

### Introduction

In most instances, Final Environmental Impact Statement and Record of Decision (FEIS/ROD) and FEIS documents will require preparation of a Limitations of Claims Notice. A Limitation of Claims Notice may be processed for an Environmental Assessment with Finding of No Significant Impact (EA with FONSI) or certain Type 2 Categorical Exclusions (CEs), depending on the level of potential for controversy. 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 cover letter and providing them to the Office of Environmental Management (OEM) Project Development Coordinator (PDC).

OEM, is responsible for finalizing the documents, obtaining the appropriate Federal Highway Administration (FHWA) signatures, and submitting the notice for publication in the FR.

### Process

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

#### **District Tasks**

- 1) The District Project Manager or designee prepares the draft notice and transmittal letter using templates included below. Examples in Word are also available from the OEM PDC.
  - a) District legal office *can* review it, but it's not necessary since Central Office OGC will get final review.
  - b) Transmittal letter is addressed to Director of Office of FR, from FHWA FL Division Administrator.
  - c) Leave the dates in the cover letter and notice blank (requested publication date, date 150 days after publication, and Issued on date).
  - d) These documents must be reviewed and signed by an FHWA official, but OEM 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 letter and 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 cover letter and 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) Based on the planned signature dates, update the dates in the cover letter (requested publication date and date 151 days after that). These dates cannot be weekends or federal holidays. Publication will occur 3-4 days after receipt. This table on the Federal Register site is helpful for identifying effective dates:  
<https://www.federalregister.gov/reader-aids/using-federalregister-gov/table-of-effective-dates-time-periods>.
  - c) 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)
  - d) Burn notice to CD, then print three copies from the CD to ensure they are exactly the same.
  - e) Label CD according to instructions:
    - i) Agency: Federal Highway Administration
    - ii) File Name:
    - iii) File Format: MS-Word
    - iv) Subject: (use subject heading from paper document)
  - f) Hand deliver cover letter and three copies of notice to FHWA for signature.
- 8) After receiving FHWA signature, the OEM Environmental Process Analyst sends the materials to the FR Office
  - a) Complete the FDOT Special Services Mailing Form indicating overnight, ground service. (In some cases, Next Day Air may be needed for morning delivery. If so, the OEM Cost Center Manager's signature is required.)
  - b) Provide form, cover letter, three signed hard copies of the notice, and CD to FDOT Mail Room.
- 9) If the FR Office has any questions or requires edits to the notice, they will contact FHWA Florida Division contact listed in the cover letter, who will contact OEM. The OEM PDC will coordinate with the District if corrections are needed.
- 10) Monitor the Federal Register and inform the OEM PDC and District Project Manager when the notice appears.

## Templates

The following pages include templates for the cover letter and notice. Highlighted text should be replaced with project specific information. 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. Examples and word versions of the templates are available from OEM.



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**Florida Division**

[Month Day, YYYY]

3500 Financial Plaza, Suite 400  
Tallahassee, Florida 32312  
Phone: (850) 553-2200  
Fax: (850) 942-9691  
[www.fhwa.dot.gov/fldiv](http://www.fhwa.dot.gov/fldiv)

In Reply Refer To:  
HDA-FL

Mr. Oliver Potts  
Director, Office of the Federal Register  
7 G Street NW  
Suite A-734  
Washington, DC 20401

Dear Mr. Potts:

I hereby certify that the enclosed CD-ROM contains a true and accurate copy of the three signed paper copies of a Limitation of Claims Notice for a project in Florida.

We ask that you file for public inspection this Notice on [DATE TO BE DETERMINED], and that it be published in the Federal Register on [DATE TO BE DETERMINED].

Please call Mr. Joseph Sullivan, Environmental Specialist, at (850) 553-2248 to confirm the publication date and if you have any questions or concerns.

Sincerely,

FOR: James Christian, P.E.  
Division Administrator

Enclosures

**Federal Highway Administration**

**Notice of Final Federal Agency Actions on Proposed Transportation Projects in Florida**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by the FHWA and other Federal Agencies.

**SUMMARY:** The FHWA, on behalf of the Florida Department of Transportation (FDOT), is issuing this notice to announce actions taken by FHWA and other Federal Agencies that are final within the meaning of Federal law. These actions relate to the proposed **[project-specific text]** project which **[project-specific description]**. These actions grant licenses, permits, and approvals for the projects.

**DATES:** By this notice, FHWA, on behalf of FDOT, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the listed highway project will be barred unless the claim is filed on or before **[Insert date 150 days after publication in the Federal Register]**. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION, CONTACT:** For FDOT: Jason Watts, Director, Office of Environmental Management, FDOT, 605 Suwannee Street, MS 37, Tallahassee, Florida 32399; telephone (850) 414-4316; e-mail: [Jason.watts@dot.state.fl.us](mailto:Jason.watts@dot.state.fl.us).

The FDOT Office of Environmental Management's normal business hours are 8:00 a.m. to 5:00 p.m. (Eastern Standard Time), Monday through Friday, except State holidays.

**SUPPLEMENTARY INFORMATION:** Effective December 14, 2016, the Federal Highway Administration (FHWA) assigned, and the FDOT assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that FHWA and other Federal Agencies have taken final agency action subject to 23 U.S.C. 139 (l)(1) by issuing licenses, permits, and approvals for the project listed below. The actions by the Federal Agencies on the project, and the laws under which such actions were taken, are described in the final **[project-specific text]** in connection with the project, and in other project records for the listed project. The **[project-specific text]** and other documents for the listed project are available by contacting the FDOT at the address provided above. The FDOT **[project-specific text]** can be viewed and downloaded from the project web site at **[project-specific text]**. Additional project documents can be found at **[project-specific text]**.

This notice applies to all Federal Agency decisions by issuing licenses, permits, and approvals as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351; Federal –Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128].
2. *Air:* Clean Air Act (CAA), 42 U.S.C. 7401-7671(q).
3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 (4f) [49 U.S.C. 303 and 23 U.S.C. 138].
4. *Wildlife:* Endangered Species Act (ESA) [16 U.S.C. 1531-1544 and 1536]; Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16

- U.S.C. 661-667(d); Migratory Bird Treaty Act (MBTA) [16 U.S.C. 703-712]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].
5. *Historic and Cultural Resources*: Section 106 of the National Historic Preservation Act of 1966, as amended (106) [16 U.S.C. 470(f) *et seq.*]; Archaeological Resources Protection Act of 1977 (ARPA) [16 U.S.C. 470(aa)-470(II)]; Archaeological and Historic Preservation Act (AHPA) [16 U.S.C. 469-469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013].
  6. *Social and Economic*: Civil Rights Act of 1964 (Civil Rights) [42 U.S.C. 20009(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209].
  7. *Wetlands and Water Resources*: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251-1377]; Coastal Barriers Resources Act (CBRA) [16 U.S.C. 3501 *et seq.*]; Coastal Zone Management Act (CZMA) [16 U.S.C. 1451-1465]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601-4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)-300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401-406]; Wild and Scenic Rivers Act [16 U.S.C. 1271-1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Wetlands Mitigation, [23 U.S.C. 103(b)(6)(M) and 103(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001-4128].
  8. *Executive Orders*: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13287 Preserve America; E.O. 13175

Consultation and Coordination with Indian Tribal Governments; E.O. 11514

Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

The project subject to this notice is:

*Project Location:* [project-specific text].

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

Authority: 23 U.S.C. 139(I)(1)

Issued on: [signature date to be determined]

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**Karen M. Brunelle, P.E.**  
*Director, Office of Project Development*  
*Federal Highway Administration*  
*Tallahassee, Florida*