

Introduction

In most instances, Final Environmental Impact Statement and Record of Decision (FEIS/ROD) and FEIS documents will require preparation of a Limitation on Claims Notice. A Limitation on Claims Notice may be processed for an Environmental Assessment with Finding of No Significant Impact (EA with FONSI) or Type 2 Categorical Exclusions (CEs). Draft notices and transmittal letters should be prepared when the Environmental Document is submitted in the Request for Approval review phase so they can be published in the Federal Register (FR) as soon as possible.

- For an EA with FONSI, the notice should be submitted to the FR as soon as possible after the EA with FONSI is approved.
- For a FEIS/ROD or FEIS, the notice should be submitted to the FR as soon as possible after the FEIS/ROD or FEIS is signed.
- For a Type 2 CE, the notice should be submitted to the FR as soon as possible after LDCA is granted.

The District Project Manager is responsible for drafting the notice and providing it to the Office of Environmental Management (OEM) Project Development Coordinator (PDC). OEM finalizes the documents, coordinates the legal review, and provide it to Federal Highway Administration Florida Division (FHWA FL). FHWA FL processes the notice for signature and submits it for publication in the FR.

Process

The following guidance identifies the steps and responsibilities for preparing and submitting a Limitation on Claims Notice.

District Tasks

- 1) The District Project Manager or designee prepares the draft notice using the approved template (described below). Word versions of the template are available from the OEM Environmental Process Analyst or PDC.
 - a) District legal office *can* review it, but it's not necessary since Central Office OGC will get final review.
 - b) Leave the dates in the notice blank (date 150 days after publication and Issued on date).
 - c) These documents must be signed by an FHWA official on behalf of FDOT. The OEM Director is listed as the contact in the notice.
- 2) The District Project Manager or designee sends the Word documents to the OEM PDC.

OEM PDC Tasks

- 3) PDC confirms that the notice format matches templates/examples saved on the OEM shared drive and makes changes if necessary.
- 4) PDC transmits the notice to the Office of General Counsel (OGC) for review.
- 5) Once OGC has reviewed the documentation, the PDC provides the notice to the OEM Environmental Process Analyst.

OEM Environmental Process Analyst Tasks

- 6) The OEM Environmental Process Analyst coordinates with the FHWA Florida Division Director of the Office of Project Development via phone or email to schedule review and signature.
- 7) The OEM Environmental Analyst prepares the files for signature:
 - a) Check for updates in the [FR Document Drafting Handbook](#) that may apply to the submittal.
 - b) Remove metadata from the Word documents: File> Info> Check for Issues> Inspect Document> Check all boxes> Inspect> Remove All> Reinspect> Save As (ensure there is no author listed in the 'Save As' dialogue box)
- 8) Transmit the cleaned Word document to FHWA via email with the following:
 - a) To: Karen.Brunelle@dot.gov
 - b) CC: Luis.D.Lopez@dot.gov, Joseph.Sullivan@dot.gov, Jonathon.Bennett@dot.state.fl.us, Jennifer.Marshall@dot.state.fl.us, and the applicable PDC
 - c) Subject: LOC notice for FR publication
 - d) Body text example:

I've attached the LOC notice for [PROJECT NAME] (FM Number _____). It's ready for your electronic signature and publication in the FR. We don't have a required publication date but would appreciate publication at your earliest convenience.

Note, I inserted today's date on the last page where it indicates the signature date near the signature block. You'll need to update that if you're not able to sign it today.

Please let us know if you hear back about an anticipated publication date.

FHWA Tasks

- 9) FHWA signs the word document electronically according to their procedures and transmits it to their contact for the FR.
- 10) FHWA confirms the publication date with the FR and lets OEM know when to expect publication.
- 11) If the FR Office has any questions or requires edits to the notice, they will contact FHWA, who will contact OEM. The OEM PDC will coordinate with the District if corrections are needed.

OEM Environmental Process Analyst Wrap Up

- 12) Monitor the Federal Register and inform the OEM PDC and FHWA when the notice appears. Coordinate with FHWA if it does not appear when expected.

Template

Because the *Federal Register* will only publish documents signed by an appropriate Federal official, FHWA Florida Division (FHWA FL) and FDOT have developed a template LOC to be used by FDOT when submitting requests. The FDOT template is available from the OEM Environmental Process Analyst or the *OEM Guidance and Resources* SharePoint site.

Important Content Notes

There are a few points to note when developing and submitting a LOC Notice for publication:

- The LOC is a statute of limitations (SOL) notice and both LOC and SOL are interchangeable terms.
- Do not include any specific citations to statute or regulation in the Summary section of the LOC Notice. This is an important point as it is the reason most of the LOC Notices are rejected by the *Federal Register*.
- The date the document is signed must appear near the signature block. We are not permitted to post-date or pre-date these documents. The OEM Environmental Process Analyst updates this date in coordination with FHWA FL.
- The highlighted text in the template is replaced with project specific information. The rest of the template text should not be edited unless one on of the three update conditions listed below is met.
- Do not replace the place holder in the notice that reads “[**Insert date 150 days after publication in the Federal Register**]” – this is to be filled in by the Office of the Federal Register prior to publication.

Template Updates

The template will be updated when:

1. Changes in the laws or regulations need to be reflected in the notice. These might be identified when the FDOT legal team reviews the LOC notification for a project.
2. Updates to the *OFR Document Drafting Handbook* (<https://www.archives.gov/federal-register/write/handbook>) change the requirements for these submittals. FDOT checks for updates when reviewing project LOC notifications prior to submitting for FHWA signature.
3. Edits are identified during an annual review to check for any potential changes.