

The slide features a background image of a road stretching into the distance under a blue sky. In the top left corner, there is a logo for the Florida Department of Transportation (FDOT) Office of Environmental Management, which includes a stylized map of Florida and a bird icon. The text on the slide reads: "NEPA Assignment Course: Moving Forward with FDOT in the Driver's Seat". Below this text, the year "2016" is printed in a smaller font. At the bottom right, the FDOT logo is displayed again, consisting of the letters "FDOT" and a stylized outline of the state of Florida.

FDOT Office of Environmental Management

NEPA Assignment Course:
Moving Forward with FDOT in the Driver's Seat

2016

FDOT



This slide has a white background with a prominent green horizontal band across the middle. The text "Welcome and Introductions" is centered within this band in a white, sans-serif font. Below the green band, there is a blue horizontal line, and in the bottom left corner, there is a decorative graphic of a grid of blue dots of varying sizes.

Welcome and Introductions

Housekeeping

- Breaks
- Bathroom
- Safety Message
- Sign-in Sheet
- The Learning Curve
- Question and Answer




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Quizdom Remote

- Press Menu for 2 seconds to turn it on
- Press the correct letter to answer multiple choice questions
- Press T/F keys to answer Yes/No questions
- Press  to submit your answer
- Press Menu for 2 seconds to turn it off



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What office are you from?

- a. Environmental Management
- b. Design / Permits
- c. Consultant Management
- d. Planning
- e. Consultant
- f. Other



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How familiar are you with NEPA Assignment?

- a. Not at all
- b. Somewhat
- c. Very



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Today's Agenda

- Moving Forward with FDOT in the Driver's Seat
- OEM NEPA Review Process for District Practitioners
- Legal Sufficiency Reviews and Certification
- Preparing the Administrative Record
- Future Training



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Moving Forward with FDOT in the Driver's Seat Introductory Video



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Why NEPA Assignment is Important

Benefits the State of Florida, FDOT and Citizens

- Moving forward with FDOT in the Driver's Seat
 - FDOT assumes FHWA's NEPA decision-making responsibilities
 - FDOT will make most environmental determinations
- Anticipated to accelerate project delivery schedules by 25%
- Reduces costs in several key areas
- Improves process efficiency
- Benefits extended to local governments through new efficiencies in the Local Agency Program (LAP)



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Secretary's Challenge

How do we make FDOT even better?

BE INNOVATIVE

- Public Private Partnerships (P3s) allows advancing major transportation projects
- Combining multiple projects can speed project delivery
- Leveraging the resources of the private sector

BE EFFICIENT

- More productivity with less funding
- FDOT had the highest number of Productivity Awards winners of any state agency
- Creating innovative solutions that increase productivity and save money

BE EXCEPTIONAL

- Live the dream of America
- Florida exceptionalism
- Against other states, Florida ranks near the top in nearly every measure of road transportation



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Outline and Overview

- Overview of the National Environmental Policy Act
- What is NEPA Assignment?
- Benefits of NEPA Assignment
- Memorandum of Understanding between FDOT and Federal Highway Administration
- OEM District Support Role
- Summary



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Overview of the National Environmental Policy Act (NEPA)



Major Components of NEPA

- Outlines national environmental policy and goals
- Establishes the **Council on Environmental Quality** in the Executive Office of the President
- Establishes provisions for federal agencies to enforce such policies and goals



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What is a Federal Action?

- **Project meets one of the following conditions:**
 - Maintain federal funding eligibility
 - Federal funds
 - Federal permit
 - FHWA approval required (i.e., impacts to interstate right of way)
- **PD&E Manual Part 1, Chapter 2**



US Army Corps of Engineers.



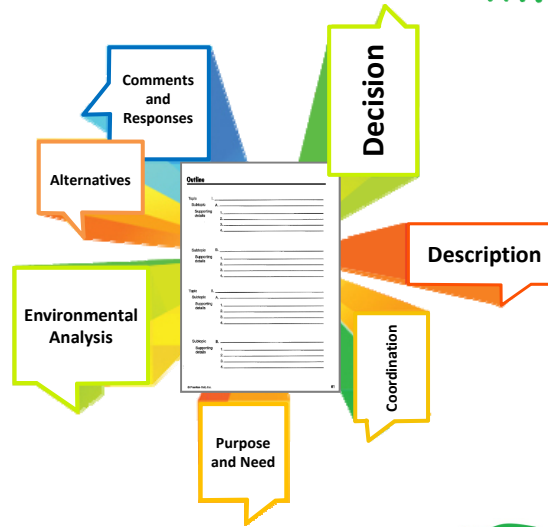
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NEPA Framework

- NEPA defines a process
- Provides the framework to evaluate a project’s environmental impacts, and seek to avoid, minimize, or mitigate
- Tells the “project story”
- Quality analysis and decision-making provides a legally-defensible decision



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NEPA – Classes of Action

Class I: Environmental Impact Statement (EIS)

- Projects anticipated to have significant impacts
- Draft EIS, Final EIS, Record of Decision
- Final EIS and ROD should be combined

Class II: Categorical Exclusions (CE)

- Projects without significant impacts, excluded from requirement to prepare EA or EIS
- Type 1: Fits within a low-impact threshold checklist of project types
- Type 2: Non-significant impacts that need further explanation

Class III: Environmental Assessment (EA)

- Projects where significance of impacts is unknown
- Results in either a Finding of No Significant Impact (FONSI) or EIS



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Local Agency Program (LAP) Projects

- **Local governments/agencies seek federal funds through FHWA's Locally-Administered Federal-Aid Projects program**
 - In Florida, we call it the Local Agency Program (LAP)
- **LAP Projects must comply with NEPA**
 - Will follow same procedures as District projects under NEPA Assignment
- **Local governments/agencies develop projects**
- **FDOT is responsible for...**
 - Administering Florida's LAP
 - Project oversight
 - Disbursement of federal-aid funds
- **PD&E Manual Part 1, Chapter 2 and FDOT LAP Manual**



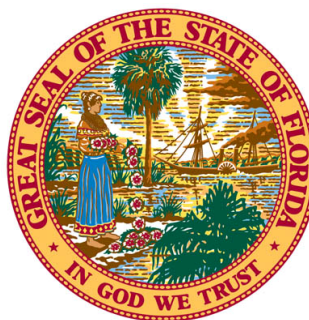
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State Funded Projects and No Federal Action

- **No federal actions needed**
 - Some exceptions with federal permits
- **Environmental Document**
 - State Environmental Impact Report (SEIR)
 - Non-Major State Action (NMSA)
- **Approved by FDOT Districts and Florida's Turnpike Enterprise (FTE)**
- **PD&E Manual Part 1, Chapter 10**




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Local or Privately Funded Projects (Non-Federal Actions)

- **No federal actions**
 - Some exceptions with federal permits
- **Environmental Document**
 - Project Environmental Impact Report (PEIR)
 - **NOT** a state document
 - Only reviewed by FDOT for impacts to state facilities
 - Approved by local agencies
- **PD&E Manual Part 1, Chapter 10**





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Summary of Environmental Documentation

Federal Projects (NEPA) – Class of Action (COA)

- EISs, CEs, EAs

State Funded Projects (Non-Federal Actions)


- SEIR, NMSA

Local or Privately Funded Projects


- PEIR

LAP Projects (local projects with federal funding)

- Processed as Federal Projects



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How is Significance Determined?

EVALUATE

CONTEXT

- Society as a whole (human, national)
- Affected region
- Affected interests
- Locality
- Short Term & Long Term effects

INTENSITY

- Severity of Impacts
 - Magnitude
 - Duration
 - Frequency of Effect
- Factors for Consideration
 - Beneficial / Adverse Impacts
 - Affect on Public Health / Safety
 - Unique Geographic Area & Resources
 - Controversy / Uncertainty / Risk
 - Potential to Establish Precedent
 - Cumulative Impacts
 - Degree of Adverse Affects on scientific, cultural or historical resources
 - Degree of Adverse Affects on endangered species or their habitat

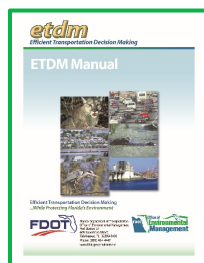


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Planning to inform NEPA



Efficient Transportation Decision Making (ETDM) process

- **Planning and Programming Screening Events**
 - Early agency involvement
 - Define Purpose and Need
 - Develop project scope
 - Determine Class of Action
 - Information available to the public
- **Alternative Corridor Evaluation (ACE) process**
 - Corridor review and elimination prior to PD&E

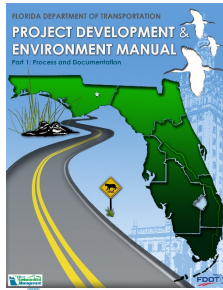


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FDOT Documents satisfy NEPA requirements



Project Development & Environment (PD&E) Phase

- PD&E Manual describes FDOT's compliance process during PD&E phase
- PD&E Manual - Part I
 - Process and Documentation
- PD&E Manual - Part II
 - Topics and Analysis



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FDOT Documents satisfy NEPA requirements

- Purpose and Need is finalized
- Proposed actions are fully described
- Existing study area environment is fully evaluated
- Stakeholders are provided opportunities for input
- An appropriate range of alternatives is studied
- Impacts to the environment are identified, studied, and considered in decision-making
- Federal findings are documented



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Endangered Species A Video Break

<https://www.youtube.com/watch?v=O0OMOPCaREE>




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FDOT Documents satisfy NEPA requirements



Wetlands

Noise

Air Quality

Sociocultural Effects

Contamination

Human Environment

Natural Environment


Essential Fish Habitat

Physical Environment


Farmland

Relocations

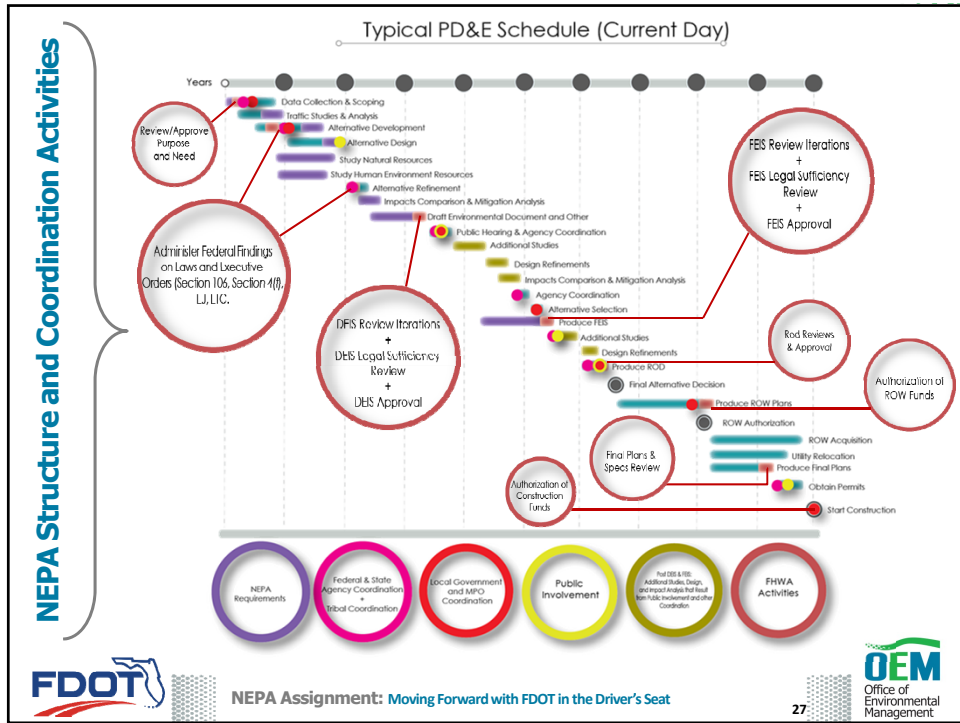
Section 4(f)



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Survey

What conditions are needed for a project to be considered a federal action?

- a. Project uses partial state funding and partial federal funding
- b. Project involves interstate right of way
- c. Permit is required from the U.S. Army Corps of Engineers and the permit requires NEPA documentation
- d. All of the above



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What conditions are needed for a project to be considered a federal action?

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- b. Project involves interstate right of way
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- d. **All of the above**



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What is NEPA Assignment?


Responsibilities Assigned

FDOT REPLACES FHWA AS THE **LEAD AGENCY** FOR HIGHWAY PROJECTS IN FLORIDA
(with certain exceptions)


<p>Project-level responsibilities cited in 23 U.S.C. § 327 for highway projects</p> <ul style="list-style-type: none"> • Certain exceptions 	<p>Administer all assigned Federal Environmental Laws and Executive Orders (as provided in Appendix A of 23 C.F.R. Part 773)</p>
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FHWA and FDOT execute Memorandum of Understanding assigning NEPA responsibilities to the State

- All NEPA Classes of Action:
 - Class I: Environmental Impact Statements (EIS)
 - Class II: Categorical Exclusions (CE)
 - Class III: Environmental Assessments (EA)
- Administration of Local Agency Program (LAP) projects



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Authorization for NEPA Assignment

2005

NEPA Assignment was first-authorized as a pilot program in the Surface Transportation Project Deliver Program under SAFETEA-LU

- Authorized five states to apply for NEPA Assignment
- NEPA Assignment under SAFETEA-LU: [California, 2007](#)


2012

MAP-21 legislation approved a permanent program that is open to any state: NEPA Assignment under Map-21: [Texas, 2014](#)


2015

Fixing America's Surface Transportation (FAST) Act

- FAST further opened the door for assignment of federal responsibility to the states by allowing all states to assume federal responsibility for project design, plans, specifications, estimates, contract awards, and inspection of projects
NEPA Assignment under the FAST Act: [Ohio, 2015](#)

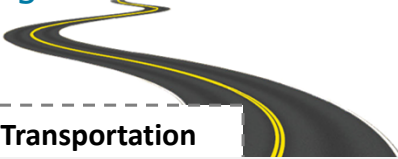


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The Road to NEPA Assignment




Florida Department of Transportation

- Passed Waiver of Sovereign Immunity in Florida Legislature; April 5, 2016
- FDOT submitted an application to the USDOT Secretary requesting NEPA Assignment; May 2016
- Finalizing a Memorandum of Understanding (MOU) with FHWA
 - MOU Public Notice in the Federal Register anticipated October 2016
- MOU Effective Date **anticipated December 2016**



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FHWA Responsibilities Not Assigned

FHWA retains specific authorities

- Section 4(f) Constructive Use
- Projects that cross state lines
- Specific projects listed in the MOU
- Project-level air quality conformity determinations
- Government to Government Tribal consultation
- USDOT responsibilities for statewide and metropolitan planning
- Oversight of FDOT Program and Stewardship



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What NEPA Assignment is Not

Engineering and Operation

- Approval of Typical Section Package
- Design Exception
- Interchange Access Request (more on this later)

Note: Under the Stewardship and Oversight agreement, FDOT has certain engineering approval authorities, contracting decisions and self-certifications from FHWA. This is not a component of NEPA Assignment.



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Environmental Responsibilities: Before and After NEPA Assignment

Environmental Review and Approval Responsibilities	Prior to NEPA Assignment	After NEPA Assignment
Determine Class of Action (CE, EA, or EIS)	FHWA	FDOT
Approve Purpose and Need	FHWA	FDOT
Approve/transmit technical reports to federal agencies	FDOT	FDOT
Prepare the NEPA document	FDOT	FDOT
Approve and file all NEPA documents	FHWA	FDOT
Reevaluations and other Supplemental Documentation	FHWA	FDOT
Direct consultation with other federal resource agencies	FHWA	FDOT
Government-to-government Tribal Consultation	FHWA	FHWA retains
Project Level Air Conformity	FHWA	FHWA retains
Projects that cross state lines	FHWA	FHWA retains
Defend the NEPA document in court	FHWA	FDOT
Decisions / Findings on Federal laws & Executive Orders. Examples:		
Section 7 of the Endangered Species Act	FHWA	FDOT
Section 106 of the Historic Preservation Act	FHWA	FDOT
Section 4(f) of USDOT Act (except constructive use)	FHWA	FDOT
Executive Order 12898, Environmental Justice	FHWA	FDOT



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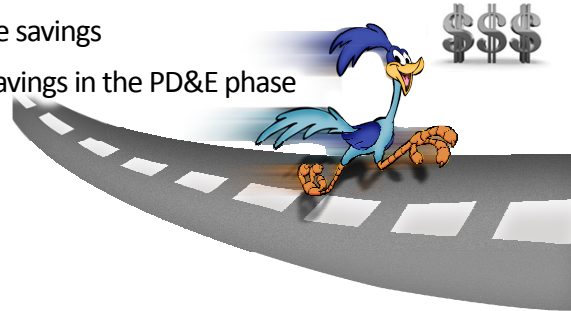


Benefits of NEPA Assignment



NEPA Assignment Savings

- Removes one layer of governmental review – FHWA
- California, Texas and Ohio report a 25% to 30% overall time reduction
- FDOT anticipates similar time savings
- FDOT anticipates 25% cost savings in the PD&E phase



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NEPA Assignment Savings

Project Development & Environment (PD&E) Studies

Eliminates duplicate layer of review:

- Purpose and Need
- Environmental Document
- Technical Studies
- Findings on laws and Executive Orders
- Legal Sufficiency Reviews
- Direct Consultation with Federal Regulatory Agencies



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NEPA Assignment Saves Cost

A shorter PD&E Phase saves project costs and staff time

- Time = money
- Less potential for changes in environmental conditions or laws
- Fewer document revisions
- A shorter PD&E phase reduces the probability of environmental or regulatory changes which can alter your design
- Fewer design changes reduce the number of reevaluations

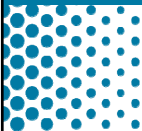


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MOU between FDOT and Federal Highway Administration



The Memorandum of Understanding

- **Written agreement whereby FDOT assumes responsibilities of the USDOT Secretary for federal environmental laws with respect to highway projects within the State of Florida**
- **The MOU identifies**
 - Responsibilities assigned to FDOT
 - Responsibilities retained by FHWA
 - Legal liability
 - Training Plan
 - Audit process
- **FDOT to provide FHWA with quarterly listings of project approvals**



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Memorandum of Understanding

FHWA will not have any NEPA project level involvement

- However, FHWA may provide assistance on programs and interpretations of policy and guidance
 - Staff should contact their OEM Project Delivery Coordinator to request FHWA assistance on programs and policy interpretation
 - **Staff should not contact FHWA for NEPA project-level discussions**
 - Under FHWA Oversight projects, Districts should coordinate engineering decisions through their OEM Engineering Leads
 - ◆ Districts should follow existing procedures for engineering decisions
 - ◆ During PD&E or PD&E/Design overlap, if FHWA coordination or approval is required for engineering decisions, OEM Engineering Leads should be involved with all coordination efforts



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Memorandum of Understanding

Identifies projects that are not being assigned to FDOT

FDOT assumes legal responsibility and legal liabilities for ensuring compliance with all environmental requirements

- FDOT is solely responsible and liable for its decisions and for ensuring compliance with all environmental requirements
- FDOT has a limited waiver of Sovereign Immunity
- FDOT attorneys will defend a lawsuit challenging the NEPA review

Agency coordination

- FDOT to evaluate existing interagency agreements and/or execute new agreements



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Memorandum of Understanding

Establishes FDOT Performance Measures

- Compliance with NEPA, FHWA NEPA regulations and other federal environmental statutes and regulations
- Quality Assurance / Quality Control for NEPA decisions
- Relationships with agencies and the general public
- Increased efficiency and timeliness in completion of the NEPA process

NEPA Assignment Program Audits

- Annual FHWA Audits during each of the first 4 years
- FDOT Self-Assessments annually, to precede FHWA audit



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Memorandum of Understanding

FDOT Resource Commitments

- Maintain financial resources necessary to carry out responsibilities assumed
- Maintain adequate staff and consultant capability
- Provide appropriate training
- Maintain updated ETDM and PD&E Manuals and procedures

Inform the Reader

- 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 [INSERT DATE] and executed by FHWA and FDOT



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Memorandum of Understanding

Implementation Schedule

- Publicly noticed in the Federal Register anticipated October 2016
- Effective Date of the MOU (anticipated December, 2016)
- Within 6 months of the Effective Date
 - Amend or execute new interagency agreements
 - Update ETDM and PD&E Manual for NEPA Assignment
 - Staff training
 - ◆ FDOT in-person briefings and Computer-Based Training



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FDOT Responsible for more than just NEPA

(list is not comprehensive)

Wildlife
Endangered Species Act of 1973; Marine Mammal Protection Act; Anadromous Fish Conservation Act; Fish and Wildlife Coordination Act; Migratory Bird Treaty Act; Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended, with Essential Fish Habitat requirements at 16 U.S.C. § 1855(b)(2)

Historic and Cultural Resources
National Historic Preservation Act of 1966, as amended; 23 U.S.C. § 138 and Section 4(f) of the Department of Transportation Act of 1966; Preservation of Historical and Archaeological Data; Archeological Resources Protection Act of 1979; Native American Grave Protection and Repatriation Act (NAGPRA)

Air Quality
Clean Air Act, with the exception of project level conformity determinations


Hazardous Material Management
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Superfund Amendments and Reauthorization Act (SARA); Resource Conservation and Recovery Act (RCRA)

Parklands and Other Special Land Uses
Section 4(f) of the Department of Transportation Act of 1966; Land and Water Conservation Fund (LWCF) Act


Noise
Noise Control Act of 1972; FHWA noise regulations at 23 C.F.R. Part 772; Airport Noise and Capacity Act of 1990

Social and Economic Impacts
American Indian Religious Freedom Act; Farmland Protection Policy Act (FPPA)

Water Resources and Wetlands
Clean Water Act; Coastal Barrier Resources Act; Coastal Zone Management Act; Safe Drinking Water Act (SDWA); Rivers and Harbors Act of 1899; Wild and Scenic Rivers Act; Emergency Wetlands Resources Act; Wetlands Mitigation; Flood Disaster Protection Act; FHWA wetland and natural habitat mitigation regulations, 23 C.F.R. Part 777



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Survey



The MOU between FDOT and FHWA for NEPA Assignment is a written agreement whereby FDOT assumes responsibilities of the USDOT Secretary for federal environmental laws with respect to multimodal projects with the State of Florida.

- a. True
- b. False



The MOU between FDOT and FHWA for NEPA Assignment is a written agreement whereby FDOT assumes responsibilities of the USDOT Secretary for federal environmental laws with respect to multimodal projects with the State of Florida.

- a. True
- b. False
- c. **It depends**



What responsibilities does FHWA retain under NEPA Assignment?

- a. Approval of Section 4(f) constructive use
- b. Government-to-Government Tribal consultation
- c. Approval of projects that cross state lines
- d. All of the above
- e. Only a and b



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What responsibilities does FHWA retain under NEPA Assignment?

- a. Approval of Section 4(f) constructive use
- b. Government-to-Government Tribal consultation
- c. Approval of projects that cross state lines
- d. All of the above**
- e. Only a and b



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OEM District Support Role



Operate with FDOT Values in Mind



Integrity


Respect

Commitment


Trust

Customer Driven

One FDOT



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Tools to ensure our Success

- Support Districts
- Provide project and program guidance
- Update procedures and manuals
- Develop and deliver training
- Develop tools for efficiency of our processes (NEPA Assignment, SWAT, SWEPT)

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Project Review Teams

District	Environmental (Primary Contact)	Environmental (Support)	Engineering (Primary Contact)	Engineering (Support)
D1	Katasha Cornwell*	Thu-Huong Clark	Martha Hodgson	
D2	Erika Thompson*	Shereen Yee Fong	Jenna Bowman	
D3	Katasha Cornwell*	Thu-Huong Clark	Jenna Bowman	
D4	Shereen Yee Fong*	Erika Thompson	Michael Sykes	
D5	Thu-Huong Clark*	Katasha Cornwell	TBD	
D6	Shereen Yee Fong*	Erika Thompson	TBD	
D7	Erika Thompson*	Shereen Yee Fong	Martha Hodgson	
FTE	Brittany Bianco**	Use contact for geographic District	Use contact for geographic District	

ENVIRONMENTAL

ENGINEERING

NOTES: * Primary Contact
** Permits & Additional District Support

OEM Director
Ken Morefield

Administrator Support to all Districts

- Marjorie Kirby
- Victor Muchuruza
- Xavier Pagan

Office of General Counsel
Kathleen Toolan

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Follow up Webinar Training to Cover

- 1 Changes in the Efficient Transportation Decision Making (ETDM) Process
- 2 Self-Assessment and Audit Process
- 3 Data Management and Document Retention
- 4 Update on SWEPT

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SWEPT Phased Implementation Schedule

- **September**
Project Dashboards & Type 1 CEs
- **November**
Type 2 CE, Scope of Service Tool, Basic Project Setup, & OEM Team Management Tools
- **December**
Project Document Management, Reviews, Approvals (EAs and EISs), Reevaluations, Environmental Certifications, Legal Sufficiency Review and Administrative Record
- **January**
Self-Assessment and Audit support

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Summary



FDOT is positioned to Succeed

- Capable and experienced staff statewide
- Resources and tools
- Agency resolve to be innovative, efficient, and exceptional



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FDOT is positioned to Succeed



Programmatic Agreements in place

- Categorical Exclusions
- Section 4(f) and Section 6(f) of the Land and Water Conservation Fund Act



Interagency Agreements in place



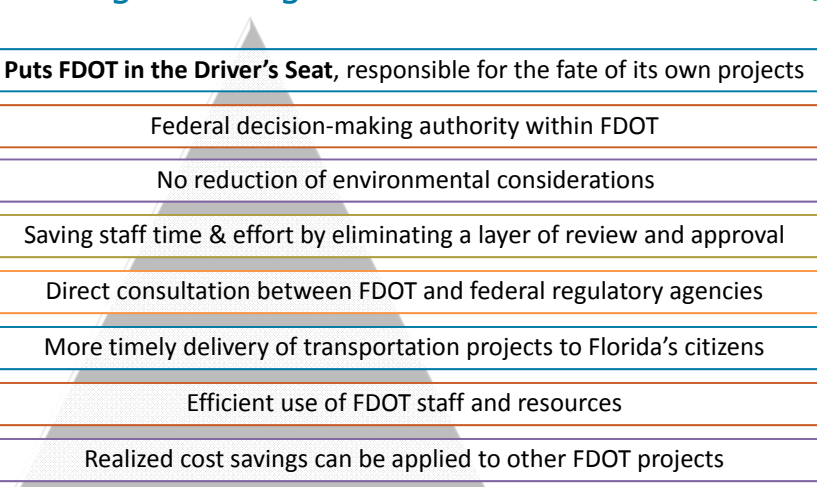
Lessons Learned from State Partners (California, Texas, Ohio)



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NEPA Assignment is good for us



Puts FDOT in the Driver's Seat, responsible for the fate of its own projects

Federal decision-making authority within FDOT

No reduction of environmental considerations


Saving staff time & effort by eliminating a layer of review and approval

Direct consultation between FDOT and federal regulatory agencies


More timely delivery of transportation projects to Florida's citizens

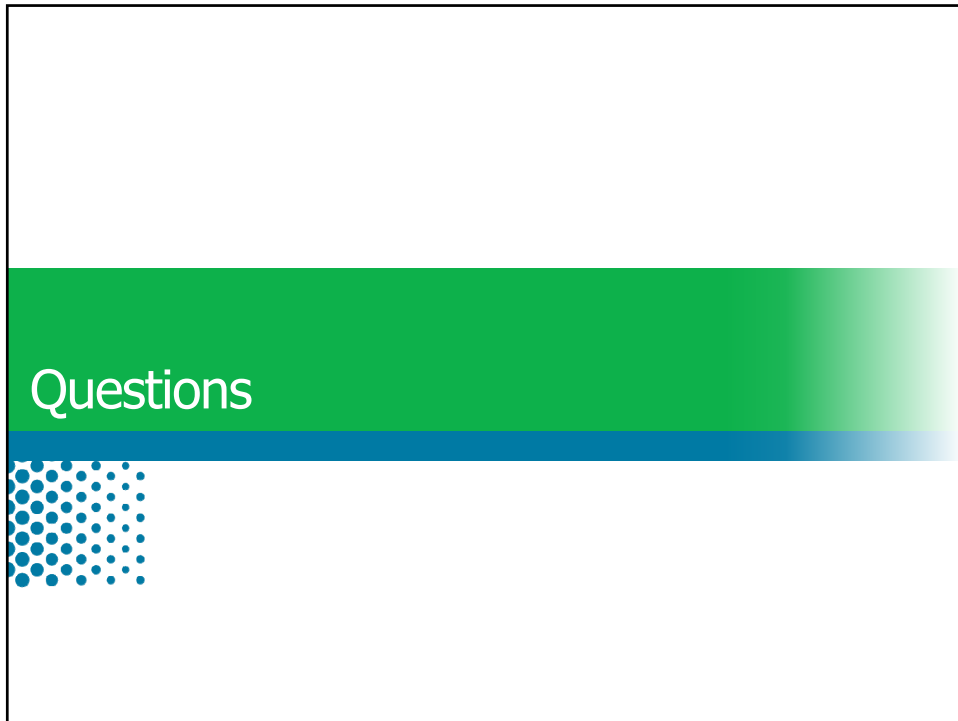
Efficient use of FDOT staff and resources

Realized cost savings can be applied to other FDOT projects



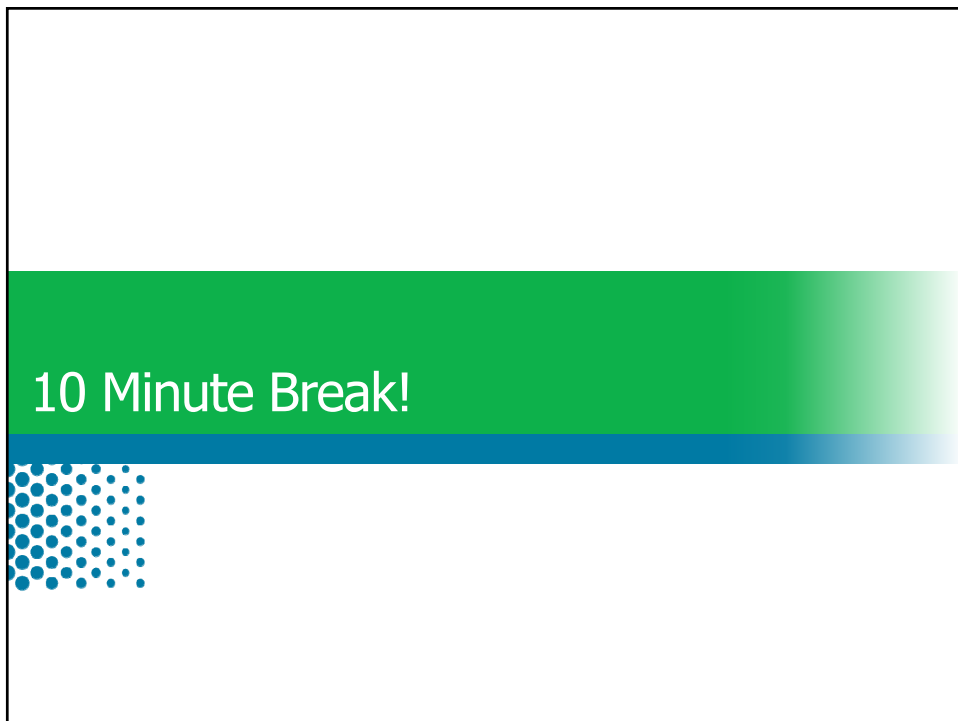
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Questions

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10 Minute Break!

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