

PART 1, CHAPTER 9

FINAL ENVIRONMENTAL IMPACT STATEMENT

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PART 1, CHAPTER 9

FINAL ENVIRONMENTAL IMPACT STATEMENT

9.1 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 and Federal Highway Administration (FHWA) has assigned its 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 (**NEPA** Assignment). In general, FDOT's assumption includes all highway projects in Florida which source of federal funding comes from FHWA or which constitute a federal action through FHWA. **NEPA** Assignment includes responsibility 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 Final Environmental Impact Statement (FEIS) is the Environmental Document for actions that significantly affect the environment as defined by the Council on Environmental Quality (CEQ) regulations. It is prepared after a Draft Environmental Impact Statement (DEIS) is published/noticed in the **Federal Register (FR)** and public comments received have been considered. **Title 23 U.S.C. § 139** and **23 Code of Federal Regulations (CFR) § 771.124** direct the use of a combined FEIS and Record of Decision (FEIS/ROD) as the final project decision to the maximum extent practicable. The FEIS/ROD identifies the selected alternative and the FEIS identifies the preferred alternative. Both document the reasonable alternatives considered, discuss substantive comments received on the DEIS and responses, summarize public involvement, and describe the mitigation measures that are to be incorporated into the proposed action. To the extent practical, the FEIS/ROD or FEIS also documents compliance with all applicable environmental laws and Executive Orders, or provides reasonable assurance (**23 CFR § 771.133**) that their requirements can be met.

9.2 PROCEDURE

9.2.1 Preparation of the Final Environmental Impact Statement

The public has the opportunity to provide comments to FDOT on a project, before, during and after the public hearing. Federal, state, local agencies, and other stakeholders also have the opportunity to comment. The comments are appended to, and become part of, the public hearing transcript record ([Part 1, Chapter 11, Public Involvement](#)). Comments and issues raised at the public hearing, and other changes occurring since the approval of the DEIS must be considered and documented.

The FEIS is prepared after the 45-day public comment period for the DEIS closes, based on the publication of the **Notice of Availability** in the **FR**. The date comments must be received by is shown at the bottom of the cover page of the approved DEIS (see [Part 1, Chapter 8, Draft Environmental Impact Statement](#)).

The FEIS may be prepared by completing an FEIS Errata Sheet, or updating the DEIS. Errata sheets may be prepared to describe the outcome of the public hearing, issues raised, and FDOT responses, including preliminary design changes since the approval of the DEIS. The document submitted to OEM is a FEIS/ROD ([Section 9.2.2.1](#)) or if conditions warrant, a FEIS ([Section 9.2.2.2](#)). If the District is submitting a FEIS, a Draft Record of Decision (DROD) should be prepared and submitted to OEM with the FEIS. The FEIS process is shown in [Figure 9-1](#) and the FEIS/ROD process in [Figure 9-2](#).

9.2.1.1 FEIS Errata Sheets

Title 40 CFR § 1503.4(c) and **Title 23 U.S.C. § 139** allow for the preparation of an FEIS by attaching errata sheets to the DEIS if certain conditions are met. The use of errata sheets is appropriate when comments received on a DEIS are minor, and the lead agency's responses to those comments are limited to factual corrections or explanations that do not warrant further response.

The errata sheets and the information required in an FEIS are attached to the DEIS for submittal to OEM as the FEIS/ROD or FEIS; this documentation will undergo the legal sufficiency review required by **23 CFR § 771.125**.

The errata sheets should include, at a minimum, the following information:

1. A list of factual corrections made to the DEIS with references to the relevant page numbers in the DEIS;
2. A list and explanation of why the DEIS comments do not warrant further response in the FEIS, citing the sources, authorities, or reasons that support the explanation; and
3. If appropriate, an indication of the circumstances that would trigger reappraisal or further response.

In addition, the errata sheets should contain a section that includes the following, as referenced in **Section VI(C)** of the **FHWA Technical Advisory T6640.8A**:

1. Identification of the preferred alternative and the reasons why it was selected;
2. Final **Section 4(f)** evaluation or *de minimis* finding [**23 U.S.C. § 138/49 U.S.C. § 303 (23 CFR Part 774)**], if applicable;
3. Findings, including wetlands, floodplains, and **Section 106** effects, as applicable;

4. List of commitments including mitigation measures for the preferred alternative;
5. Copy or summary of comments received on the DEIS and in the public hearing and related responses. Include any coordination activities that have taken place since issuance of the DEIS; and,
6. Identification of any other findings to comply with applicable environmental laws, regulations, Executive Orders, and related requirements (with associated agency consultation documentation) where there is reasonable assurance that full compliance will occur after issuance of the FEIS.

If using errata sheets a cover page will need to be prepared following instructions in [Section 9.2.1.2.1](#).

9.2.1.2 Updating the Draft Environmental Impact Statement

If the conditions required for preparing errata sheets cannot be met or if the District in coordination with OEM chooses not to use errata sheets, the DEIS is updated to become the FEIS. Appropriate sections of the document are modified to reflect changes in environmental impact(s), cost, design, or other changes since approval of the DEIS.

9.2.1.2.1 Final Environmental Impact Statement Cover Page

FEIS cover pages are only prepared as electronic forms in the StateWide Environmental Project Tracker (SWEPT), see [Section 9.4](#) for form numbers and a link to SWEPT. Sample cover pages for FEIS/RODs, both with and without **Section 4(f)** approvals are provided as a visual in [Figure 9-3](#) through [Figure 9-5](#) and sample cover pages for FEISs, both with and without **Section 4(f)** evaluations are provided as a visual in [Figure 9-6](#) through [Figure 9-8](#). A sample cover page for a Final Supplemental Environmental Impact Statement is provided as a visual in [Figure 9-9](#). The EIS document number is updated with the new year, if applicable, and “D” is changed to “F”.

An Executive Summary is prepared for a FEIS only when it is not combined with a ROD. For a combined FEIS/ROD, an Executive Summary is not needed. The Executive Summary of a FEIS is different than that of a DEIS, it discusses environmental impacts, alternatives considered, and the preferred alternative. Specific findings are documented, as are commitments made during the course of project development. Standard statements are used to document coordination and findings. These standard statements have been developed to document compliance with the **NEPA**, FHWA policy, **23 CFR Part 771**, and other federal laws and requirements. Standard statements are in italics for easy reference and are found in applicable chapters in [Part 2 of this Manual](#). The Executive Summary of a FEIS should include the following sections:

Proposed Action: This section describes the proposed project and includes, at a minimum, the project’s Efficient Transportation Decision Making (ETDM) number, Financial Management number, name of the roadway, the project length and termini, a brief description of the existing facility, the type of proposed project including the number

of lanes, any special features, and the name of the city, county, and state in which the project is located.

Other Government Actions and Permits Required: This section describes any local, state, or federal action proposed by other government entities in the same geographical area as the proposed project. The potential for conflict between those actions is discussed, and any coordination required is referenced. State and federal permits required for the project are identified.

Alternatives Considered: This section contains a brief discussion of the alternatives studied for the project including the No-Action (No-Build) alternative.

Unresolved Issues and Areas of Controversy: This section should only be included if there are major unresolved issues or areas of controversy. Describe and disclose unresolved issues and areas of controversy and the steps taken to resolve it/them to date.

Preferred Alternative: This section identifies the preferred alternative for Location and Design Concept Acceptance (LDCA) and summarizes the rationale for the decision.

Environmental Impacts: This section summarizes major environmental impacts, both beneficial and adverse, that may result from the project. For example, air quality, noise, relocations, or cultural resources.

Wetlands Finding: This section addresses wetland impacts and any proposed wetland mitigation. When there is no practicable alternative to proposed impacts to wetlands, the FEIS must contain the Wetlands Finding required by *Executive Order 11990* and by *US Department of Transportation (USDOT) Order 5660.1A*. If there is no wetlands involvement on a project, a finding is still provided. The finding simply states that there is no wetland involvement and cites *Executive Order 11990*. See [Part 2, Chapter 9, Wetlands and Other Surface Waters](#) for guidance on preparing the Wetland Finding and for the applicable standard statement to include in this section.

Floodplain Finding: This section addresses project impacts on floodplains as required by *Executive Order 11988* and regulatory floodway involvement as required by *The Federal Aid Policy Guide, 23 CFR § 650A*. If the project has no involvement with or is not located within a floodplain, a finding is still provided. See [Part 2, Chapter 13, Floodplains](#) for guidance on preparing the Floodplain Finding and for the applicable standard statement to include in this section.

Coastal Zone Consistency (CZC): This section documents compliance with the *Coastal Zone Management Act of 1972, 15 CFR Part 930*, and the *Coastal Zone Management Plan (CZMP)* for the State of Florida which is called the *Florida Coastal Management Program (FCMP)*. See [Part 2, Chapter 14, Coastal Zone Consistency](#) for the applicable standard statement.

Cultural Resources: This section summarizes the analysis under *Section 4(f)*, *Section 106*, and associated findings. Where there is involvement with *Section 4(f)* or *Section 106* resources, the property must be identified and the impact on the resource(s)

addressed, all proposed mitigation outlined and referenced, and a conclusion statement provided regarding the project's effect on the resource. Standard statements can be found in [Part 2, Chapter 8, Archaeological and Historical Resources](#) and [Part 2, Chapter 7, Section 4\(f\) Evaluation](#).

Federally Listed Species and Habitat: This section summarizes the analysis of the project's involvement with federally threatened and endangered species or their critical habitat protected under the *Endangered Species Act* and associated effect determination(s). If federally listed species are involved then they are identified, and any proposed mitigation is referenced. See [Part 2, Chapter 16, Protected Species and Habitat](#) for the applicable standard statement to include in this section.

Farmland: This section documents consultation and coordination with the Natural Resources Conservation Service (NRCS) regarding a project's impact on farmland. See [Part 2, Chapter 6, Farmland](#) for the applicable standard statement to include in this section.

Irretrievable and Irreversible Commitment of Resources: This section briefly discusses the preferred alternative's irretrievable and irreversible commitment of resources including natural, physical, human, and fiscal resources.

Measures to Avoid or Minimize Potential Adverse Impact: This section briefly discusses measures taken to minimize or avoid adverse impacts on the environment. Appropriate sections of the document are referenced and any mitigation measures proposed for the project are briefly outlined.

Short-Term Impacts Versus Long-Term Benefits: This section addresses the short-term effects of the project on the human environment as weighed against the overall long-term benefits of the project. Appropriate sections of the FEIS are referenced.

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

In the Project Description and Purpose and Need section, the applicable planning consistency form should be referenced, and included in the Appendix along with the relevant pages of the Long Range Transportation Plan (LRTP), Transportation Improvement Program (TIP) and State Transportation Improvement Program (STIP). The applicable planning consistency form includes information demonstrating the project's fulfillment of FHWA's planning consistency requirements. Planning consistency should be met prior to requesting LDCA. See [Part 2, Chapter 1, Project Description and Purpose and Need](#) for guidance on updating this section.

In the Alternatives section, the Preferred Alternative subsection is updated. See [Part 2, Chapter 3, Engineering Analysis](#) for more information on updating the Preferred Alternative section of the FEIS. In the ROD, the preferred alternative is identified as the selected alternative.

9.2.1.2.3 Updating the Environmental Analysis Section

The Environmental Analysis section should provide sufficient information to support the conclusions reached regarding the preferred alternative and the project impacts. Each issue/resource subsection should be updated to identify the preferred alternative. This section should also be updated to include the results of any additional coordination with resource agencies, or project changes since the approval of the DEIS. Mitigation measures should be identified for the preferred alternative, if applicable.

9.2.1.2.4 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 includes documentation of additional resource agency coordination and consultation, if applicable.

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

Environmental issues should be addressed, to the extent possible, prior to the submission of the FEIS/ROD or FEIS, when warranted. Where not possible, this section should clearly identify any remaining unresolved issues and the efforts taken to resolve the issues.

A new subsection titled “Public Hearing” should be added. This new subsection should include the date, time, and place of the hearing; describe the format 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 to the comments and responses that are in the Appendix.

9.2.1.2.5 Updating the Commitments Section

The Commitments section is updated to include any commitments made by FDOT since the DEIS was prepared. Any new commitments require internal coordination and once coordinated with the appropriate District offices shall be included in the FEIS and transmitted to the next phase of project development in accordance with [Procedure No. 650-000-003, Project Commitment Tracking](#). See [Part 2, Chapter 22, Commitments](#) for more information.

9.2.1.2.6 Updating the Distribution List and the Appendix

The Distribution List is updated to include those who submitted comments on the DEIS. The Appendix should be updated and separated into pre-hearing and post-hearing sections. Any new materials should be added to the post-hearing section, as applicable.

9.2.2 Preparation of the Record of Decision

The ROD summarizes the findings of the FEIS and documents OEM's final decision. It presents the basis for the selected alternative, identifies the mitigation measures that will be incorporated in the project, and documents any required **Section 4(f)** approvals. When submitting the FEIS separately, the District should prepare a DROD for inclusion as a component of the FEIS. The **Record of Decision Cover Page, Form 650-050-28** should be prepared when submitting the ROD separate from the FEIS. It is only prepared as an electronic form in SWEPT. A sample cover page is provided as a visual in [Figure 9-10](#).

See [Figure 9-11](#) for a sample ROD. This format is also used for preparing the ROD for an FEIS/ROD.

9.2.2.1 Combined FEIS and ROD (FEIS/ROD)

A combined FEIS/ROD must meet the requirements of **23 U.S.C. § 139** and be consistent with FEIS and ROD guidance in the **FHWA Technical Advisory T6640.8A**. For instance, the project must meet planning consistency requirements, and, in air quality nonattainment and maintenance areas, comply with conformity regulations under the **Clean Air Act (CAA)** and Environmental Protection Agency (EPA) requirements [**42 U.S.C. § 7506(c)** and **40 CFR Part 93**].

FDOT must combine the FEIS and ROD, to the maximum extent practicable, unless:

1. The FEIS makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or
2. There are significant new circumstances or information relevant to environmental concerns that have a bearing on the proposed action or the impacts of the proposed action.

If OEM determines that a combined FEIS/ROD is not appropriate, the determination must be included in the project file.

When using a combined FEIS/ROD, it is important to consider possible effects on the timing of required coordination under other laws and the need for additional documentation to finalize determinations or findings. Through interagency coordination, agencies should be notified as early as possible that OEM is combining the FEIS and ROD. In situations where FHWA published a notice of availability for the DEIS prior to October 1, 2012, the Districts, in coordination with OEM, should notify agencies, the public, Native American tribes, and other interested parties that FDOT will issue a combined FEIS/ROD unless conditions exist that prevent issuance of a single document. At a minimum, notification should be made prior to publication of a combined FEIS/ROD.

Districts must include the following statement when notifying the parties:

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

When combined, the document must include the content of a FEIS and present the basis for the decision as specified in **40 CFR § 1505.2**, summarize any mitigation measures that will be incorporated in the project, and document any required **Section 4(f)** approval. A legal sufficiency review is required for a combined FEIS/ROD.

The format of the FEIS/ROD should be coordinated with OEM and created as follows:

1. A combined FEIS/ROD document which attaches a ROD to an FEIS, or
2. A combined FEIS/ROD document which includes the ROD in place of the FEIS Executive Summary.

9.2.2.1.1 Applying Errata Sheets and FEIS/ROD to a Project

Errata sheets and the combined FEIS/ROD provisions (**Title 23 U.S.C. § 139**) can be used together, as long as the conditions of both are met. When both provisions are used, the FEIS/ROD will consist of a DEIS, errata sheets, responses to DEIS comments, and a ROD.

9.2.2.2 Separate Approval of the ROD

If a project does not meet the conditions for a combined FEIS/ROD, then the FEIS and ROD are issued and approved separately. The DROD is prepared and generally submitted to OEM for review at the same time the FEIS is sent for approval. In these cases, the FEIS would be approved first and the ROD can only be approved following the 30-day public notice of availability of the FEIS in the **FR**. After the 30-day public notice period, OEM may approve the ROD which constitutes LDCA.

9.2.3 FDOT Document Review Process

The FDOT Document Review Process is provided in [Figure 9-12](#). After preparing the FEIS/ROD or FEIS, the District conducts a quality control review and uses the SWEPT application to complete the **Environmental Document Submittal Form, Form No. 650-050-15** for initial OEM review. The District uploads the FEIS/ROD or FEIS with DROD into the FDOT's Electronic Review and Comment (ERC) application. The public hearing transcript and new materials incorporated by reference must be uploaded into SWEPT.

The Project Delivery Coordinator (PDC) acknowledges the document is complete and ready for review by confirming the **Environmental Document Submittal Form, Form No. 650-050-15** in SWEPT. 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 will provide comments in the ERC. The District will address OEM comments and provide responses in the ERC. The OEM project review team will have a 15-day period to confirm that comments have been addressed. If necessary, the District will schedule a meeting with the project review team to discuss comments.

If there are Cooperating Agencies, the District uploads the FEIS/ROD or FEIS to the Environmental Screening Tool (EST) and initiates the Cooperating Agency review. This review may be concurrent with OEM review. The District may 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 in SWEPT. The PDC has 14 days to confirm that the submittal is complete. Following confirmation from the PDC, the document can advance to OEM Environmental Process Administrator review.

The OEM Environmental Process Administrators have 25 days to recommend the FEIS/ROD or FEIS for approval, which advances the document for Legal Sufficiency review by OGC. Legal Sufficiency Review is required for all FEIS/RODs and FEISs. The Director of OEM or designee approves the FEIS/ROD or FEIS once the **Legal Sufficiency Finding Memo** is received.

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

9.2.4 Actions Taken After Approval of the FEIS/ROD or FEIS

9.2.4.1 FEIS/ROD

Once the FEIS/ROD is approved, the District must provide notification that LDCA has been granted concurrently with the approval of the FEIS/ROD. The FEIS/ROD must also be electronically submitted to EPA using its e-NEPA online tool. The **FR** public notice will not establish a waiting period or period of time for the return of comments on a FEIS/ROD. For a FEIS/ROD, the EIS Comment Due/ Review Period Date should be left blank and the following statement should be included as Supplemental Information:

Per 23 U.S.C. § 139, FHWA has issued a single FEIS and ROD. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

See [Section 9.2.4.2](#) for requirements for submitting documents to e-NEPA. When filed with EPA, the FEIS/ROD must be made available at the District Office. A copy should also be made available at institutions such as local government office, libraries, and schools, as appropriate. It is recommended that project websites or other publicly accessible electronic means be used to make the FEIS/ROD available.

Distribution to Agencies and Stakeholders

The District should share the approved document with the recipients of the DEIS 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 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 DEIS. 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 public hearing notification, informing the public that the project has received LDCA and is being advanced. The District ensures the FEIS/ROD is available upon request by the public. The District should coordinate internally to advance the project as appropriate [e.g., inform Directors, Design Office, Right of Way (ROW) Office, Federal-Aid Office, Office of the Work Program].

9.2.4.2 FEIS

Distribution to Agencies and Stakeholders

After OEM approval of the FEIS, the document is sent through the EST to the Florida State Clearinghouse and the ETAT, which includes the Cooperating Agencies 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 DEIS. 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 needed. A sample transmittal letter is provided in [Figure 9-13](#).

Public Notice of Availability

The District publishes a public notice in the same local newspaper(s) used for public hearing notification before sending an e-NEPA request for the publication of the **Notice of Availability** in the *FR* to EPA (**23 CFR § 771.125**).

All FEISs must be electronically submitted to EPA using its e-NEPA online tool. Only the Environmental Document should be submitted, technical reports are included only by reference.

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- Project Description and 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 the District has completed formatting the document for e-NEPA, they send it to OEM, identifying the Title, Subject, Author, and Keywords for use as metadata for the submittal. OEM submits it to EPA using the e-NEPA online tool. EPA then publishes the **Notice of Availability** of the FEIS in the **FR** for a 30-day comment period (**23 CFR § 771.125**). The District must monitor the **FR** for publication of the notice and upload it to the project file.

When filed with EPA, the FEIS must be available for public review at the District Office. A copy should also be made available for public review at institutions such as local government offices, libraries, and schools, as appropriate. It is recommended that project websites or other publicly accessible electronic means be used to make the FEIS available.

Approval of the ROD

OEM may approve the ROD 30 days after publication of the notice in the **FR**. The District submits the ROD along with the **Environmental Document Submittal Form, Form No.650-050-15** for OEM approval in SWEPT. By approving the ROD, the Director of OEM grants LDCA.

Distribution to Agencies and Stakeholders

The District should share the ROD with the recipients of the FEIS using the EST. An electronic copy of the document is sent to the Florida State Clearinghouse and ETAT, which includes the Cooperating Agencies and Participating Agencies. The District should also send the ROD to other interested state and federal agencies, other stakeholders, and those who submitted substantive comments on the FEIS. 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 needed.

Public Announcement of LDCA

The District must publish an Announcement of LDCA in the same local newspaper(s) used for public hearing notification, informing the public that the project has received LDCA and is being advanced. The District ensures the ROD is available upon request by the public. It is recommended that project websites or other publicly accessible electronic means be used to make the ROD available. The District should coordinate internally to advance the project as appropriate (e.g., inform Directors, Design Office, ROW Office, Federal-Aid Office, Office of the Work Program).

9.2.5 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 **FR** of the agency action(s).

Upon submittal of an FEIS/ROD or FEIS to OEM for review, the District should discuss with OEM and OGC the need for publication of a **Limitation of Claims Notice** under **23 U.S.C. § 139(I)**. In most instances, FEIS/ROD and FEIS documents will require preparation of a **Limitations of Claims Notice**.

The District provides the necessary information for the **Limitations of Claims Notice** to OEM. The OEM will provide FHWA the project information needed to publish the **Limitations of Claims Notice** in the **FR**. Documents submitted to the **FR** must follow guidance from the **June 1, 2017 FHWA Memo, INFORMATION Publication of Documents in the Federal Register**. FDOT must send FHWA three single-sided hard copies of the **Limitations of Claims Notice** for FHWA signature. The submittal should also include an electronic copy of the document (in Word format) on a CD exactly as it appears on the hard copy, a draft cover letter for FHWA use. See [Figure 9-14](#) for a sample draft cover letter to include with these documents.

There may be occasions when associated federal agency approvals [e.g., U.S. Army Corps of Engineers (USACE) permit, U.S. Coast Guard (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 limitation of claims would be published at that time for the subsequent approval.

9.3 REFERENCES

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

FHWA. Memorandum. INFORMATION Publication of documents in the Federal Register. June 1, 2017

FHWA. Technical Advisory T6640.8A. Guidance for Preparing and Processing Environmental and Section 4(f) Documents. October 30, 1987.
https://www.environment.fhwa.dot.gov/legislation/nepa/guidance_preparing_env_documents.aspx

FDOT, Project Commitment Tracking, Procedure No. 650-000-003.
<https://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=650-000-003>

Memorandum of Understanding 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>

Title 23 CFR Part 771, Environmental Impact and Related Procedures

Title 23 U.S.C. § 139(l), Efficient Environmental Reviews for Project Decision Making.

<http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title23-section139&num=0&saved=%7CKHRpdGxIOjIzIHNIY3Rpb246MTM3IGVkaXRpb246cHJlbGltKQ%3D%3D%7C%7C%7C0%7Cfalse%7Cprelim>

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)

9.4 FORMS

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

Final Environmental Impact Statement/Record of Decision Cover Page, Form 650-050-21*

Final Environmental Impact Statement/Record of Decision/Section 4(f) Approval Cover Page, Form 650-050-22*

Final Environmental Impact Statement/Record of Decision/Section 4(f) *de minimis* Approval Cover Page, Form 650-050-23*

Final Environmental Impact Statement Cover Page, Form 650-050-25*

Final Environmental Impact Statement/Section 4(f) Evaluation Cover Page, Form 650-050-24*

Final Environmental Impact Statement/Section 4(f) *de minimis* Approval Cover Page, Form 650-050-26*

Final Supplemental Environmental Impact Statement Cover Page, Form 650-050-27*

[Planning Requirements for Environmental Document Approvals Form, Form 650-050-41](#)

Record of Decision Cover Page, Form 650-050-28*

*To be completed in [SWEPT](#)

9.5 HISTORY

11/25/2002, 1/31/2007, 1/5/2009, 7/12/2011, 2/3/2014, 7/15/2016, 6/14/2017: NEPA Assignment

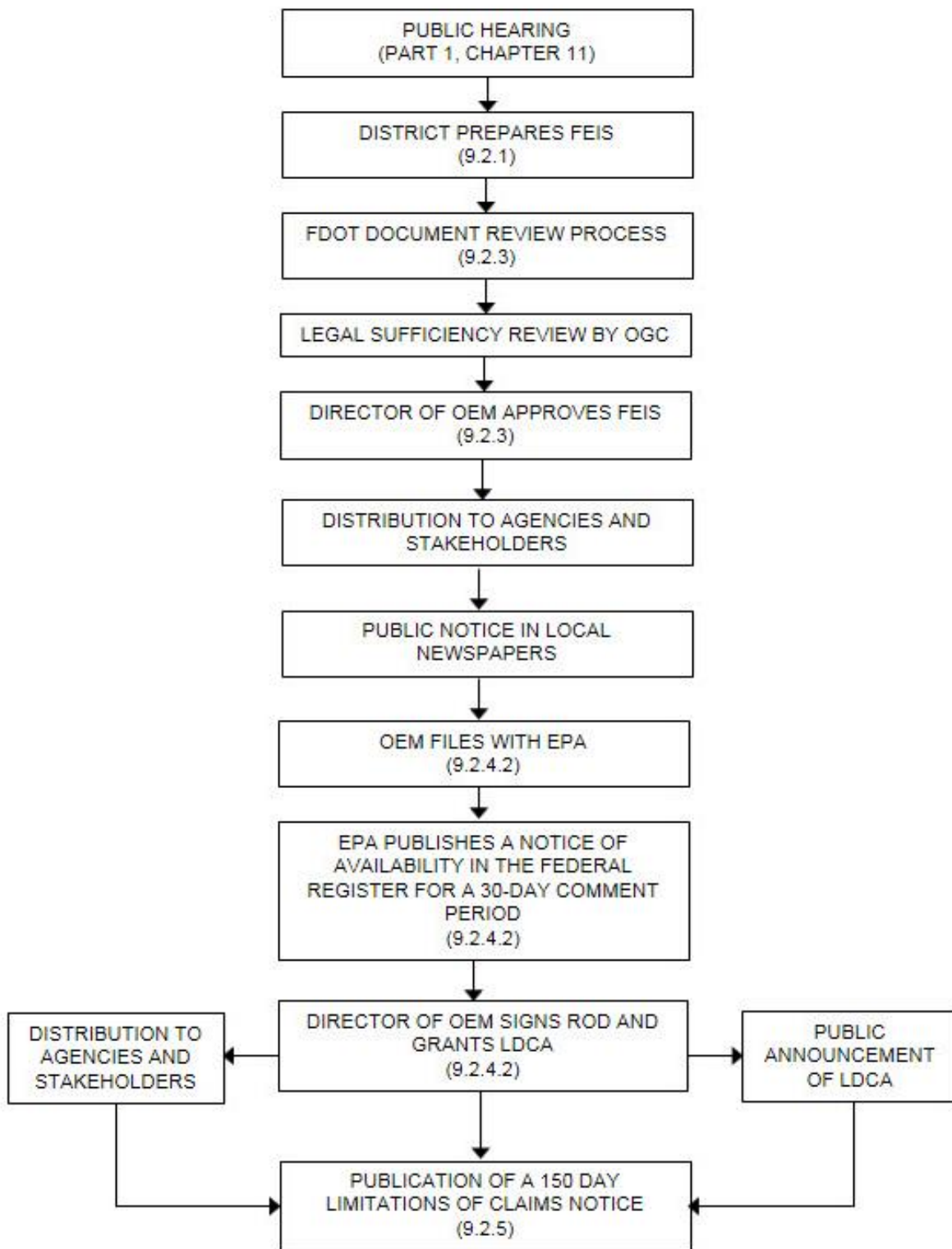


Figure 9-1 Final Environmental Impact Statement Process

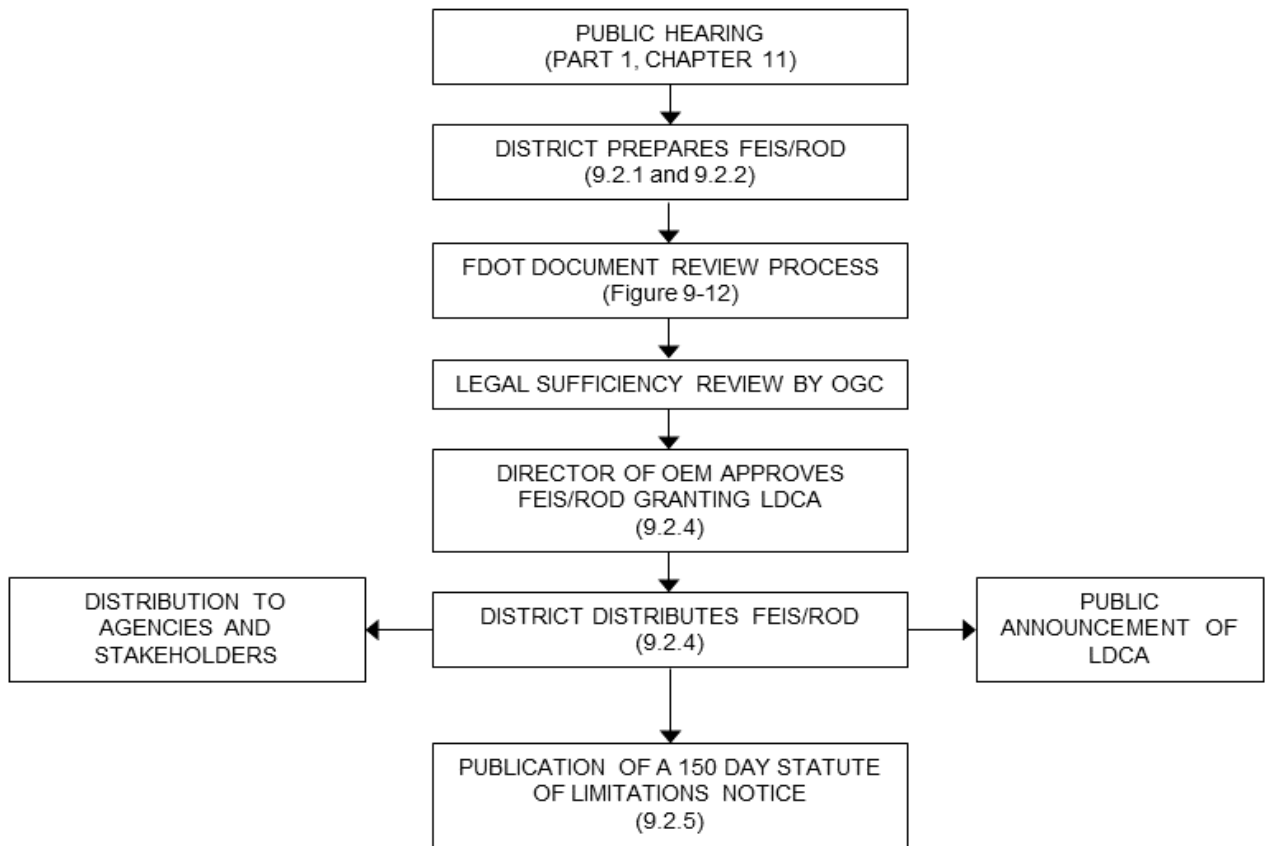


Figure 9-2 FEIS/ROD Process

FHWA-FLA-EIS-YR-##-F
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION

FINAL ENVIRONMENTAL IMPACT STATEMENT/RECORD OF DECISION

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

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
FDOT Efficient Transportation Decision Making Number: xxxxx
route, limits, County, Florida

(One paragraph abstract 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.

Submitted pursuant to 42 U.S.C. § 4332(2)(c).

___ / ___ / ___
Date

Director, Office of Environmental Management
Florida Department of Transportation

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 9-3 Final Environmental Impact Statement/Record of Decision Sample
Cover Page**

FHWA-FLA-EIS-YR-##-F
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION

FINAL ENVIRONMENTAL IMPACT STATEMENT/RECORD OF DECISION
SECTION 4(f) APPROVAL

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

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
FDOT Efficient Transportation Decision Making Number: xxxxx
route, limits, County, Florida

XXXXXXXXXXXXXXXXXXXX(One paragraph abstract of the project)XXXXXXXXXXXXXXXXXXXX

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 December 14, 2016 and executed by FHWA and FDOT.

Based upon considerations herein, it is determined that there is no feasible and prudent alternative to the use of land from the (name of Section 4(f) property), contributing resources to the (name of Section 4(f) property) and that the proposed action includes all possible planning to minimize harm to the Section 4(f) property resulting from such use.

Submitted pursuant to 42 U.S.C. § 4332(2)(c) and 49 U.S.C. § 303.

___ / ___ / ___
Date

Director, Office of Environmental Management
Florida Department of Transportation

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 9-4 Final Environmental Impact Statement/Record of Decision/Section 4(f)
Approval Sample Cover Page**

FHWA-FLA-EIS-YR-##-F
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION

FINAL ENVIRONMENTAL IMPACT STATEMENT/RECORD OF DECISION
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)
FDOT Efficient Transportation Decision Making Number: xxxxx
route, limits, County, Florida

(One paragraph abstract of the project)

XX
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 FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c) and 49 U.S.C. § 303.

___ / ___ / ___
Date

Director, Office of Environmental Management
Florida Department of Transportation

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, FL 32399
Phone: (xxx) xxx-xxxx
Email address

**Figure 9-5 Final Environmental Impact Statement/Record of Decision/Section 4(f)
de minimis Approval Sample Cover Page**

FHWA-FLA-EIS-YR-##-F
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION
FINAL ENVIRONMENTAL IMPACT STATEMENT

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

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
FDOT Efficient Transportation Decision Making Number: xxxxx
route, limits, County, Florida

(One paragraph abstract 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 FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c).

____ / ____ / ____
Date

Director, Office of Environmental Management
Florida Department of Transportation

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

Comments must be received by the District contact person

By: _____(date)_____

Figure 9-6 Final Environmental Impact Statement Sample Cover Page

FHWA-FLA-EIS-YR-##-F
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION
FINAL ENVIRONMENTAL IMPACT STATEMENT/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)
FDOT Efficient Transportation Decision Making Number: xxxxx
route, limits, County, Florida

XXXXXXXXXXXXXXXXXXXX(One paragraph abstract of the project)XXXXXXXXXXXXXXXXXXXX

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 December 14, 2016 and executed by FHWA and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c) and 49 U.S.C. § 303.

___ / ___ / ___
Date

Director, Office of Environmental Management
Florida Department of Transportation

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

Comments must be received by the District contact person

By: _____(date)_____

**Figure 9-7 Final Environmental Impact Statement/Section 4(f) Evaluation Sample
Cover Page**

FHWA-FLA-EIS-YR-##-F
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION
FINAL ENVIRONMENTAL IMPACT STATEMENT/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)
FDOT Efficient Transportation Decision Making Number: xxxxx
route, limits, County, Florida

(One paragraph abstract 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 FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c) and 49 U.S.C. § 303.

____ / ____ / ____
Date

Director, Office of Environmental Management
Florida Department of Transportation

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

Comments must be received by the District contact person

By: _____(date)_____

**Figure 9-8 Final Environmental Impact Statement/Section 4(f) *de minimis*
Approval Sample Cover Page**

FHWA-FLA-EIS-YR-##-FS
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION
FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT

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

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
FDOT Efficient Transportation Decision Making Number: xxxxx
route, limits, County, Florida

(One paragraph abstract 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 FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c).

____ / ____ / ____
Date

Director, Office of Environmental Management
Florida Department of Transportation

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

Comments must be received by the District contact person

By: _____(date)_____

Figure 9-9 Final Supplemental Environmental Impact Statement Sample Cover Page

ADMINISTRATIVE ACTION

RECORD OF DECISION

for FHWA-FLA-EIS-YR-##-F

FLORIDA DEPARTMENT OF TRANSPORTATION

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
FDOT Efficient Transportation Decision Making Number: xxxxx
route, limits, County, Florida

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.

Based on the enclosed reasons, and upon consideration of all the social, economic, and environmental evaluations contained in the FEIS, with the input received from other agencies, organizations, and the public; the FDOT has determined that the FEIS preferred alternative (____), namely ____ is hereby the selected alternative. It is the decision of the FDOT to adopt this alternative as the selected alternative for this project, and grant Location and Design Concept Acceptance.

___ / ___ / ___
Date

Director, Office of Environmental Management
Florida Department of Transportation

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

Figure 9-10 Record of Decision Sample Cover Page

Record of Decision

Name of Project

State Road No.: _____
Financial Management No.: _____
Federal Aid Project No.: _____
County: _____
Description: _____

This is the Record of Decision (ROD) for the above referenced project proposed by the Florida Department of Transportation (FDOT) and further identified in the _____ Long Range Transportation Plan (LRTP), as adopted. The purpose and need for this project includes _____. This ROD is for the _____ Environmental Impact Statement (EIS) which is hereby incorporated by reference or attached.

Decision

The FDOT in accordance with the National Environmental Policy Act (NEPA) and associated laws, regulations, and orders, proposes the construction of _____. The selected alternative is _____. The _____ mile project will begin at _____ and will connect with _____. The location map for the selected alternative can be viewed on page _ of this ROD.

Background

Public Information meetings were held on _____
The public hearing was held on _____

Alternatives

All alternatives, including the No-Action, were evaluated. A detailed discussion of the alternatives considered is included in the referenced EIS.

No-Action (No-Build) Alternative

The No-Action alternative was evaluated as a possible alternative to the proposed project...

Transportation System Management and Operations Alternative

Transportation System Management and Operations (TSM&O) alternatives were evaluated as a possible alternative...

Build Alternatives

Selected Alternative

Figure 9-11 Record of Decision

Section 4(f) (If applicable)

Major Issues Considered

Measures to Minimize Harm

This project incorporates all practical measures to avoid or minimize environmental harm. Although some impacts will occur, every effort will be made to minimize impacts through the institution of feasible measures applicable to each situation. Specific commitments have been made regarding...

Monitoring Program (If applicable)

The FDOT District _____ has made commitments to advance the project. These commitments are tracked in accordance with FDOT's Project Commitment Tracking Procedure, Topic No. 650-000-003.

Through the Re-evaluation process the project is kept current, commitments are updated, permits are identified, and project changes are addressed. Required permits may include conditions for mitigation for impacts, monitoring and compliance measures.

Comments on Final Environmental Impact Statement (Not for FEIS/ROD documents)

The FEIS notice of availability was published in the Federal Register on _____, with a request that comments be postmarked by _____. The FDOT has taken into consideration all pertinent correspondence, documents, and technical reports postmarked through _____. FDOT has responded to all substantive comments received from interested parties regarding the content and accuracy of the FEIS and supporting studies for identification of the preferred alternative.

Summary of Comments and Responses Concerning the FEIS

Include a matrix addressing comments

Conclusion

For the foregoing reasons, and based upon consideration of all the social, economic, and environmental evaluations contained in the FEIS, with the input received from other agencies, organizations, and the public; the FDOT has determined that the FEIS preferred alternative (_____), namely _____ is hereby the selected alternative. It is the decision of the FDOT to adopt this alternative as the selected alternative for this project, and grant Location and Design Concept Acceptance.

Name
Director, Office of Environmental Management

Date

Figure 9-11 Record of Decision (Page 2 of 2)

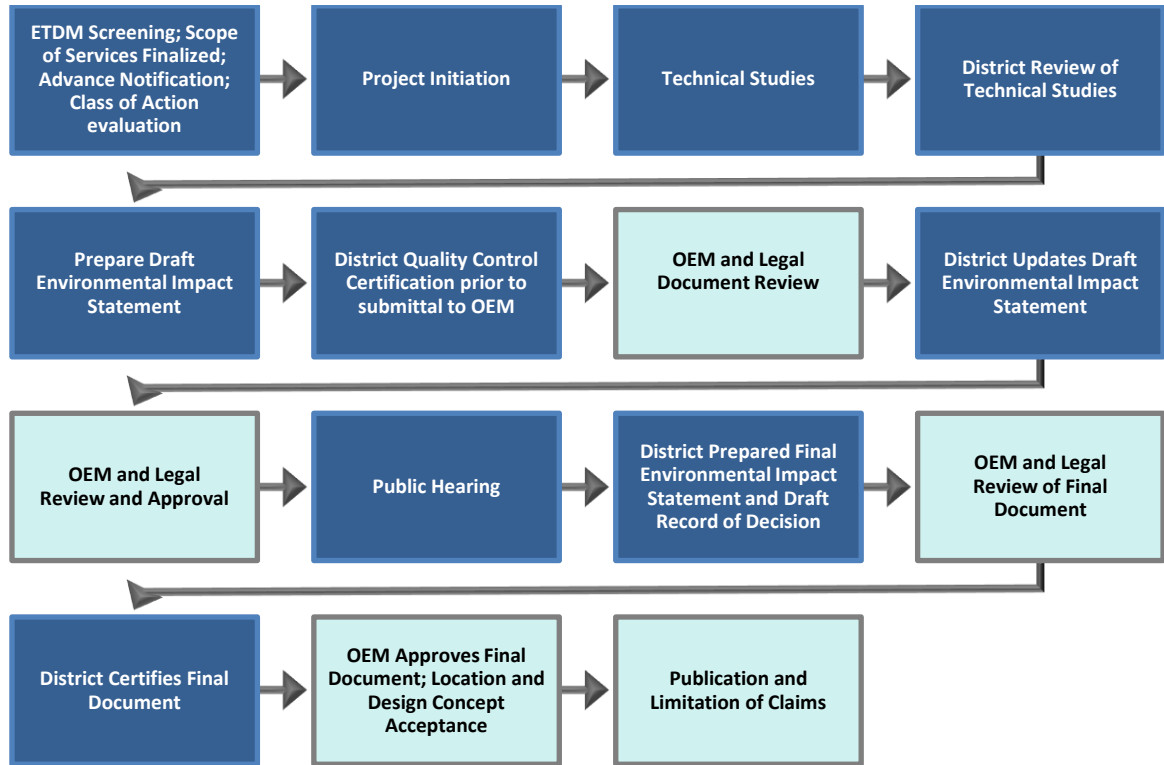


Figure 9-12 FDOT Document Review Process for Environmental Impact Statements

(DATE)

(FEDERAL, STATE, TRIBE, OR LOCAL AGENCY)
(ADDRESS)

Subject: Final Environmental Impact Statement
(PROJECT NAME)
Financial Management Number XXXXX-XXXX
Federal-Aid Project No. X-XXX(X)-X
(NAME OF COUNTY), Florida

Dear Mr./Ms.:

Pursuant to the National Environmental Policy Act of 1969, the Florida Department of Transportation is transmitting the Final Environmental Impact Statement as approved by the Office of Environmental Management. The review period for this document closes 30 days from posting on the Federal Register through e-NEPA (<http://www.epa.gov/compliance/nepa/eisdata.html>).

Sincerely,

District Environmental Office

Enclosures

cc: OEM / without enclosure

Figure 9-13 Sample Transmittal Letter for FEIS Distribution



U.S. Department
of Transportation

1200 New Jersey Ave S.E.
Washington, D.C. 20590

**Federal Highway
Administration**

(Insert Date)

(insert Director Name)
Director, Office of the Federal Register
7 G Street NW
Suite A-734
Washington, DC 20401

Dear (insert Director Name):

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

We ask that you file for public inspection this Notice on (insert month, day, year), and publish it in the Federal Register on (insert month, day, year).

Please call me at (insert phone number) to confirm the publication date and if you have any questions or concerns.

Sincerely yours,

(Insert Name)
(Insert Title)
FHWA-Florida Division

Enclosures

bc: (insert initials), file

Figure 9-14 Sample Limitations of Claims Cover Letter