuppl. COE.
NC. Manteo Bay
Project. Navigation Improvement
Dare County. Due: October 9, 2015.
Contact Richard Jackson (919) 343-4745.

Figure 8-5 Sample Notice of Availability Published by EPA in the Federal Register

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