

FLORIDA DEPARTMENT OF TRANSPORTATION

# PROJECT DEVELOPMENT & ENVIRONMENT MANUAL

Part 1: Process and Documentation



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# **PART 1, CHAPTER 1**

## **INTRODUCTION**

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## PART 1, CHAPTER 1

### INTRODUCTION

#### 1.1 PURPOSE

The process outlined in the [Project Development and Environment \(PD&E\) Manual](#) is the Florida Department of Transportation's (FDOT's) procedure for complying with the **National Environmental Policy Act (NEPA) of 1969, Title 42 United States Code (U.S.C.) § 4321, et seq.**, and associated federal and state laws and regulations. The [PD&E Manual](#) provides project analysts and Project Managers a framework for the consistent development of analysis, technical studies, and Environmental Documents for transportation projects to achieve compliance with federal and state laws, regulations, and requirements. The [PD&E Manual](#) also serves as FDOT's standard policies and procedures, supporting quality control and quality assurance in project development.

Pursuant to **23 U.S.C. § 327** and the implementing Memorandum of Understanding (MOU) executed on December 14, 2016, the FDOT has assumed and Federal Highway Administration (FHWA) has assigned its responsibilities under **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).

#### 1.2 AUTHORITY

**Sections 20.23(3)(a) and 334.048(3), Florida Statutes (F.S.)**

#### 1.3 REFERENCES

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.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/executed-fdot-nepa-assignment-mou-2016-1214.pdf?sfvrsn=fe9a018f\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/executed-fdot-nepa-assignment-mou-2016-1214.pdf?sfvrsn=fe9a018f_0)

National Environmental Policy Act of 1969 (Title 42 U.S.C. § 4321, et seq.)

Title 23 CFR Part 771 - Environmental Impact and Related Procedures

Title 23 U.S.C., Highways

## 1.4 SCOPE

This **Manual** is intended for use by FDOT Project Managers, environmental staff, and environmental practitioners, who conduct work on behalf of FDOT. The **PD&E Manual** is used by all FDOT program areas, including OEM, Office of General Counsel (OGC), District Environmental Offices [District Environmental Management Offices (DEMOs), and Planning and Environmental Management Offices (PLEMOs)], District Planning, District Design, District Right of Way (ROW), and District Construction Offices as well as their Central Office counterparts. **PD&E Manual** users outside of FDOT include consultants and other state agencies, such as the Florida Department of Environmental Protection (FDEP), State Historic Preservation Officer (SHPO), Department of Economic Opportunity (DEO), Florida Fish and Wildlife Conservation Commission (FWC), and the FHWA Florida Division.

## 1.5 BACKGROUND

On November 21, 1991, the Secretary of FDOT approved **Procedure Number 650-000-001 (Chapter 1)**, establishing the use of the **PD&E Manual** for project development purposes. The approved procedure also established the process for modifying and updating the **PD&E Manual**. OEM is responsible for maintaining this **Manual**.

The **PD&E Manual** is comprised of two volumes (**Parts 1 and 2**) and is the primary resource for addressing the environmental requirements associated with planning, developing, and delivering highway projects. The **PD&E Manual** is a compilation of environmental procedures and processes related to cultural, natural, social, and physical resources. The **PD&E Manual** provides project analysts and Project Managers with information necessary to develop projects that comply with federal and state laws.

The **PD&E Manual** is designed to work in conjunction with FDOT handbooks, guidance documents and design criteria that are used in FDOT's project delivery process. The **PD&E Manual** aids project analysts and Project Managers in understanding various aspects of the environmental review processes which occur throughout the planning, PD&E, design, and construction phases. The **PD&E Manual** provides support and direction in various technical areas, including engineering analysis and environmental documentation, permitting, and public involvement. This **Manual** also provides analysts and Project Managers guidance for completing the environmental review process for state, local, and privately funded projects.

As used herein, the term "environmental review process" means the process of preparing an Environmental Impact Statement (EIS), Environmental Assessment (EA), Categorical Exclusion (CE), or other document prepared under **NEPA**, and the process of permitting a project under any state or federal law other than **NEPA**.

By using this **Manual**, project analysts and Project Managers can produce consistent technical and environmental documents, meeting the requirements of **NEPA** and other related federal and state laws, rules, and regulations. Following the procedures in this **Manual** guides projects from the planning phase to construction through sound environmental and engineering practices and decisions.

## 1.6 DISTRIBUTION

The [PD&E Manual](#) is available online through the **OEM Website**: <https://www.fdot.gov/environment/default.shtm>.

[PD&E Manual](#) users can register to receive notification of manual updates, revisions and OEM Bulletins online through the FDOT Contact Management at:

<https://fdotewp1.dot.state.fl.us/ContactManagement/Utilities/login.aspx?ReturnUrl=%2fContactManagement>.

## 1.7 REVISIONS

While OEM has the ultimate responsibility for the development of, and updates to, this **Manual**, this responsibility is exercised in collaboration with the Districts. OEM regularly evaluates and updates the [PD&E Manual](#) in response to changing environmental requirements, standards, and policies consistent with the procedures established by FDOT's Policy and Process Management Unit. Additionally, OEM evaluates and updates the **Manual** based on the last revision date, currency of information, District-identified issues or suggested modifications, changes in other FDOT Manuals, or changes in federal or state law, rule, policy or guidance.

Chapters are reviewed annually by OEM. OEM identifies chapters requiring revisions and updates the chapters over the course of the year. As chapters are updated, they are checked for consistency and for opportunities to clarify, simplify, and focus process and procedures.

Updates that require immediate implementation will be made with the approval of the Director of the OEM in the form of an OEM Bulletin. Bulletins affecting the [PD&E Manual](#) remain valid until the **Manual** is revised.

Any changes to **Part 1, Chapter 1, Introduction**, of the [PD&E Manual](#), are approved by Executive Management through the process established in [Procedure No. 025-020-002, Standard Operating System](#).

## 1.8 HISTORY

10/25/2001, 6/27/2007: Pen & Ink to move History explanation to Background,  
7/29/2009: Pen and Ink to clarify the **PD&E Manual** update process, 6/17/2016,  
6/14/2017: NEPA Assignment, 1/14/2019

## 1.9 TRAINING

Training courses pertaining to topics in this **Manual** are provided in FDOT's Learning Curve system. It is recommended that staff preparing Environmental Documents or performing environmental review tasks take these training courses. PD&E Process Training is required for LAP agency certification.

## 1.10 FORMS

Forms required by this **Manual** are identified in applicable chapters. Links are provided in the [PD&E Manual](#) where applicable, for electronic forms that are available through the Policy and Process Management Unit website.

## **PART 1, CHAPTER 2**

# **CLASS OF ACTION DETERMINATION FOR FEDERAL PROJECTS**

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## PART 1, CHAPTER 2

# CLASS OF ACTION DETERMINATION FOR FEDERAL PROJECTS

### 2.1 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).

The Council on Environmental Quality (CEQ) promulgated regulations in **40 Code of Federal Regulations (CFR) parts 1500-1508** to implement **NEPA**. These regulations provide that the Environmental Document [Environmental Impact Statement (EIS)/Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion (CE)] serves as the administrative record of compliance with the policies and procedures of **NEPA** and other environmental statutes and executive orders. The [Project Development and Environment \(PD&E\) Manual, Topic No. 650-000-001](#) is used by FDOT to develop or assist in the processing of an Environmental Document. Adherence to the [PD&E Manual, Topic No. 650-000-001](#) assures compliance with **NEPA**, its implementing regulations, and other related environmental laws. Throughout the [PD&E Manual](#), the process for preparing the Environmental Document for Type 2 CEs, Environmental Assessments (EAs), and EISs is referred to as the PD&E Study.

The Class of Action (COA) Determination identifies the level of documentation required for a federal project. A federal project is one which requires federal funding or constitutes a federal action. The COA Determination is made in consultation with OEM for EAs, EISs, and Type 2 CEs. OEM has assumed the role and responsibility of FHWA in determining the COA of federal highway actions, serving as the Lead Federal Agency. For determining the COA for Federal Transit Administration (FTA) projects, see [Part 1, Chapter 14, Transit Project Delivery](#).

OEM has assumed the role of FHWA for LAP projects. The District Environmental Offices [District Environmental Management Office (DEMO), Planning and Environmental

Management Offices (PLEMO)] provide oversight and will be the liaison for LAP projects. To be considered a LAP project, funding must already be programmed in the State Transportation Improvement Program (STIP)/Transportation Improvement Program (TIP). LAP projects are developed by a local agency that has received federal funds and is certified by FDOT (per [FDOT LAP Manual, Topic No. 525-010-300](#)) to administer FHWA federal-aid projects. LAP projects and those maintaining federal funding eligibility must follow the procedures in this Manual for the preparation of environmental documentation.

When one of the following conditions exists, a project is considered a federal action, and therefore must comply with **NEPA**:

1. Federal funds or assistance is or is expected to be used during any phase of project development or implementation;
2. Federal funding or assistance eligibility is being maintained for subsequent phases;
3. Consultation with the federal permitting agency results in the determination that an FDOT **NEPA** document (rather than the federal permitting agency using a State Environmental Impact Report as the basis of their **NEPA** document) is required to support the permit [e.g., U.S. Coast Guard (USCG) bridge permit, U.S. Army Corps of Engineers (USACE) **Section 404** permit]; or
4. Federal approval of an action is required [e.g., change in Interstate access control, use of Interstate Right of Way (ROW)].

There are three classes of actions defined in **23 CFR § 771.115** which establish the level of documentation required in the **NEPA** process.

1. EIS (Class I) - This COA applies to actions that significantly affect the environment as defined by CEQ regulations. The types of actions which normally require an EIS are:
  - a. A new controlled-access freeway;
  - b. A highway project of four or more lanes on new location;
  - c. Construction or extension of a fixed rail transit facility (e.g., rapid rail, light rail, commuter rail, bus rapid transit) that will not be located primarily within an existing transportation right of way; or
  - d. New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing transportation right of way.

2. CE (Class II) - This COA applies to actions that do not individually or cumulatively have a significant environmental effect. These actions **do not**:
  - a. Induce significant impacts to planned growth or land use for an area;
  - b. Require the relocation of significant numbers of people;
  - c. Have a significant impact on any natural, cultural, recreational, historic, or other resources;
  - d. Involve significant air, noise, or water quality impacts;
  - e. Have significant impacts on travel patterns; or
  - f. Either individually or cumulatively, have any significant environmental impacts

**CEs are exempt from the requirements to prepare an EA or EIS.**

3. EA (Class III) - This COA is assigned to actions in which the significance of the environmental impact is not clearly established. All actions that are not Class I or Class II are Class III. All actions in this class require the preparation of an EA to determine the appropriate environmental documentation required.

The term significant as used in **NEPA** is described in **40 CFR § 1508.27**, and requires consideration of both context and intensity (see insert). In many cases, the determination of significance will be obvious because of the absence of resources or because the proposed action does not impact resources. In other cases, the degree to which the project may affect a resource will need to be considered. Consideration of these types of effects should be done in consultation with District environmental staff, specific resource agencies as appropriate, and OEM.

FDOT recognizes two types of CEs: Type 1 and Type 2 CEs. Type 1 CEs are those listed in **23 CFR § 771.117(c)** and identified in **23 CFR § 771.117(d)** and listed in [Section 2.2.2.1](#). For all projects not listed as a Type 1 CE, the District must consult with OEM to determine the appropriate COA. If the project qualifies for screening, then it should be screened through FDOT's Efficient Transportation Decision Making (ETDM) process according to the [ETDM Manual, Topic No. 650-000-002](#).

**The determination of significance per NEPA requires considerations of both context and intensity:**

**Context:** Context refers to the geographic, physical, natural, economic, and social settings of the action.

**Intensity:** This refers to the severity or degree of impact. The severity of the impacts must be viewed in both the larger and smaller contexts applicable to the action.

**See 40 CFR 1508.27 for more detail**

ETDM is FDOT's process to engage other agencies and the public early in project development. The decision of whether a project is entered into the Environmental Screening Tool (EST) is based on a qualifying project type and the conditions illustrated in the ETDM Screening Matrix for Qualifying Projects in [Figure 2-1](#).

Roadway project types qualifying for EST screening include:

1. Additional through lanes which add capacity to an existing road;
2. A new roadway, freeway or expressway;
3. A highway which provides new access to an area;
4. A new or reconstructed arterial highway (e.g., realignment);
5. A new circumferential or belt highway that bypasses a community;
6. Addition of interchanges or major interchange modifications to a completed freeway or expressway (based on coordination with OEM); or
7. A new bridge which provides new access to an area, bridge replacements (e.g., non-Type 1 CE).

FDOT must complete the Programming Screen in the EST for all transportation projects described above before making a COA determination. During the Programming Screen, each qualifying project is reviewed by appropriate FDOT personnel (i.e., project manager, environmental specialist, design and drainage staff), Environmental Technical Advisory Team (ETAT) and OEM (see FDOT's [ETDM Manual, Topic No. 650-000-002](#)). The District should coordinate with OEM prior to submitting a COA determination for approval. A District may choose to do additional studies or coordination prior to making the COA determination and submitting it for approval. The **Final Programming Screen Summary Report** documents the COA determination and type of environmental analyses needed.

## 2.2 PROCEDURE

Once a federal action is established ([Section 2.2.1](#)), the next step is to determine if FDOT is the Lead Federal Agency. Once this is determined, the project should be screened through the EST or prepared as a Type 1 CE, as discussed in [Section 2.2.2.1](#). For projects qualifying for EST screening, the COA is typically determined in the ETDM Programming Screen ([Section 2.2.4](#)); however, in certain circumstances the District may decide to delay the COA determination until additional analysis is completed. The COA determination process for federal projects is summarized in [Figure 2-2](#).

## 2.2.1 Determination of Federal Action

Prior to initiating PD&E, the District must determine whether a project is going to be processed as a federal or state project. Projects involving a federal action, federal funds (including LAP), federal permits, or that are maintaining federal eligibility, must be processed in accordance with the procedures in the [PD&E Manual, Topic No. 650-000-001 \(Section 2.1\)](#).

Information related to funding type can be found in the Long Range Transportation Plan (LRTP), TIP and STIP depending on the project. If the project is not identified in those plans or programs, then steps should be taken to fulfill FHWA's planning consistency requirements. The status must be included in the Environmental Document. This information is included in the planning consistency form located in [Part 1, Chapter 4, Project Development Process](#) and for Type 2 CEs, the [Type 2 Categorical Exclusion Determination Form](#), discussed in [Part 1, Chapter 5, Type 2 Categorical Exclusion](#). FHWA planning consistency requirements must be satisfied prior to requesting Location and Design Concept Acceptance (LDCA) from OEM. More information on FHWA's planning consistency requirements can be found in [Part 1, Chapter 4, Project Development Process](#).

### 2.2.1.1 Statewide Acceleration Transformation

All state and federally funded projects are evaluated through the Statewide Acceleration Transformation (SWAT) process to determine project parameters for funding, scope of work, and scheduling. The SWAT process promotes and enhances communication and collaboration within District offices when projects are evaluated for inclusion in the Tentative Work Program. As further described in the [FDOT SWAT Training Workbook](#) and [Part 1 Chapter 4, Project Development Process](#), the SWAT team's COA considerations are facilitated through review of ETDM Screening results and other information, as available, and completion of the SWAT scoping forms.

### 2.2.2 Categorical Exclusions

A CE is a project which, based upon past experience with similar actions, does not individually or cumulatively have a significant environmental effect, and is excluded from the requirement to prepare an EA or an EIS. The definition of CE in **40 CFR § 1508.4** and **23 CFR § 771.117** provides further guidance for projects where FDOT has assumed responsibilities from FHWA. CE determinations only apply to projects with a federal action. Generally, CEs are flexible documents that can vary based on the level of coordination and documentation needed to support the determination that an EA or EIS is not needed.

For a project to be classified as a CE, it must meet the definition for CEs contained in **40 CFR § 1508.4** and meet certain criteria contained in **23 CFR § 771.117(a)**, listed below. The criteria must be met and documented as appropriate before a CE determination can be made. It must be sufficiently evident that projects:

1. Do not involve significant environmental impacts;
2. Do not induce significant impacts to planned growth or land use for the area;
3. Do not require the relocation of significant numbers of people;
4. Do not have a significant impact on any natural, cultural, recreational, historic, or other resource;
5. Do not involve significant air, noise, or water quality impacts;
6. Do not have significant impacts on travel patterns; or
7. Do not otherwise, either individually or cumulatively, have any significant environmental impacts.

In unusual circumstances, provided in **23 CFR § 771.117(b)**, a project normally classified as a CE will require coordination with or a finding from OEM to determine if the CE classification is appropriate. FDOT may decide or OEM may require additional studies be performed prior to making a CE approval. These unusual circumstances may include:

1. Significant environmental impacts;
2. Substantial controversy on environmental grounds;
3. Significant impact on properties protected by **Section 4(f)** of the **U.S. Department of Transportation (USDOT) Act** or **Section 106** of the **National Historic Preservation Act (NHPA)**; or
4. Inconsistency with any federal, state, or local law, requirement, or administrative determination relating to environmental aspects of the action.

For CE projects, the level of detail required to support the determination depends upon the magnitude of environmental impacts and the particular circumstances. Since projects classified as CEs are generally minor in nature and have less than significant impacts, indirect and cumulative impacts assessments will generally not be warranted. There may be exceptions, which can be evaluated on a case-by-case basis.

FDOT recognizes two types of CEs:

1. **Type 1 CE:** applies to projects or actions listed in **23 CFR § 771.117(c)** or identified in **23 CFR § 771.117(d)**
2. **Type 2 CE:** actions, which do not have significant effects based on past experience and therefore qualify as CEs, but require documentation and approval to support the determination that an EA or EIS is not needed. The decision requires

consultation with and approval from OEM (see [Part 1, Chapter 5, Type 2 Categorical Exclusion](#)).

Type 1 CEs are not typically screened in the EST; however, the EST may be utilized to view GIS data layers applicable to the project without initiating ETAT review. On occasion, an EST screened project may result in a COA determination of Type 1 CE based on consultation with OEM.

This section outlines the process used to confirm the validity of the CE determination and the required documentation for those projects.

### 2.2.2.1 Type 1 Categorical Exclusions

The District is authorized to determine whether a proposed action is a Type 1 CE if the action is listed in **23 CFR § 771.117(c)** or identified in **23 CFR § 771.117(d)**. **Subsections 771.117(c)26, (c)27 and (c)28**, must also satisfy the criteria in **subsection 771.117(e)** (listed in [Section 2.2.2.1.3](#)) to qualify as a Type 1 CE. These actions normally do not require any further **NEPA** approvals by OEM.

A Type 1 CE determination is made using a **Type 1 Categorical Exclusion Checklist** in the StateWide Environmental Project Tracker (SWEPT) (see [Figure 2-4](#) and [Section 2.2.2.1.4](#)). The checklist is completed to determine if the project meets the criteria of **23 CFR § 771.117(c)** or **(d)**. If the project meets the criteria, the project is a Type 1 CE and this checklist constitutes the **NEPA** document. If the project does not meet the checklist criteria, coordination occurs with OEM as appropriate. This may require screening the project in the EST, completing a technical study to assess the impact to particular resources, coordination with a resource agency or the public, and/or the preparation of a Type 2 CE.

#### 2.2.2.1.1 Actions listed in 23 CFR 771.117(c)

The following actions are listed in **23 CFR 771.117(c)** and meet the criteria for CEs in the CEQ regulations and **23 CFR § 771.117(a)** and normally do not require any further **NEPA** approvals by OEM. This list includes additional clarification and flexibility in the use of CEs under **23 CFR § 771.117(c)** as provided in **FHWA Informational Memos: Additional Flexibilities in Categorical Exclusions**, dated May 22, 2017 and June 12, 2018.

1. Activities which do not involve or lead directly to construction, such as planning and research activities; grants for training; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and federal-aid system revisions which establish classes of highways on the federal-aid highway system.
2. Approval of utility installations along or across a transportation facility. The replacement of existing utility powerline poles for overhead utilities and installation of new poles are considered approval of utility installation projects.



3. Construction of bicycle and pedestrian lanes, paths, and facilities.
4. Activities included in the **State's Highway Safety Plan** under **23 U.S.C. § 402**.
5. Transfer of federal lands pursuant to **23 U.S.C. § 107(d)** and/or **23 U.S.C. § 317** when the land transfer is in support of an action that is not otherwise subject to FHWA (OEM as Assigned) review under **NEPA**.
6. The installation of noise barriers, or alterations, to existing publicly owned buildings to provide for noise reduction.
7. Landscaping.
8. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
9. The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the **Robert T. Stafford Act (42 U.S.C. § 5121)**:
  - a. Emergency repairs under **23 U.S.C. § 125**; and
  - b. The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action:
    - i. Occurs within the existing ROW and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and
    - ii. Is commenced within a 2-year period beginning on the date of the declaration.
10. Acquisition of scenic easements.
11. Determination of payback under **23 U.S.C. § 156** for property previously acquired with federal-aid participation.
12. Improvements to existing rest areas and truck weigh stations.

13. Ride-sharing activities.
14. Bus and rail car rehabilitation.
15. Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.
16. Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.
17. The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.
18. Track and railbed maintenance and improvements when carried out within the existing ROW.
19. Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.
20. Promulgation of rules, regulations, and directives.
21. Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system, to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. Examples include, but are not limited to, traffic control and detector devices, lane management systems, electronic payment equipment, automatic vehicle locaters, automated passenger counters, computer-aided dispatching systems, radio communications systems, dynamic message signs, and security equipment including surveillance and detection cameras on roadways and in transit facilities and on buses.
22. Projects, as defined in **23 U.S.C. § 101**, that would take place entirely within the existing operational ROW. Existing operational ROW means all real property interests acquired for the construction, operation, or mitigation of a project. This area includes the features associated with the physical footprint of the project including but not limited to the roadway, bridges, interchanges, culverts, drainage, clear zone, traffic control signage, landscaping, and any rest areas with direct access to a controlled access highway. This also includes fixed guideways, mitigation areas, areas maintained or used for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transportation power substations, transportation venting structures, and transportation maintenance facilities. Bridge removal may be a component of a bridge replacement project under this CE if the bridge is not

replaced. This CE includes widening and improving existing transportation facilities by adding through lanes that add capacity within the existing operational ROW. It should be noted that if adding capacity, a public hearing is required by **Section 339.155, Florida Statutes (F.S.)**. Refer to [Part 1, Chapter 11, Public Involvement](#). This CE can also include restoration, rehabilitation, or replacement of retaining walls within the existing operational ROW. Restoration, rehabilitation, or replacement of culverts, inlets, drainage pipes, and systems can be under this CE when done within an existing operational ROW. Clarification on other actions [listed under (d)] that may be considered under this CE when the project is located within the existing operational ROW include 1) Transportation corridor fringe parking facilities; 2) Construction of new truck weigh stations or rest areas; and 3) Approvals for joint or limited use of ROW, when the use is within the existing operational ROW.

23. Federally-funded projects:

- a. That receive less than \$5,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor. See **FHWA's Environmental Review Toolkit** for the current figures) of Federal funds. This includes highway project actions, regardless of location within or outside a highway ROW. Clarification on other actions [listed under (d)] that may be considered under this CE include 1) Transportation corridor fringe parking facilities; 2) Construction of new truck weigh stations or rest areas; and 3) Approvals for joint or limited use of ROW, when the use is within the existing operational ROW; or
- b. With a total estimated cost of not more than \$30,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor. See **FHWA's Environmental Review Toolkit** for the current figures) and Federal funds comprising less than 15 percent of the total estimated project cost.

24. Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.

25. Environmental restoration and pollution abatement actions to minimize or mitigate the impacts of any existing transportation facility (including retrofitting and construction of stormwater treatment systems to meet federal and state requirements under **Sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. § 1341; § 1342)** carried out to address water pollution or environmental degradation). Bank repairs to protect against stream erosion are considered environmental restoration and pollution abatement actions under this CE.

26. Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing lanes), if the action meets the constraints in **23 CFR § 771.117(e)**. Restoration, rehabilitation, or replacement of culverts, inlets, drainage pipes, and systems can be under this CE when done as highway modernization.
27. Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in **23 CFR § 771.117(e)**. Construction of new roundabouts or traffic circles are considered traffic operations improvement projects under this CE.
28. Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, if the actions meet the constraints in **23 CFR § 771.117(e)**. Bridge removal may be a component of a bridge replacement project under this CE.
29. Purchase, construction, replacement, or rehabilitation of ferry vessels (including improvements to ferry vessel safety, navigation, and security systems) that would not require a change in the function of the ferry terminals and can be accommodated by existing facilities or by new facilities which themselves are within a CE.
30. Rehabilitation or reconstruction of existing ferry facilities that occupy substantially the same geographic footprint, do not result in a change in their functional use, and do not result in a substantial increase in the existing facility's capacity. Example actions include work on pedestrian and vehicle transfer structures and associated utilities, buildings, and terminals.

It should be noted that the procedure for documenting emergency relief efforts are outlined in [Part 1, Chapter 4, Project Development Process](#).

#### **2.2.2.1.2 Actions listed in 23 CFR § 771.117(d)**

The following actions or projects are included in **23 CFR § 771.117(d)** and meet the criteria for CEs in the CEQ regulations and **23 CFR § 771.117(a)** and may be designated as CEs:

- 1-3. [Reserved]
4. Transportation corridor fringe parking facilities.
5. Construction of new truck weigh stations or rest areas.
6. Approvals for disposal of excess ROW or for joint or limited use of ROW, where the proposed use does not have significant adverse impacts.

7. Approvals for changes in access control.
8. Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
9. Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.
10. Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.
11. Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community.
12. Acquisition of land for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the **NEPA** process. No project development on such land may proceed until the **NEPA** process has been completed.
  - a. Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.
  - b. Protective acquisition is done to prevent imminent development of a parcel which may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

When an early acquisition project qualifies for a Type 1 CE, the environmental review is accomplished through the completion of **Type 1 Categorical Exclusion**

**Checklist.** It is important to note that **23 CFR 710.501(e)(2)(i)** does not allow early acquisition of any real property interests that would involve a **Section 4(f)** property. The environmental review for the acquisition project requires the coordination with multiple agencies, other stakeholders, and OEM. Coordination with OEM is necessary to verify that the acquisition project:

- Will not limit the choice of reasonable alternatives for the project or otherwise influence the decision on any approval required for the transportation project

- Does not prevent OEM from making an impartial decision as to whether to accept an alternative that is being considered in the environmental review process for the transportation project

13. Actions described in **23 CFR § 771.117(c)(26), (27), and (28)** that do not meet the constraints in **23 CFR § 771.117(e)**. Use of this CE requires consultation with OEM.

### 2.2.2.1.3 Actions listed in 23 CFR § 771.117(e)

According to **23 CFR § 771.117(e)**, actions described in **23 CFR § 771.117(c)(26), (c)(27), and (c)(28)** may not be processed as CEs under **23 CFR § 771.117(c)** if they involve:

1. An acquisition of more than a minor amount of ROW or that would result in any residential or non-residential displacements;
2. An action that needs a bridge permit from the USCG, or an action that does not meet the terms and conditions of a USACE nationwide or general permit under **Section 404** of the **Clean Water Act (CWA)** and/or **Section 10** of the **Rivers and Harbors Act of 1899**;
3. A finding of “adverse effect” to historic properties under the **NHPA**, the use of a resource protected under **23 U.S.C. § 138** or **49 U.S.C. § 303 [Section 4(f)]** except for actions resulting in *de minimis* impacts, or a finding of “may affect, likely to adversely affect” threatened or endangered species or critical habitat under the **Endangered Species Act (ESA)**;
4. Construction of temporary access, or the closure of existing road, bridge, or ramps, that would result in major traffic disruptions;
5. Changes in access control; or
6. A floodplain encroachment other than functionally dependent uses (e.g., bridges, wetlands) or actions that facilitate open space use (e.g., recreational trails, bicycle and pedestrian paths); or construction activities in, across or adjacent to a river

component designated or proposed for inclusion in the National System of Wild and Scenic Rivers.

#### 2.2.2.1.4 Coordination and Documentation

For Type 1 CEs, coordination with appropriate resource agency personnel (this may be an ETAT representative) may need to take place (such as coordination on historic resources, wetlands, listed species) in order to verify the finding that there is no potential to significantly impact certain environmental resources. Coordination and documentation is also important because it may affect environmental permitting [e.g., State Historic Preservation Officer (SHPO) coordination in a Water Management District (WMD) permit]. Coordination with OEM may also be required in order to make findings under concurrent laws [such as the *ESA* and **Section 4(f)**] prior to finalizing the COA Determination.

A public hearing is typically not required for Type 1 CEs in accordance with [Part 1, Chapter 11, Public Involvement](#), unless the project is considered a major transportation improvement by **Section 339.155(5)(b), F.S.** In addition, if the District determines that a sensitive community issue exists on or near the proposed project, a **Community Awareness Memorandum (CAM)** may be prepared recommending appropriate public involvement activities (see [Part 1, Chapter 11, Public Involvement](#)).

Documentation consists of an evaluation checklist prepared after environmental analysis has been completed (see [Figure 2-3, Type 1 Categorical Exclusion Checklist](#)). This checklist is only prepared using SWEPT. This is typically completed at the end of the Plans, Specifications, and Estimates (PS&E) or 100% plans.

The CE number/activity type from either **23 CFR § 771.117(c)** or **23 CFR § 771.117(d)** is selected at the beginning of the form. For projects that may fall under two or more actions, identify the CE designation that is most appropriate.

Documentation of analysis, coordination, and results should be uploaded to SWEPT for the project file. This documentation should include the results of desktop and/or field review, agency consultation, and any supporting documents and/or technical reports required to substantiate the responses on the checklist. Some of the questions may require consultation with OEM prior to completion by the District. It is important to document that the project will not have significant impacts and that environmental issues have been addressed. Approval of the **Type 1 Categorical Exclusion Checklist** will be granted by the District Environmental Manager or designee using SWEPT.

Once the final **Type 1 Categorical Exclusion Checklist** is completed in SWEPT, the District Environmental Office will complete and provide the date of the determination on the **Status of Environmental Certification For Federal Project**, as shown in [Figure 2-4](#). This form is required as part of the contract documents for federal-aid construction projects and is used when submitting all projects, including LAP projects, for approval to the Federal Aid Office. As specified by the [LAP Manual, Topic No. 525-010-300](#), LAP agencies cannot make COA Determinations or certify projects for advancement. LAP

agencies do not have signature authority for environmental certifications; therefore, the **Status of Environmental Certification For Federal Project** should be signed by appropriate FDOT personnel as noted on the form.

The District Federal Aid coordinator or the Federal Aid Management Office utilizes information from the **Status of Environmental Certification for Federal Project** to complete the **Federal-Aid Project Authorization/Agreement Form (PR-1240 Form)**.

### 2.2.2.2 Type 2 Categorical Exclusions

For all projects that are not qualifying Type 1 CEs, the District must consult with OEM to determine whether the project should be developed through the Minor Categorical Exclusion (MiCE) Process, classified as a Type 2 CE, or be screened through the EST to determine the COA.

For all Type 2 CE projects, the level of detail required is dependent upon the type(s) and magnitude of environmental impacts. Type 2 CE documentation includes the **Type 2 Categorical Exclusion Determination Form** and supporting information. The public hearing transcript is uploaded to SWEPT as well as the **Public Hearing Certification, Form No. 650-050-56**. Details on Type 2 CEs and guidance is provided in [Part 1, Chapter 5, Type 2 Categorical Exclusion](#). The approved Type 2 CE may be sent to the USCG when a bridge permit is required or the USACE whenever a USACE permit is needed. The **Type 2 Categorical Exclusion Determination Form** must be approved by OEM. Approval of this form grants LDCA, allowing the project to proceed to the Design phase.

### 2.2.3 Minor Categorical Exclusion Process

The purpose of the MiCE process is to assist Districts in supporting CE determinations, and providing specific documentation to address potential impacts to relevant environmental issues/or resources without causing the COA of the project to be elevated **[23 CFR § 771.117 (a) and (b)]**. MiCE is not a COA, but rather a process which can be used to validate the determination that a project can be classified as a Type 1 CE, and, in some cases, a Type 2 CE (see [Figure 2-2](#)). This process provides guidance on managing project issues, documenting coordination with OEM and/or an appropriate resource agency, and developing appropriate and focused documentation to support the CE determination. MiCE can apply to PD&E studies or projects in Design where the CE determination must be made.

The following items should be assessed and/or documented in the Environmental Document and project file for projects being developed using the MiCE process:

1. Existing conditions
2. Potential impacts [e.g., **Section 106** involvement, listed species, **Section 4(f)**]



3. Anticipated/required consultations, permitting need(s)
4. Conclusions - need for agency consultation
5. Coordination with OEM

This assessment defines the project context and provides the basis for the level of analysis. The results should identify issues requiring resolution in the Environmental Document. After coordinating the results of the assessment with OEM, a decision is made on the level of documentation necessary to validate the CE determination. This results in analysis that is focused on the issues requiring resolution.

The following is considered during the MiCE process:

- Do the impacts requiring OEM coordination affect other environmental issues/resources?
- Do the impacts requiring OEM coordination require changes to the design that would affect other issues/resources?
- Do the impacts to the other issues/resources require consideration of additional alternative(s)?

There are two scenarios in the MiCE process. The first scenario is for projects that would normally qualify as a Type 1 CE, but may involve potential environmental impacts requiring additional analysis and documentation to assure the COA is valid based on analysis or coordination with OEM. This process is built into the ***Type 1 Categorical Exclusion Checklist***. If any of the following are selected on the checklist, coordination with OEM is required to determine if the project can proceed as a Type 1 CE.

- 1. Right of Way:**
  - Any acquisitions with relocations and/or displacements
- 2. Wetland impacts that would require a permit from the U.S. Army Corps of Engineers (USACE) under the Clean Water Act, Section 404, 33 U.S.C. § 1344 and/or section 10 of the Rivers and Harbors Act:**
  - Standard Permit
- 3. Bridge permits required from the United States Coast Guard (USCG):**
  - USCG Bridge permit
- 4. The project involves a floodplain encroachment other than functionally dependent uses (e.g., bridges, wetlands) or actions that facilitate open space use (e.g., recreational trails, bicycle and pedestrian paths):**
  - Other Encroachment

**5. Does the project involve a Wild and Scenic River or Study River?**

- Yes, Northwest Fork of the Loxahatchee River in D7
- Yes, Wekiva River in D5
- Yes, St. Marys River in D2
- Yes, Myakka River in D1, located in Manatee, Sarasota, and Charlotte Counties
- If the project will adversely affect a federally designated Wild and Scenic or Study River, the project cannot be a Type 1 CE.
- If the project will have an adverse effect on the natural, cultural, or recreational values of the NRI River segment, coordination with the NPS is required, and the project cannot be processed as a Type 1 CE.

**6. Section 7 of the Endangered Species Act (ESA) of 1973, as amended, and/or Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA):**

- May Affect, Likely to Adversely Affect

**7. Will the action impact any properties protected by Section 4(f) pursuant to 23 CFR § 774?**

- Exception or Exemption
- de minimis
- Programmatic or Individual Section 4(f) Evaluation required

**8. Historic and/or Archaeological Resources protected under Section 106 of the National Historic Preservation Act:**

- Determination of "Adverse Effect"

If during the preparation of the ***Type 1 Categorical Exclusion Checklist***, an answer requires discussion with OEM, the OEM District Project Delivery Coordinator is contacted. Coordination with OEM does not necessarily mean that the project will need to be elevated to a Type 2 CE. Any coordination with OEM is documented in the project file in SWEPT.

If it is determined that a Type 2 CE is required after working through the checklist and/or coordination with OEM, the project does not necessarily have to be screened in the EST. In addition, alternatives analysis may not be needed. The ***Type 2 Categorical Exclusion Determination Form*** is then focused on the issues which triggered the Type 2 CE COA.

The second scenario is for projects that were screened in the EST or may qualify as a Type 2 CE. The MiCE process can be used to focus the environmental analysis on the issues which triggered the Type 2 CE COA. The Type 2 CE should focus on the relevant issues that require resolution using the ***Type 2 Categorical Exclusion Determination Form*** and include supporting environmental and engineering documentation. The appropriate documentation for all affected issues is attached to the form.

If project conditions change, and a project that was screened in the EST as a Type 2 CE can now be completed as a Type 1 CE, a **Type 1 Categorical Exclusion Checklist** is prepared, OEM is notified, and the change is documented in the project file in SWEPT.

It is important to note that the COA Determination is based on the context and intensity of impacts; therefore, the ultimate determination of the COA is made by OEM.

## 2.2.4 Efficient Transportation Decision Making Qualifying Projects

For projects qualifying for ETDM screening, the COA can be determined at the end of the Programming Screen (see FDOT's [ETDM Manual, Topic No.650-000-002](#)). The District performs analysis to assist in determining the appropriate COA. The COA is proposed by the District and is approved by OEM. This determination, in addition to the potential effects for various environmental issues and the potential scope of work to be performed during the PD&E phase, is included in the **Final Programming Screen Summary Report**.

The process for obtaining the COA during the Programming Screen requires that the District ETDM Coordinator completes the **Environmental Class of Action Recommendation Form** (see [Figure 2-5](#)) in the EST. The form should be completed as follows:

1. Enter the project's identifying information.
2. In the "Potential for Significant Impacts?" section, depending on the project's potential impacts on an issue/resource, select:
  - Sig = The project is anticipated to have a significant impact on the particular issue/resource, therefore the recommended class of action should be an EIS for federal projects
  - Sig? = There is a question of significance or significance is unknown regarding the project's potential impact to the issue/resource. If "Sig?" is checked for one or more issues/resources and "Sig" is not checked for another issue/resource, the recommended class of action should be an EA for federal projects
  - NoSig = The project is not anticipated to have significant impacts to the issue/resource
  - NoInv = No involvement, the issue/resource is absent
  - NoIm = No impact

Comments must be entered in the related comment box when “Sig” or “Sig?” is selected, but may be entered for “NoSig” and “NoInv”, and “NoIm” at the District’s discretion.

3. Check the box for the recommended COA
4. Identify any Other Actions
5. Identify the Lead Agency
6. Identify Participating/Cooperating Agencies

After OEM and the District have agreed on the COA, OEM accepts it in the EST. After the COA determination is complete, the determination becomes part of the **Final Programming Screen Summary Report**. The COA Determination may be deferred to allow for technical studies and additional coordination, potentially leading to a reduced COA. When the COA is determined later, the **Environmental Class of Action Recommendation Form** is completed and a **Final Programming Screen Summary Report** is published.

Once the COA Determination is made, the level of documentation required for **NEPA** compliance is described in the respective chapters for a Type 2 CE, an EA, or an EIS in **Part 1** of this Manual.

### **2.2.5 Environmental Assessments and Environmental Impact Statements**

An EA is prepared when there is a question of significance or the significance of the environmental impact is unknown. Guidance on preparing EAs is provided in [Part 1, Chapter 6, Environmental Assessment](#). An EIS is prepared when a project significantly affects the environment. Examples of the types of actions which would normally require an EIS are listed in [Section 2.1](#). Guidance on preparing an EIS is provided in [Part 1, Chapter 8, Draft Environmental Impact Statement](#), and [Part 1, Chapter 9, Final Environmental Impact Statement](#). If an EIS is anticipated, the District should coordinate with OEM as early as possible. An EA or EIS must have sufficient documentation to support the COA Determination. Supporting information may include technical reports [e.g., **Preliminary Engineering Report (PER)**, **Noise Study Report (NSR)**, **Natural Resources Evaluation (NRE)**].

### **2.2.6 Change of Class of Action**

Prior to the beginning of PD&E or even during PD&E, the District or OEM may seek to revisit the COA determination. Changes in the COA could arise if there are changes in the project’s scope or changes in impact status of issues. If a project is an EA changing to an EIS, a **Notice of Intent (NOI)** in the **Federal Register (FR)** is required.

The decision to downgrade from an EIS document requires thorough analysis and consideration. Notification was previously provided to the public and stakeholders that significant impacts were anticipated. Documentation is required to substantiate the downgrade. Approval by OEM is required for the reclassification, and the **NOI** must be withdrawn from the **FR**. See [Part 1, Chapter 8, Draft Environmental Impact Statement](#) for information on the **NOI**. In all cases, OEM must be consulted if FDOT seeks modifications to a project's approved COA to obtain approval for the proposed change.

## 2.3 REFERENCES

- CEQ, Executive Office of the President. 1978. Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. Reprint 43 FR 55978-56007, 40 CFR Parts 1500-1508
- FDOT. Efficient Transportation Decision Making Manual, Topic No. 650-000-002.  
<https://www.fdot.gov/environment/pubs/pdeman/pdeman1.shtm>
- FHWA, Environmental Review Toolkit, Fixing America's Surface Transportation (FAST) Act Sec. 1314 "Categorical Exclusion for Limited Federal Assistance" Implementation Guidance.  
[https://www.environment.fhwa.dot.gov/legislation/authorizations/fastact/FAST\\_ACT\\_Section1314\\_Implementation\\_Guide.aspx](https://www.environment.fhwa.dot.gov/legislation/authorizations/fastact/FAST_ACT_Section1314_Implementation_Guide.aspx)
- FHWA, October 30, 1987. Guidance for Preparing and Processing Environmental and Section 4(f) Documents, FHWA Technical Advisory T6640.8A
- FHWA, Memorandum: Additional Flexibilities In Categorical Exclusions, May 22, 2017
- FHWA, Memorandum: Additional Flexibilities In Categorical Exclusions, June 12, 2018
- FHWA. 2003. Questions and Answers Regarding the Consideration of Indirect and Cumulative Impacts in the NEPA Process.  
<http://www.environment.fhwa.dot.gov/projdev/qaimpact.asp>
- FHWA. 2011. Supplement to January 28, 2008. Transportation Planning Requirements and Their Relationship to NEPA Process Completion, February 9, 2011
- 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>
- National Environmental Policy Act, Section 7
- Title 23 CFR § 771, Environmental Impact and Related Procedures

## **2.4 FORMS**

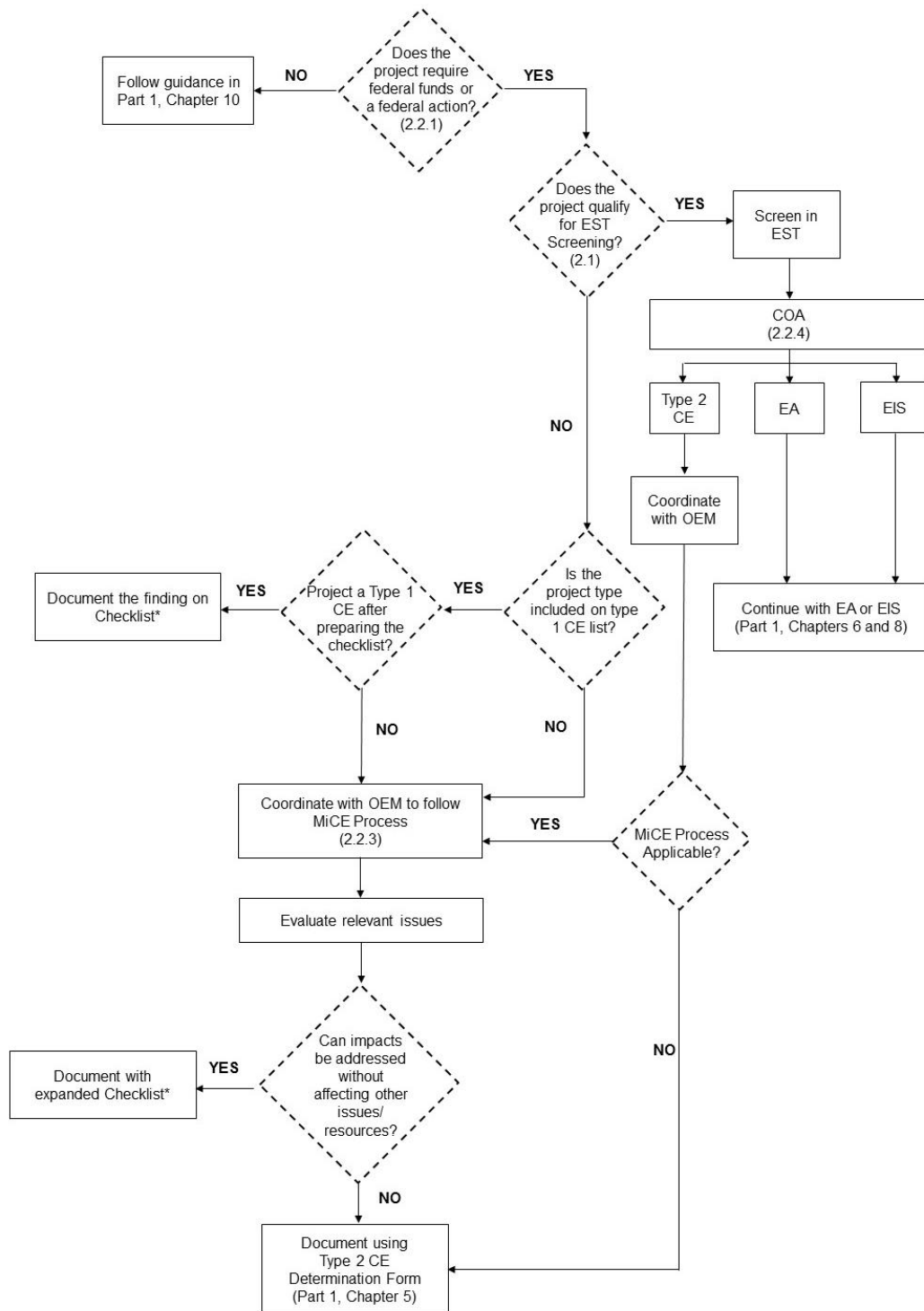
[Public Hearing Certification Form, Form No. 650-050-56](#)

## **2.5 HISTORY**

1/12/2004, 1/31/2007, 3/6/2012, 2/3/2014, 8/2/2016, 6/14/2017: NEPA Assignment,  
1/14/2019

<b>ETDM Screening Matrix for Qualifying Projects</b>						
	<b>Federal Dollars</b> (any FHWA, FTA or FRA funds or federal authorization)		<b>State Dollars</b> (TRIP, Transit/ Intermodal System Grants, etc) No Federal Dollars Involved		<b>Local Dollars Only</b>	
	Responsible Agency	ETDM Screening	Responsible Agency	ETDM Screening	Responsible Agency	ETDM Screening
<b>System</b>						
Highways on the State Highway System (SHS) and on the Strategic Intermodal System (SIS)	FDOT	YES FDOT Lead	FDOT	YES	FDOT	YES
	Local		Local and FDOT	Local Option	Local and FDOT	Local Option
Highways on the SHS but not on the SIS	FDOT	YES FDOT Lead	FDOT	YES	FDOT	YES
	Local		Local and FDOT	Local Option	Local and FDOT	Local Option
Highways not on SHS but on the SIS	FDOT	YES FDOT Lead	FDOT	YES	FDOT	YES
	Local		Local and FDOT	Local Option	Local and FDOT	Local Option
Highways not on SHS nor on the SIS	FDOT	YES FDOT Lead	FDOT	YES	Local	N/A
	Local		Local	Local Option		
Major Transit Projects (new fixed guideway, New Starts) or Major Freight Projects	FDOT	YES	FDOT	YES	Local	N/A
	Local	Local Option	Local	Local Option		
<b>NOTE:</b> Local applies to any local government agency, other state agency, expressway authority, bridge authority or private entity						

**Figure 2-1 ETDM Screening Matrix for Qualifying Projects**



\* Checklist = Type 1 Categorical Exclusion Checklist (Figure 2-3)

**Figure 2-2 Class of Action Determination Process for Federal Projects**



### TYPE 1 CATEGORICAL EXCLUSION CHECKLIST

Financial Management No. \_\_\_\_\_

FAP No. \_\_\_\_\_

CE Number: (Choose one option **from dropdown**)  (c) \_\_\_\_\_ or  (d) \_\_\_\_\_ **(Will be required for d-list projects to provide supporting documentation for all areas)**

Title: \_\_\_\_\_

Work Mix: \_\_\_\_\_

District: \_\_\_\_\_

County: \_\_\_\_\_

Local Agency Program (LAP) (to be considered a LAP project, federal dollars must be programmed into the adopted Work Program)

Yes  No

**Project Description:** (include project limits and brief description of the proposed scope of work) **(TEXT BOX)**

**Note:** The items below consider the requirements described in 23 CFR § 771.117 (c) and (d) for listed Categorical Exclusions (CEs). The constraints of 23 CFR § 771.117(e) are addressed in this form for CEs identified as 23 CFR § 771.117 (c) (26), (27) and (28) or (d) list projects.

**Directions for bulleted verifications below:** District should consider if the project has any of the significant impacts described. If project does not meet the criteria, STOP, this form does not apply. If the project does meet the criteria, check “verified” and proceed through the rest of the form.

- This action **will not** induce significant impacts to planned growth or land use for the area; travel patterns; involve significant air or water quality impacts; or cause substantial controversy on environmental grounds.

Verified

- **(This statement will only appear if c26, c27, c28 or d-list project is selected)** The action will not cause changes in interchange access control; result in major traffic disruptions due to the construction of temporary access; or the closure of existing road, bridge, or ramps.

Verified

#### **REST OF FORM NOT ACCESSIBLE UNTIL Verified IS CHECKED**

#### **1. Right of Way (ROW): (Pop-up will appear- if situation changes document in the project file)**

Within existing ROW  Minor acquisition without relocation and/or displacement

Any acquisitions with relocations and/or displacements [Contact the Office of Environmental Management (OEM) and add date of consultation] **(If chosen warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**

Are there state-owned conservation lands being acquired in the project area subject to review and approval by the Acquisition and Restoration Council?  Yes  No **(If yes is selected, a pop up will state, “Advise OEM of involvement with state-owned conservation lands”)**

Comments:

**Figure 2-3 Type 1 Categorical Exclusion Checklist**

- 2. Wetland impacts that would require a permit from the U.S. Army Corps of Engineers (USACE) under the Clean Water Act, Section 404, 33 U.S.C. § 1344 and/or section 10 of the Rivers and Harbors Act:**  
 No Wetland(s) Present/ No Impacts  Nationwide permit  General Permit (SAJ 92)  Standard Permit [Contact OEM and add date of consultation] **(If chosen warning label will appear if it is c26, c27, c28 or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**  
Comments:
- 3. Bridge permits required from the United States Coast Guard (USCG):**  
 No Waterway Crossing  No USCG Bridge permit required  USCG Bridge permit [Contact OEM and add date of consultation] **(If chosen warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**  
Comments:
- 4. The project involves a floodplain encroachment other than functionally dependent uses (e.g., bridges, wetlands) or actions that facilitate open space use (e.g., recreational trails, bicycle and pedestrian paths):**  
 No Floodplain Present/No Floodplain Impact  Functionally Dependent Use or Facilitate Open Space Use  Other Encroachment [Contact OEM and add the date of consultation] **(If chosen warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**  
Comments:
- 5.a Does the project involve a Wild and Scenic River or Study River?**  
[There is involvement with a Wild and Scenic River or Study River if project activities are located within the river corridor (within one-quarter mile of the banks), across, or adjacent to (upstream, downstream, or on a tributary) the designated river segment]  
 No, the project does not involve a river designated as a Wild and Scenic or Study River  Yes, Northwest Fork of the Loxahatchee River in D4 (See PD&E Manual Chapter for limits) **(automatically populated if applicable)** [Contact OEM and add the date of consultation]  Yes, Wekiva River in D5 (See PD&E Manual Chapter for limits) [Contact OEM and add the date of consultation]  Yes, St. Marys River in D2 (See PD&E Manual Chapter for limits) [Contact OEM and add the date of consultation]  Yes, Myakka River in D1, located in Manatee, Sarasota, and Charlotte Counties [Contact OEM and add the date of consultation] **(If box 2, 3, or 4 is chosen a warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1.)** (If yes is selected, in the comment box summarize the results of coordination with OEM and NPS (or FDEP if the Myakka River). Identify that there will be no direct or adverse effects on the values for which the river was designated. If the project will adversely affect a federally designated Wild and Scenic or Study River, the project cannot be a Type 1 CE. Any correspondence should be added to the project file in SWEPT.)  
Comments:

**Figure 2-3 Type 1 Categorical Exclusion Checklist (Page 2 of 4)**

**5b. Will the action involve a river on the Nationwide Rivers Inventory (NRI)?** [This information can be found in the Environmental Screening Tool or the NRI interactive map]

- No, the project will not involve a river on the NRI  Yes, the project will involve, but will not affect a river segment on the NRI. **(Include details to support this determination. Any correspondence with NPS should be added to the project file in SWEPT)**  Yes, the project will affect a river segment on the NRI, but will not have an adverse effect on the natural, cultural, or recreational values of the NRI River segment [See Part 2, Chapter 12 of the PD&E Manual to determine if there is an adverse effect] **(Include details to support this determination. Any correspondence with NPS should be added to the project file in SWEPT. If yes is selected, add the name of river and any details in the comment box. If the project will have an adverse effect on the natural, cultural, or recreational values of the NRI River segment, coordination with the NPS is required, and the project cannot be processed as a Type 1 CE.)**

Comments:

**6. Section 7 of the Endangered Species Act (ESA) of 1973, as amended, and/or Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA):**

- No ESA listed species and/or Essential Fish Habitat (EFH) present
- ESA listed species and/or Essential Fish Habitat (EFH) present **(If selected, the following will appear)**
- Determination of No Effect **Identify species in text box.**
  - Used key, no consultation required **Identify species in text box.**
- Consultation with the US Fish and Wildlife Service or National Marine Fisheries Service, results in: **(If selected, the following will appear)**
- May Affect, Not Likely to Adversely Affect (attach concurrence letter)
  - May Affect, Likely to Adversely Affect [Contact OEM and add the date of consultation] **(If chosen warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**

Comments:

**7. Will the action impact any properties protected by Section 4(f) pursuant to 23 CFR § 774?**

- No potential Section 4(f) properties present
- Section 4(f) resource(s) present or adjacent, but there is “no use” within the meaning of Section 4(f) **List resource(s) and describe how “no use” determination was made in text box.**
  - Exception or Exemption [attach description of type and Official with Jurisdiction (OWJ) concurrence] [See 23 CFR 774.13] [Contact the OEM] **(If selected a pop up will provide a box to record the date of OEM coordination. Fill in date in order to proceed.) List resource(s) in text box.**
  - de minimis* (attach determination and OWJ concurrence) [Contact the OEM] **(If selected a pop up will provide a box to record the date of OEM coordination” Fill date in order to proceed.) List resource(s) in text box.**
  - Programmatic or Individual Section 4(f) Evaluation required **(By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**

Comments:

**Figure 2-3 Type 1 Categorical Exclusion Checklist (Page 3 of 4)**

**8. Historic and/or Archaeological Resources protected under Section 106 of the National Historic Preservation Act:**

No Historic or Archeological resources present within the APE

Pursuant to Section 106 Programmatic Agreement (include appropriate documentation):

Determination of No Involvement  Determination of "No Effect"  Determination of "No Adverse Effect"

Determination of "Adverse Effect" [Contact OEM and add the date of consultation] **(If chosen warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**

Comments:

**9. Noise considerations:**

The project does not require a Noise Analysis

The project does require Noise Analysis (provide appropriate documentation):

Noise abatement is not warranted  Noise abatement is warranted (Provide decision)

Comments:

**10. Contamination considerations:**

The project was evaluated (Provide brief summary in text box and attach appropriate documentation.)

Comments:

**11. Planning Consistency**

This Project was reviewed for fiscal constraint and determined to have committed, available or reasonably available funds for the implementation of all the phase(s) of the Project within the time period anticipated for completion of the Project. [23 CFR Part 450]. The appropriate LRTP/TIP/STIP pages must be submitted as supporting documentation. The **Project Commitment Record** may also be attached.

**IMPORTANT: If during the preparation of the form, an answer requires discussion with OEM, contact your OEM District Project Delivery Coordinator.**

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.

This project has been reviewed and has been verified to meet the conditions of a Type 1 CE.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
District Environmental Manager or designee

**Figure 2-3 Type 1 Categorical Exclusion Checklist (Page 4 of 4)**

**STATUS OF ENVIRONMENTAL CERTIFICATION  
FOR FEDERAL PROJECT**

**Financial Management No.** \_\_\_\_\_

**FAP No.** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Work Mix:** \_\_\_\_\_

**District:** \_\_\_\_\_

**County:** \_\_\_\_\_

**Project Description:** (include limits, and brief description of the proposed scope of work) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This project is a Categorical Exclusion under 23 CFR § 771.117:

- A Type 1 Categorical Exclusion per  (c) \_\_\_\_\_ or  (d) \_\_\_\_\_ as determined on \_\_\_\_\_
- A Type 2 Categorical Exclusion approved on \_\_\_\_\_

The final Environmental Document for this project was a (check one):

- A Finding of No Significant Impact under 23 CFR § 771.121 approved on \_\_\_\_\_
- A Record of Decision under 23 CFR § 771.127 approved on \_\_\_\_\_

A re-evaluation in accordance with 23 CFR § 771.129 was (check one):

- Approved on \_\_\_\_\_
- Not required

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Environmental Manager or designee

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.

**Figure 2-4 Status of Environmental Certification for Federal Project**

**ENVIRONMENTAL CLASS OF ACTION RECOMMENDATION**

Project Name and limits: \_\_\_\_\_  
 District: \_\_\_\_\_ Phase: \_\_\_\_\_  
 County: \_\_\_\_\_ From: \_\_\_\_\_  
 Planning Organization: \_\_\_\_\_ To: \_\_\_\_\_  
 Plan ID: \_\_\_\_\_ Financial Management No.: \_\_\_\_\_  
 Federal Involvement: \_\_\_\_\_  
 Contact Information: \_\_\_\_\_

**Potential for Significant Impacts?\***

*Comments must be entered when Sig or Sig? are selected, and may be entered for NoSig, NoInv, and NoIm at the District's discretion.*

Issues/Resources	Sig	Sig?	NoSig	NoInv	NoIm	Comments
<b>A. SOCIAL &amp; ECONOMIC</b>						
1. Social	[ ]	[ ]	[ ]	[ ]	[ ]	_____
2. Economic	[ ]	[ ]	[ ]	[ ]	[ ]	_____
3. Land Use Changes	[ ]	[ ]	[ ]	[ ]	[ ]	_____
4. Mobility	[ ]	[ ]	[ ]	[ ]	[ ]	_____
5. Aesthetic Effects	[ ]	[ ]	[ ]	[ ]	[ ]	_____
6. Relocation Potential	[ ]	[ ]	[ ]	[ ]	[ ]	_____
7. Farmland	[ ]	[ ]	[ ]	[ ]	[ ]	_____
<b>B. CULTURAL</b>						
1. Section 4(f)	[ ]	[ ]	[ ]	[ ]	[ ]	_____
2. Historic Sites/Districts	[ ]	[ ]	[ ]	[ ]	[ ]	_____
3. Archaeological Sites	[ ]	[ ]	[ ]	[ ]	[ ]	_____
4. Recreational Areas and Protected Lands	[ ]	[ ]	[ ]	[ ]	[ ]	_____
<b>C. NATURAL</b>						
1. Wetlands and Other Surface Waters	[ ]	[ ]	[ ]	[ ]	[ ]	_____
2. Aquatic Preserves and Outstanding FL Waters	[ ]	[ ]	[ ]	[ ]	[ ]	_____
3. Water Resources	[ ]	[ ]	[ ]	[ ]	[ ]	_____
4. Wild and Scenic Rivers	[ ]	[ ]	[ ]	[ ]	[ ]	_____
5. Floodplains	[ ]	[ ]	[ ]	[ ]	[ ]	_____
6. Coastal Zone Consist.	[ ]	[ ]	[ ]	[ ]	[ ]	_____
7. Coastal Barrier Resources	[ ]	[ ]	[ ]	[ ]	[ ]	_____
8. Protected Species an Habitat	[ ]	[ ]	[ ]	[ ]	[ ]	_____
9. Essential Fish Habitat	[ ]	[ ]	[ ]	[ ]	[ ]	_____
<b>D. PHYSICAL</b>						
1. Highway Traffic Noise	[ ]	[ ]	[ ]	[ ]	[ ]	_____
2. Air Quality	[ ]	[ ]	[ ]	[ ]	[ ]	_____
3. Contamination	[ ]	[ ]	[ ]	[ ]	[ ]	_____
4. Utilities and Railroads	[ ]	[ ]	[ ]	[ ]	[ ]	_____
5. Construction	[ ]	[ ]	[ ]	[ ]	[ ]	_____
6. Bicycles and Pedestrians	[ ]	[ ]	[ ]	[ ]	[ ]	_____
7. Navigation	[ ]	[ ]	[ ]	[ ]	[ ]	_____

\* **Potential Impact Determination:** Sig = Significant Impact; Sig? = Question of Significance; NoSig = No Significant Impact; NoInv = no involvement, Issue is absent; NoIm = No Impact

**Figure 2-5 Environmental Class of Action Recommendation Form**

**Recommended Class of Action:**  EA     EIS     Type 2 CE     SEIR

**Other Actions:**  Section 4(f) Evaluation,  Section 106 Consultation,  Endangered Species Assessment Consultation,  US Coast Guard Bridge Permit Anticipated,  US Army Corps of Engineers 404 Permit Anticipated

*Consider recommending US Army Corps of Engineers to serve as a cooperating agency if a USACE 404 Individual Permit is anticipated:*

- *USACE 404 Nationwide Permit*
- *USACE 404 Individual Permit*
- *Regional General Permit*

**Lead Agency:** \_\_\_\_\_

**Participating/Cooperating Agencies:** \_\_\_\_\_

**Figure 2-5 Environmental Class of Action Recommendation Form (Page 2 of 2)**

## **PART 1, CHAPTER 3**

# **PRELIMINARY ENVIRONMENTAL DISCUSSION AND ADVANCE NOTIFICATION**

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## PART 1, CHAPTER 3

# PRELIMINARY ENVIRONMENTAL DISCUSSION AND ADVANCE NOTIFICATION

### 3.1 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).

FDOT develops a Preliminary Environmental Discussion (PED) as a means to communicate project context and potential project effects to the public and local, state, federal, and tribal partners, known as the Environmental Technical Advisory Team (ETAT), during the Efficient Transportation Decision Making (ETDM) project screenings (see [ETDM Manual, Topic No. 650-000-002](#)) and through the Advance Notification (AN) package. A PED addresses each of the twenty-one ETDM issues reviewed by ETAT during an ETDM screening event and is required for each screened project.

The PED is consistent with **Title 23 U.S.C.** which allows the project sponsor to provide information about the project context, potential project alternatives, analysis methodology, and agency involvement as it provides an opportunity for input from stakeholders.

The PED is the District's initial examination of a project's potential involvement with environmental issues/resources and the District's plans to address the issues as the project advances to further study. This could include identification of avoidance, minimization, or mitigation options. The Districts should develop alternative specific PEDs when multiple alternatives are screened. The PED used in combination with ETAT comments will assist the District in understanding the potential project effects and support preparation of the scope of the Project Development and Environment (PD&E) Study. At the end of an ETDM project screening event, a Summary Degree of Effect (SDOE) is determined by the District documenting the results of the screening event. SDOEs are published in the ETDM Summary Report and reflect a refined understanding of the project.

FDOT informs agencies, tribal representatives, elected officials, and other interested stakeholders of a proposed transportation action through the AN. The AN also provides stakeholders an opportunity to provide input and become involved in a project. PEDs developed for a combined ETDM Programming Screening event and delivery of the AN package both use the same PEDs.

The AN fulfills the project initiation notification as required by ***Title 23 U.S.C., Highways***, the President's ***Executive Order 12372 (Intergovernmental Review of Federal Programs)***, and the Governor's ***Executive Order 95-359 (Florida State Clearinghouse)***. In addition, the AN may also provide notice of FDOT's intent to apply for federal-aid through the FHWA on a project, by including the [\*\*Application for Federal Assistance \(SF-424\)\*\*](#) form requesting federal assistance.

The AN is also used by FDOT to address consistency with the Florida Coastal Management Program (FCMP). The Florida Department of Environmental Protection (FDEP) is responsible for coordinating the State of Florida's review of federal activities for consistency with the FCMP. FDEP uses the State Clearinghouse (SCH) as a means to facilitate and document the coordination process and makes a Federal Consistency Review Determination after receiving comments from appropriate state and local agencies, also known as consistency reviewers. For detailed information on FCMP and Federal Consistency Review Determination see [\*\*Part 2, Chapter 14, Coastal Zone Consistency\*\*](#). Additionally, the AN alerts the Florida Department of Economic Opportunity (DEO) to provide comments regarding to a project's compatibility with the Local Government Comprehensive Plans [***Chapter 163, Florida Statutes (F.S.)***].

FDOT uses the Environmental Screening Tool (EST) to distribute the AN package electronically. Hardcopies of AN packages should be provided when requested or as agreed to (e.g. Miccosukee Tribe of Indians). The AN may be completed during the Programming Screen or delayed until approximately one year prior to the start of the PD&E Study. This decision to join or separate the Programming Screen or AN is made at the District's discretion based on when PD&E is scheduled in the Work Program to start. The AN process should be completed early enough to inform PD&E Scope of Services development, and near enough to the beginning of PD&E to provide timely notification to relevant public officials, and other stakeholders (see [\*\*ETDM Manual, Topic No. 650-000-002\*\*](#), Chapters 4 and 5). See [\*\*Figure 3-1\*\*](#) for a description of the AN process.

Qualifying transportation projects should be entered into the EST as described in Chapter 4 of the [\*\*ETDM Manual, Topic No. 650-000-002\*\*](#). See [\*\*Part 1, Chapter 2, Class of Action Determination for Federal Projects\*\*](#) for a list of qualifying project types. The EST also contains Geographic Information System (GIS) project and environmental information, which agencies, tribal representatives, and others can use during the Programming Screen to support their comments on a proposed project's potential involvement of a resource, identify potential technical studies, and document the need for resource agency or tribal involvement. GIS data should not be the only source used to provide this information. Agency reviews and comments are provided within a 45-day timeframe (60

days if an extension is granted) and are documented in the EST. The SCH has an additional 15 days after the end of the screening event to complete its consistency review.

Comments from consistency reviewers regarding Federal Consistency Review are reviewed by the SCH, which makes a consistency determination as required by **Section 380.23, F.S.**, and **15 Code of Federal Regulations (CFR) Part 930**. When the SCH determines that a project is inconsistent, the project will go through the ETDM Issue Resolution Process. The final consistency determination is made during the permitting process.

The comments are documented in the **Preliminary Programming Screen Summary Report**. The input received is evaluated and used to advance or focus analysis, as appropriate, prior to the PD&E Study, develop the scope of services of the PD&E Study, and to assist in determining the appropriate Class of Action (COA) ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)). The AN initiates the funding request from FDOT's Federal-Aid Management Office, as appropriate.

## 3.2 PROCEDURE

The PED and AN convey the District's understanding of a project area prior to the ETDM screening events, stemming from a multi-disciplinary review based on local knowledge, FDOT analysis, and possible field review of the project.

### 3.2.1 Preparation of the Preliminary Environmental Discussion

FDOT uses the PED during the ETDM process to inform ETAT and other agencies, as appropriate, of the District's initial understanding of the natural, physical, cultural, and community issues/resources in a project study area. The PED also discusses the process FDOT plans to use to address or evaluate issues and resources as the project advances through project development. The PED is based on local knowledge, planning studies, GIS Data and any other evaluations relevant to the project area. For instructions on how to develop the PED, follow Number 3, in [Section 3.2.2.3](#). Development of the PED is also an informative component to completing the StateWide Acceleration Transformation (SWAT) Process as described [Part 1, Chapter 4, Project Development Process](#).

The PED is required for projects completing a Planning or Programming Screening event in ETDM. The PED is part of the standard text entered in the fact sheet of the AN package providing environmental setting information. When a PED is prepared, the information gathered from ETAT commentary (if prior screening event occurred), early studies, early stakeholder coordination should be used for early scoping efforts, advancing technical studies or focusing on relevant project activities for the next phase. Products resulting from previous studies that were used to develop the PED should be uploaded in the EST. The ETDM Coordinator or Project Manager is responsible for checking the data for completeness and accuracy. Coordination and review by other District representatives prior to PED release and/or response is strongly encouraged. Other District representatives may include the Environmental Manager, District Project Development

Engineer and District Permits Coordinator. The District Environmental Office staff should review and provide comments on the language in the PED prior to submission to OEM for the official OEM Pre-Screening Review. During the OEM Pre-Screening Review, the OEM Project Delivery Coordinator (PDC) and Engineering Lead review and provide comments about the project description, purpose and need, and PED before the screening event notification is distributed, or before the AN is distributed separate from the screening event. PDC's have up to 14 days to provide comments and may also include subject matter experts. OEM must provide an approval in order to proceed with the release of the AN.

### 3.2.2 Preparation of the Advance Notification Package

For projects that qualify for EST screening, the AN process may be initiated with the Programming Screen review or separately prior to start of the PD&E Study. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for a list of qualifying project types. The only non-federal projects which may require an AN and qualify for screening through the EST are FDOT projects that are prepared as a State Environmental Impact Report (SEIR) ([Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)).

Projects that qualify for screening and involve a federal action, federal funds, or are desired to maintain federal eligibility will receive a Federal Consistency Review Determination through the AN package distribution. Consistency reviews are completed when the AN Package is distributed. SEIRs may require a Federal Consistency Review Determination because they often involve a federal permit. For projects requiring a federal permit, coordination with the permitting agency is needed to determine if the Environmental Document prepared by the state will provide sufficient information to serve as the agency's *NEPA* document [e.g., U.S. Coast Guard (USCG) bridge permits, U.S. Army Corps of Engineers (USACE) **Section 404** permits].

The AN package is prepared through the EST. See the [EST User Handbook](#) for guidance about using the EST. The AN package consists of a cover letter, location map(s), Fact Sheet, [Application for Federal Assistance \(SF-424\)](#) (if appropriate), and a transmittal list.

#### 3.2.2.1 Cover Letter

The AN package includes a cover letter addressed to the SCH but it is distributed to all recipients of the AN package (see [Figure 3-2](#)). The cover letter should be dated consistent with the project release date in the EST and include the project name, ETDM number, Financial Management Number if available, and Federal Aid Project Number if one has been assigned. The cover letter, once signed by the District designee, is uploaded to the EST as part of an electronic AN package. If the project has been previously screened this should be noted in the cover letter (see [Figure 3-2](#)).

### 3.2.2.2 Location Maps

The AN package contains a project location map ([Figure 3-3](#)) and may also include a project aerial map. These maps (and others if needed) can be uploaded to or generated by the EST. Maps should include the state road number (if applicable), the project's common name, City and/or County of location, project boundary/limits and any alternatives. The maps are combined with the rest of the information and distributed as a part of the AN package.

### 3.2.2.3 Fact Sheet

The Fact Sheet, developed by the analyst using project knowledge from a variety of sources including SWAT scoping, provides an overview of the project and includes the project purpose and need, project description, PED, and other details as listed below. The PED identifies the project's potential involvement with environmental issues/resources. To the extent practicable, GIS information referenced below should be analyzed and interpreted by the preparer of the PED to provide a clear understanding of potential resource/issue involvement within the context of the project. For projects with more than one alternative, the PED reflects differences between alternatives; for example, one option may not impact wetlands, when another will. The Fact Sheet enables reviewing agencies to have project information for field and desk-top reviews.

The EST contains project related GIS information that can be used in the preparation of the Fact Sheet. The GIS summaries can also aid ETAT members during their review. For previously screened projects, the District may use the information from the most recent summary report to assist in preparing the Fact Sheet. This information is transmitted electronically to the ETAT and SCH through the EST.

The Fact Sheet should include the following:

1. **Purpose and Need** - The project's purpose and need is derived from information obtained through coordination with the District Planning Office and other agency partners, such as the Metropolitan Planning Organization (MPO) or local government agency. This information should be consistent with information entered into the EST by the ETDM Coordinator or Project Manager. [Part 2, Chapter 1, Project Description and Purpose and Need](#) provides guidance on preparing the project's purpose and need.

The status of planning consistency should be summarized in this section and state if the proposed project is consistent with the Local Government Comprehensive Plan(s) through DEO's review of FDOT's Five Year Work Program pursuant to **Section 339.135(4)(f), F.S.** Consistency with the approved Long Range Transportation Plan (LRTP) should be identified for projects within MPO areas. This section identifies that the project is documented in the approved Transportation Improvement Program (TIP) and the State Transportation Improvement Program (STIP). For projects in non-MPO areas, identify consistency

with the Local Government Comprehensive Plan(s), STIP and describe steps (such as funding for future phases) toward implementation of the project. It should be noted that in the EST, more detailed information can be entered specifically documenting the current status of planning requirements (see [EST User Handbook](#)). The requested information should be consistent with the **Planning Requirements for Environmental Document Approvals Form, Form No. 650-050-41 (Part 1, Chapter 4, Project Development Process)** that must be included in the draft and final Environmental Documents for federal-aid highway projects. For Type 2 Categorical Exclusions (CEs) this form is included in the **Type 2 Categorical Exclusion Determination Form (Part 1, Chapter 5, Type 2 Categorical Exclusion)**.

2. **Project Description** - This section includes a summary of project information, including a brief description of the existing facility, limits of the proposed project (such as its length and logical termini), the names of the City and County where the project is located, and a brief description of the proposed improvements (such as mode, typical section features, facility type, multi-modal features, and any major structures). The description should list other planned or ongoing projects, either in close proximity or that would directly affect the project being developed. It should include previous coordination efforts, proposed alternatives (if applicable), and a summary of public involvement. The project description should be consistent with information entered into the EST by the ETDM Coordinator or Project Manager. See [Part 2, Chapter 1, Project Description and Purpose and Need](#).
3. **Preliminary Environmental Discussion** - The PED is part of the text associated with the AN during the programming screen. This section is prepared by the District and includes the identification of environmental issues/resources including community features, a description of potential involvement with issues/resources, and a discussion of anticipated technical reports and permits. Please consult the appropriate chapters in **Part 2** of this [Manual](#) for guidance on identifying and analyzing issues associated with the categories below.
  - a. **Social and Economic**
    1. **Social** - Consider the community demographics (e.g., age, income, minority populations), underserved populations / environmental justice concerns, community cohesion, safety/emergency response, community character, community goals, and describe potential involvement with them as appropriate. Reference if a **Sociocultural Data Report** has been run and if so, describe pertinent results if available. See [Part 2, Chapter 4, Sociocultural Effects Evaluation](#).
    2. **Economic** - Describe the known economic condition of the area, ongoing or planned economic development efforts, and the project's potential involvement. See [Part 2, Chapter 4, Sociocultural Effects Evaluation](#).

3. **Land Use Changes** - Describe existing and future land uses in the project area and how the project may affect these uses. See [Part 2, Chapter 4, Sociocultural Effects Evaluation](#).
  4. **Mobility** - Describe existing traffic conditions, travel modes, existing and planned transit routes in the area. Describe the project's involvement with the movement of people, goods (e.g., freight), and services. See [Part 2, Chapter 4, Sociocultural Effects Evaluation](#).
  5. **Aesthetic Effects** - Describe the area's existing aesthetic features and summarize the project's potential involvement. Identify, by formal name, designated or candidate Scenic Highways in the project vicinity and potential for involvement. See [Part 2, Chapter 5, Aesthetic Effects](#)
  6. **Relocation Potential** - Discuss potential Right of Way (ROW) acquisition needs for the project and whether relocations may be needed. See [Part 2, Chapter 4, Sociocultural Effects Evaluation](#).
  7. **Farmland** - Describe any farmlands in the project area and summarize their potential involvement. See [Part 2, Chapter 6, Farmland](#).
- b. **Cultural** - see [Part 2](#) of this [Manual](#)
1. **Section 4(f) Potential** - For U.S. Department of Transportation (USDOT) projects, identify properties potentially protected by **Section 4(f)**. Identify any public parks, publicly-owned recreation areas, and wildlife or waterfowl refuges located within the vicinity of the proposed project. Describe the potential involvement and how it may be evaluated in the PD&E phase. See [Part 2, Chapter 7, Section 4\(f\) Resources](#).
  2. **Historic and Archaeological Sites** - Within the vicinity of the proposed project, identify any known sites listed or eligible for listing on the **National Register of Historic Places (NRHP)**. This includes, but is not limited to historic districts, objects, archaeological remains, and historic standing structures, including bridges. Describe the project's potential involvement and how cultural resources will be evaluated. See [Part 2, Chapter 8, Archaeological and Historical Resources](#).
  3. **Recreational Areas and Protected Lands** - Identify any recreation areas, the project's potential involvement, and how they may be evaluated. It should be noted that for USDOT projects these properties may be potentially protected by **Section 4(f)**. **Section 6(f)** of **Land and Water Conservation Fund Act (LWCF) of 1965 (16 U.S.C. §§ 4601-5 through 4601-7 and 4601-11)** prohibits the conversion of property acquired or developed with these grants to a non-recreational purpose without the approval of the National Park Service (NPS). Identify a project's potential **Section 6(f)** involvement. The **LWCF** expired on



September 30, 2015, but was extended for 3 years in the **Consolidated Appropriations Act 2016**, until September 30, 2018 (**Public Law 114-113**). Identify any state-owned conservation lands subject to review and approval by the Acquisition and Restoration Council (ARC). See [Part 2, Chapter 23, Acquisition and Restoration Council Coordination](#).

- c. **Natural** - see **Part 2** of this [Manual](#)
1. **Wetlands and other Surface Waters** - Discuss potential involvement with wetland and surface water resources. If known, identify the location of potential jurisdictional wetlands and surface waters as determined by the FDEP, Florida Water Management Districts (WMDs), and/or the USACE. Describe how wetlands and surface waters may be evaluated. See [Part 2, Chapter 9, Wetlands and Other Surface Waters](#).
  2. **Water Resources** - Provide a brief description of existing stormwater treatment and the possible options for treatment. Identify if the project is located within a sole source aquifer, and provide the name of the aquifer. The Environmental Protection Agency (EPA) will need to provide a Sole Source Aquifer letter, as appropriate. See [Part 2, Chapter 11, Water Resources](#).
  3. **Floodplains** - State if the project is in the base floodplain or involves a regulated floodway, the project's potential involvement, and how potential floodplain impacts will be evaluated. See [Part 2, Chapter 13, Floodplains](#).
  5. **Protected Species and Habitat** - Identify threatened and endangered species that may inhabit or migrate through the project corridor, designated critical habitat involved with the project, wildlife habitat for listed species, and describe the project's potential involvement, and how they may be evaluated. See [Part 2, Chapter 16, Protected Species and Habitat](#).
  6. **Coastal and Marine** - Identify any Essential Fish Habitat (EFH) in the project vicinity and potential for involvement with managed species inhabiting, or migrating through the project vicinity as required by the **Magnuson-Stevens Fishery Conservation Management Act (MSFCMA)**. Identify possible involvement with Habitat Areas of Particular Concern (HAPCs). Describe the project's potential involvement, and how it may be evaluated. Identify if the project is located in the vicinity of, or is located within, a coastal barrier resource as defined by the **Governor's Executive Order 81-105** and the **Coastal Barrier Resources Act (CBRA)**. See [Part 2, Chapter 17, Essential Fish Habitat](#) and [Part 2, Chapter 15, Coastal Barrier Resources](#).

7. **Outstanding Florida Waters** - Identify potential involvement with Outstanding Florida Waters. See [Part 2, Chapter 11, Water Resources](#).
  8. **Aquatic Preserves** - Identify potential involvement with Aquatic Preserves. See [Part 2, Chapter 11, Water Resources](#).
  9. **Wild and Scenic Rivers** - Identify potential involvement with rivers listed in the Nationwide Rivers Inventory and those designated as Wild and Scenic Rivers or Study Rivers. See [Part 2, Chapter 12, Wild and Scenic Rivers](#).
- d. **Physical** - see [Part 2](#) of this [Manual](#)
1. **Noise** - Identify any potential noise sensitive sites within the vicinity of the project. Identify the likelihood of traffic noise impacts and performance of a noise study during PD&E. See [Part 2, Chapter 18, Highway Traffic Noise](#).
  2. **Air Quality** - Describe the air quality conformity designation of the project area and the need to perform a Carbon Monoxide (CO) analysis. See [Part 2, Chapter 19, Air Quality](#).
  3. **Contamination** - Identify by industry or commercial type any known Hazardous Material Generators and/or potentially contaminated sites (e.g., petroleum) within the vicinity of the project. State how the project will be evaluated for contamination. See [Part 2, Chapter 20, Contamination](#).
  4. **Infrastructure** - Provide a brief description of existing infrastructure (e.g., utilities, railroads, transit), the project's potential involvement, and how it may be evaluated. See [Part 2, Chapter 21, Utilities and Railroads](#).
  5. **Navigation** - Identify if the project intersects a potentially navigable waterway, the project's potential involvement, and how it may be evaluated. Describe the level of USCG involvement based on screening results. See [Part 1, Chapter 16, United States Coast Guard Projects and Navigation](#).
4. **Anticipated Permits** - Identify any anticipated permits.
  5. **Anticipated Technical Studies** - Identify any anticipated technical studies.

### 3.2.2.4 Application for Federal Assistance

An [Application for Federal Assistance \(SF-424\)](#) is included as part of the AN package for those projects involving federal funding. An example of the federal form is provided in [Figure 3-4](#).

### 3.2.2.5 Transmittal List

A transmittal list is a record of the recipients of the AN, and must be provided in the AN package. Recipients of the AN include: ETAT members, consistency reviewers, elected officials, federally recognized tribes, and other local, state, and federal agencies that need, or have requested, to be notified. An example list of agencies and organizations that the AN package is typically distributed to is included in [Figure 3-5](#). All contacts listed are not applicable for all projects. The OEM maintains contact information in the EST database for mandatory AN contacts. Districts should verify contacts in that list and communicate any updates or discrepancies to OEM. The District is responsible for adding additional project-specific contacts to the list. The EST provides a tool for adding new contacts. For guidance on adding and managing contacts see the [EST User Handbook](#).

### 3.2.3 Distribution of the Advance Notification Package

After the District performs a final quality review of project data, the completed AN package is transmitted to OEM using the EST for review. PDCs have up to 14 days to provide comments. OEM comments are accompanied by three options; approved to screen without edits, approved to screen with edits, or revise and resubmit to OEM for another review. Upon receiving OEM approval, the District uses the EST to transmit the AN package. An email notification is automatically customized according to the type of review the recipient conducts and may be tailored further to include project-specific review instructions. See [Figure 3-6](#) for a sample **Programming Screen Notification** with an AN package. The email includes a link to the AN package. The email is sent to the following recipients:

1. ETAT Members
2. FDOT Community Liaison Coordinator (CLC)
3. Interested parties who may set up notification preference through the ETDM Public Access Website
4. Florida SCH
5. Agencies on the SCH contact list when the Consistency Reviewer of the agency is not the same as the ETAT reviewer (if the project requires a Federal Consistency Review)
6. Other AN package recipients not included in the above, such as regional planning council and local government officials

The District may mail hardcopies of the package to other recipients, as requested. For instance, the Miccosukee Tribe of Indians regularly request hard copies (refer to the [Native American Coordination website](#) for more details, addresses, and tribal preferences). The [Native American Coordination website](#) includes a list of the Tribal Chief or Chairperson as well as the tribal historic preservation official(s). The Tribal Chief or Chairperson should be sent an AN package. An additional letter should be distributed with the AN to preservation officials to inform these officials that FDOT is initiating its cultural resources identification and evaluation process for the project. See [Figure 3-7](#) for a cover letter for preservation officials. Regardless of how the AN package is distributed, the transmittal list should be documented in the EST. Other interested parties may include federal, state, or local agencies such as police and fire departments, and schools that are not part of the ETAT or a consistency reviewer. Additional recipients may be identified and entered in the EST as necessary by the District. [Figure 3-8](#) provides addresses for organizations and/or agencies that may not be represented by an ETAT member or a consistency reviewer, but are required to receive a copy of the AN package. This list is maintained in the EST by OEM. If a correction is needed, please notify OEM.

### 3.2.4 Comments and Responses

Recipients have 45 days from the date of transmittal of the AN package to provide comments (electronically or hardcopy) to FDOT. A 15-day extension may be granted by the District upon request by the reviewing party. Requests can be verbal (e.g., in person or phone call) or written (e.g., letter, email, or interacting with the EST). Agencies failing to respond by the end of the review period, but which have jurisdiction by law or are anticipated to have an interest in the proposed action, may be contacted at the District's discretion to solicit their comments.

At the end of the comment period, the SCH has an additional 15 days to review the consistency reviewer's comments and provide a federal consistency determination that the requirements pursuant to **Chapter 163, F.S.**, are met. The SCH uses comments received from consistency reviewers as the basis for its consistency determination. When a project is determined to be inconsistent with the FCMP, a notice of inconsistency is issued by FDEP pursuant to **15 CFR Part 930** and **Section 380.23, F.S.** The determination must cite the section of the relevant statute under the agency's authority with which the project is inconsistent, and must identify actions that can be taken to resolve the inconsistency.

The District reviews and addresses ETAT comments prior to the publication of the **Preliminary Programming Screen Summary Report**. When the AN process is completed after the Programming Screen review and before the COA determination, FDOT responds to AN comments in the EST and then re-publishes the **Preliminary Programming Screen Summary Report**. Once published, the **Preliminary Programming Screen Summary Report** documents the screening event (ETAT comments), the Federal Consistency Determination, and the AN comments, as well as the District's responses to comments received, as appropriate.

Once the report is published, an email notification is automatically distributed informing the ETAT and those who received the AN package electronically of the updated status. Copies of the **Preliminary Programming Screen Summary Report** can be sent by the District to other interested parties if requested. Information from the summary report is then used to advance or focus analyses prior to the PD&E Study, develop the scope of services of the PD&E Study, and assist with the COA determination as discussed in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#). The **Final Programming Screen Summary Report** contains the same information as the **Preliminary Programming Screening Summary Report** with the addition of an approved COA determination.

### 3.2.5 Agency Roles

During the comment period, agencies may request, or be invited, to serve as Cooperating or Participating Agencies on a project. Agency roles must be designated and approved by the Lead Agency prior to determining the COA. These designations describe various levels of involvement in the environmental review process.

1. **Lead Agency** - The Lead Agency is the agency having primary responsibility for the Environmental Document, determining the preferred alternative in the PD&E phase, and inviting Cooperating and Participating Agencies. The District is the Lead Agency for non-federal projects. OEM is the Lead Agency for federal highway transportation projects. Otherwise, a federal agency will be the Lead Agency and under **Title 23 U.S.C. § 139(c)(3)**, and FDOT serves as the joint lead agency. FDOT identifies whether a project will be processed as a federal or state project through consideration and coordination during the SWAT Planning Meeting. Potential Lead Agencies are identified during the Programming Screen to expedite the COA process.
2. **Cooperating Agency** - According to the Council on Environmental Quality (CEQ) (**40 CFR § 1508.5**), a cooperating agency is defined as any federal agency, other than a lead agency, that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposed project or project alternative. A state or local agency of similar qualifications (or a Native American Tribe when the effects are on lands of tribal interest) may, by agreement with the lead agency(ies), also become a cooperating agency.

During the Programming Screen, an agency can request to be a Cooperating Agency or during project review, FDOT Districts can recommend Cooperating Agencies; however, the Lead Agency is responsible for officially inviting and approving the Cooperating Agencies.

Cooperating Agencies have a higher degree of authority, responsibility, and involvement in the environmental review process. Because the Cooperating Agencies have legal/jurisdiction requirements tied to the preparation of the Environmental Document, they may be called upon to review the pre-circulated

Environmental Document on a case-by-case basis as determined by the lead agency. Cooperating Agencies must be included when establishing the schedule.

The CEQ regulations **[40 CFR § 1501.6(b)(3)]** permit a Cooperating Agency to “assume on request of the Lead Agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.” An additional distinction is that, pursuant to **40 CFR § 1506.3(c)**, “a Cooperating Agency may adopt without re-circulating the environmental impact statement of a Lead Agency when, after an independent review of the statement, the Cooperating Agency concludes that its comments and suggestions have been satisfied”. Cooperating Agencies may be determined during the Programming Screen or during the PD&E Study.

3. **Participating Agency** - Other agencies with expertise or jurisdiction relevant to the project that are invited by the Lead Agency (pursuant to **23 U.S.C. § 139**) to respond to requests for technical assistance, attend scoping and coordination meetings, attend joint field reviews, provide substantive and early input on issues of concern, scope agreements for issues and required technical studies, review Lead Agency-approved draft/final Environmental Documents. Designation as a Participating Agency does not indicate project support and does not provide an agency with increased oversight or approval authority above its statutory limits. It is not necessary to invite agencies as Participating Agencies that have only a tangential, speculative, or remote interest in the project. Examples of a Participating Agency include: federal, state, tribal, regional, and local government agencies. Nongovernmental organizations and private entities cannot serve as Participating Agencies.

Per **23 U.S.C. § 139(d)** the Lead Agency is responsible for inviting and approving Participating Agencies in the **NEPA** process. An agency may request to serve as a Participating Agency. The Lead Agency may invite agencies that are not ETAT members to be involved as Participating Agencies.

Per **23 U.S.C. § 139**, responsibilities of the Participating Agencies include:

- a. Participating in the **NEPA** process at the earliest possible time, especially with regard to the development of the purpose and need, range of alternatives, methodologies, and the level of detail for the analysis of alternatives.
- b. Identifying, as early as practicable, any issues of concern regarding the project’s potential environmental, socio-economic, community, or other impacts.
- c. Participating in the issue resolution process.

- d. Providing meaningful and timely input on unresolved issues.
- e. Participating in the scoping process. The scoping process should be designed so that interested agencies are invited to participate and have an opportunity for involvement in the process.
- f. Reviewing ancillary project documentation as a means of providing expert review and providing commentary or concurrence as appropriate.
- g. Reviewing at the discretion of the lead agency, the Environmental Document before it is approved for public availability.

### 3.2.6 Issue Resolution

If the SCH finds the project to be inconsistent with the FCMP and an inconsistency determination is provided during the AN review, the project will go through the ETDM issue resolution process (see Chapter 2 of the [ETDM Manual, Topic No. 650-000-002](#)). The ETDM Issue Resolution process seeks to find solutions to complex issues among agencies by identifying mutually agreeable activities or conditions that will address a resource concern (natural, physical, social or cultural) while meeting the transportation need. Issue resolution activities may continue through future project delivery phases as detailed analysis begins and more information becomes available. Once the issue has been resolved, the entire issue resolution process will be documented in the EST and the Environmental Document. The [EST User Handbook](#) provides additional guidance on tracking and documenting the issue resolution process. Should a federal agency disagree with the decision, the Federal Dispute Resolution process may be initiated. If there are unresolved issues for federal highway projects undergoing *NEPA* review, then the “issue resolution” process set out in **23 U.S.C. § 139(h)(4)** will apply.

### 3.2.7 Project Status Update

Recipients of the Programming Screen Notification and/or AN must be notified when one or more of the following conditions occur:

1. It has been 4 years or longer and no project activities have occurred since the distribution of the AN;
2. There is a change in project logical termini (expanded); and/or
3. There is a change in project concept(s) (e.g., new or revised alignments, addition of a new interchange, addition of express lanes).

If the project has **not** entered the PD&E phase, the AN must be reprocessed and will include an updated Programming Screen. Entering the PD&E phase is defined as work occurring on the project after the official start date of the PD&E Study represented by Project Schedule and Management (PSM) codes (Type 2 CE Start = 706, EA Start = 707,

NOI-EIS Start = 708, or SEIR Start = 709). For an Environmental Impact Statement (EIS), the Notice of Intent (NOI) serves as the official start date. For an Environmental Assessment (EA), Type 2 CE or SEIR, the start of the PD&E phase date is project-specific and determined by the Project Manager. It represents the date the project team begins the PD&E Study activities, thus signaling the beginning of **NEPA** coordination and analysis for federally funded projects, and the beginning of coordination and analysis to support development of a SEIR for state-funded projects.

An updated AN package is prepared in accordance with [Section 3.2.2](#). On federal highway projects, the District must coordinate with OEM.

The Project Manager in coordination with the ETDM Coordinator updates project information in the AN package in the EST, and sends the updated package to the recipients of the original AN. The cover letter ([Figure 3-2](#)) should reference the earlier AN (including the State Application Identifier number) and include the reason(s) the new AN is being transmitted.

If the project has entered the PD&E phase, the project is not required to go back through the Programming Screen. Instead, the District will prepare a project status fact sheet which includes the following information:

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

The project status fact sheet is sent to the same recipients of the Programming Screen notification and/or AN.

### 3.3 REFERENCES

Chapter 163, F.S.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0100-0199/0163/0163ContentsIndex.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0163/0163ContentsIndex.html)

Federal Register, 1982, Presidential Executive Order 12372. FR Vol. 47, No. 137

FDEP. Intergovernmental Programs Procedure and Reference Manual.

[http://www.dep.state.fl.us/secretary/oip/state\\_clearinghouse/manual.htm](http://www.dep.state.fl.us/secretary/oip/state_clearinghouse/manual.htm)



FDEP. State Clearinghouse Manual

[http://www.dep.state.fl.us/secretary/oip/state\\_clearinghouse/manual.htm](http://www.dep.state.fl.us/secretary/oip/state_clearinghouse/manual.htm)

FDOT. Efficient Transportation Decision Making Manual Topic No. 650-000-002.

<https://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

FDOT. EST User Handbook. [https://etdmpub.fla-](https://etdmpub.fla-etat.org/est/?startPageId=493&keywords=EST&categoryList=82)

[etat.org/est/?startPageId=493&keywords=EST&categoryList=82](https://etdmpub.fla-etat.org/est/?startPageId=493&keywords=EST&categoryList=82)

FHWA. Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Final Guidance, November 15, 2006.

<http://search.usa.gov/search?utf8=%E2%9C%93&affiliate=dot-fhwa&query=SAFETEA-LU+Guidance&commit.x=12&commit.y=12>

Letter, December 7, 2007, USCG, discussing programmatic approach as a cooperating agency

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.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/executed-fdot-nepa-assignment-mou-2016-1214.pdf?sfvrsn=fe9a018f\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/executed-fdot-nepa-assignment-mou-2016-1214.pdf?sfvrsn=fe9a018f_0)

Section 380.23, F.S.

[http://www.leg.state.fl.us/statutes/index.cfm?StatuteYear=2015&AppMode=Display\\_Results&Mode=Search%2520Statutes&Submenu=2&Tab=statutes&SearchString=Section+380.23](http://www.leg.state.fl.us/statutes/index.cfm?StatuteYear=2015&AppMode=Display_Results&Mode=Search%2520Statutes&Submenu=2&Tab=statutes&SearchString=Section+380.23)

State of Florida, Office of the Governor, September 29, 1997, Executive Order 95-359

Title 15 CFR § 930, 197, Federal Consistency With Approved Coastal Management Programs (Subpart F).

<http://www.ecfr.gov/cgi-bin/text-idx?SID=758bac6dae3a9a678ef77e197eb29e14&mc=true&node=pt15.3.930&rgn=div5>

Title 40 CFR § 1500-1508. Council on Environmental Quality, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act.

[http://www.ecfr.gov/cgi-bin/text-idx?SID=d0bc3539af1d24b33a217c6618118ea9&mc=true&tpl=/ecfrbrowse/Title40/40cfrv37\\_02.tpl#1500](http://www.ecfr.gov/cgi-bin/text-idx?SID=d0bc3539af1d24b33a217c6618118ea9&mc=true&tpl=/ecfrbrowse/Title40/40cfrv37_02.tpl#1500)

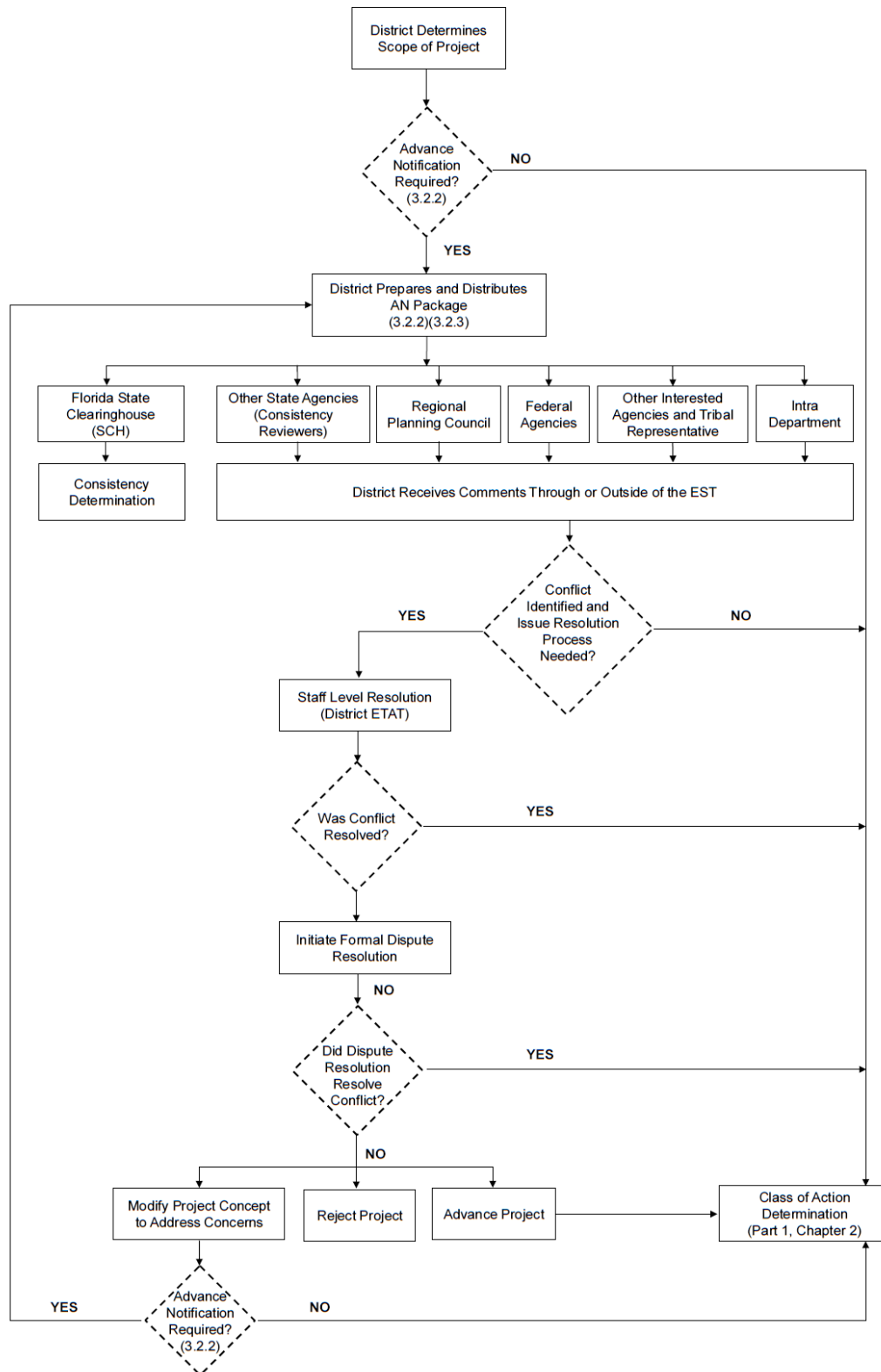
Title 23 U.S.C. Highways.

### **3.4 FORMS**

[Planning Requirements for Environmental Document Approvals Form, Form No. 650-050-42](#)

### **3.5 HISTORY**

2/28/2005, 11/5/2007, 10/19/2012, 8/22/2016, 6/14/2017: NEPA Assignment, 1/14/2019



**Figure 3-1 Advance Notification Process**

(DATE)

Florida State Clearinghouse  
Department of Environmental Protection  
3900 Commonwealth Boulevard  
Mail Station 47  
Tallahassee, Florida 32399-3000

SUBJECT: Advance Notification  
Project Name  
ETDM Number  
Federal Aid Project Number X-XXX(X)-X  
Financial Management Number XXXXXXXXXXXX  
\_\_\_\_\_ County, Florida

Dear Name:

This Advance Notification (AN) package is being sent to your office for distribution to State agencies that conduct federal consistency reviews (consistency reviewers) in accordance with the Coastal Zone Management Act and Presidential Executive Order 12372. Although we will request specific comments during the permitting process, we are asking that consistency reviewers examine the attached information and provide us with their comments.

Consistency reviewers have 45 days from the Programming Screening Notification to provide their comments. Once you have received their comments, please submit a consistency determination for the State of Florida within 60 days of the Programming Screen Notification. If you need more review time, send a written request for an extension to our office within the initial 60 day comment period

(Projects that qualify for screening and involve a federal action, federal funds, or are maintaining federal eligibility, require a Federal Consistency Review Determination. If any of these conditions are anticipated for any phase through construction, then add the following statement):

*"This is a federal action. 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. -FDOT will determine what type of environmental documentation will be necessary. The determination will be based upon in-house environmental evaluations and comments received through coordination with other agencies. Please provide a consistency review for this project in accordance with the State's Coastal Zone Management Program.*

*In addition, please review this project's consistency, to the maximum extent feasible, with the requirements of Chapter 163 of the Florida Statutes."*

### Figure 3-2 Cover Letter to the State Clearinghouse

(DATE)  
Page 2

If a project is non-federal, then include the following statement:

*"This is a non-federal action and the Florida Department of Transportation will determine what type of environmental documentation will be necessary. The determination will be based upon in-house environmental evaluations and comments from other agencies. A consistency review for this project is not required by 15 CFR Part 930 because no federal actions are involved.*

*In addition, please review this project's consistency, to the maximum extent feasible, with the requirements of Chapter 163 of the Florida Statutes."*

**Conditional if previously screened – insert the following paragraph:**

*The project was previously reviewed through the Environmental Screening Tool as part of the Efficient Transportation Decision Making (ETDM) Programming Screen. The project is listed as \_\_\_\_\_.  
The Programming Screen Summary Report was published on \_\_\_\_\_.  
The Environmental Technical Advisory Team (ETAT) members may review this report on the ETDM website. Non-ETAT agencies may review this report on the public access website located at: <http://etdmpub.florida-etat.org/>.*

Your comments should be submitted via the EST if you are an ETAT representative, or emailed or mailed to the District contact:

District Environmental Office  
Florida Department of Transportation  
Street address XXXX  
District / City, Florida XXXXX  
Email address

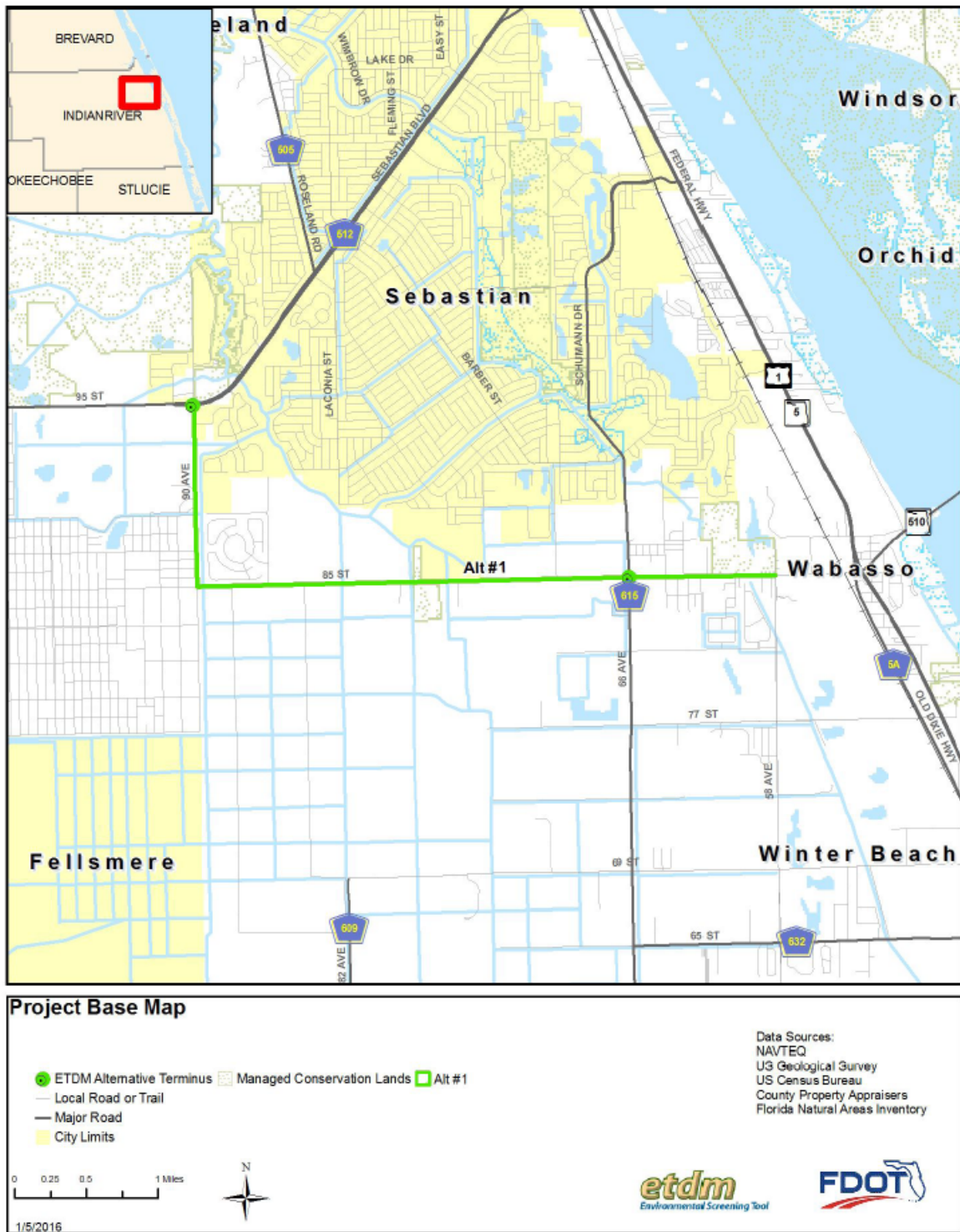
Sincerely,

Manager of District office in charge of  
PD&E studies as appropriate based  
on District organizational structure

Attachment

**Figure 3-2 Cover Letter to the State Clearinghouse (Page 2 of 2)**

**14233 CR 510 Widening from CR 512 to 58 Avenue  
 CR 512/85th Street to 58th Avenue**



This map and its content is made available by the Florida Department of Transportation on an "as is," "as available" basis without warranties of any kind, express or implied.

**Figure 3-3 Example of Project Location Map**

<a href="#">View Burden Statement</a>		OMB Number: 4040-0004 Expiration Date: 10/31/2019
<b>Application for Federal Assistance SF-424</b>		
<b>* 1. Type of Submission:</b> <input type="checkbox"/> Preapplication <input type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application		<b>* 2. Type of Application:</b> <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision
* 3. Date Received: <input type="text"/>		* If Revision, select appropriate letter(s): <input type="text"/> * Other (Specify): <input type="text"/>
4. Applicant Identifier: <input type="text"/>		
5a. Federal Entity Identifier: <input type="text"/>	5b. Federal Award Identifier: <input type="text"/>	
<b>State Use Only:</b>		
6. Date Received by State: <input type="text"/>	7. State Application Identifier: <input type="text"/>	
<b>8. APPLICANT INFORMATION:</b>		
* a. Legal Name: <input type="text"/>		
* b. Employer/Taxpayer Identification Number (EIN/TIN): <input type="text"/>	* c. Organizational DUNS: <input type="text"/>	
<b>d. Address:</b>		
* Street1: <input type="text"/>	Street2: <input type="text"/>	
* City: <input type="text"/>	County/Parish: <input type="text"/>	
* State: <input type="text"/>	Province: <input type="text"/>	
* Country: <input type="text"/>	USA: UNITED STATES <input type="text"/>	
* Zip / Postal Code: <input type="text"/>		
<b>e. Organizational Unit:</b>		
Department Name: <input type="text"/>	Division Name: <input type="text"/>	
<b>f. Name and contact information of person to be contacted on matters involving this application:</b>		
Prefix: <input type="text"/>	* First Name: <input type="text"/>	
Middle Name: <input type="text"/>		
* Last Name: <input type="text"/>		
Suffix: <input type="text"/>		
Title: <input type="text"/>		
Organizational Affiliation: <input type="text"/>		
* Telephone Number: <input type="text"/>	Fax Number: <input type="text"/>	
* Email: <input type="text"/>		

**Figure 3-4 Application for Federal Assistance**

Application for Federal Assistance SF-424	
<b>* 9. Type of Applicant 1: Select Applicant Type:</b> <input type="text"/>	
Type of Applicant 2: Select Applicant Type: <input type="text"/>	
Type of Applicant 3: Select Applicant Type: <input type="text"/>	
* Other (specify): <input type="text"/>	
<b>* 10. Name of Federal Agency:</b> <input type="text"/>	
<b>11. Catalog of Federal Domestic Assistance Number:</b> <input type="text"/>	
CFDA Title: <input type="text"/>	
<b>* 12. Funding Opportunity Number:</b> <input type="text"/>	
* Title: <input type="text"/>	
<b>13. Competition Identification Number:</b> <input type="text"/>	
Title: <input type="text"/>	
<b>14. Areas Affected by Project (Cities, Counties, States, etc.):</b> <input type="text"/> <input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>	
<b>* 15. Descriptive Title of Applicant's Project:</b> <input type="text"/>	
Attach supporting documents as specified in agency instructions. <input type="button" value="Add Attachments"/> <input type="button" value="Delete Attachments"/> <input type="button" value="View Attachments"/>	

**Figure 3-4 Application for Federal Assistance (Page 2 of 3)**



Application for Federal Assistance SF-424	
<b>16. Congressional Districts Of:</b>	
* a. Applicant	* b. Program/Project
Attach an additional list of Program/Project Congressional Districts if needed.	
	<input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>
<b>17. Proposed Project:</b>	
* a. Start Date:	* b. End Date:
<b>18. Estimated Funding (\$):</b>	
* a. Federal	
* b. Applicant	
* c. State	
* d. Local	
* e. Other	
* f. Program Income	
* g. TOTAL	
<b>* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?</b>	
<input type="checkbox"/> a. This application was made available to the State under the Executive Order 12372 Process for review on <input type="text"/> .	
<input type="checkbox"/> b. Program is subject to E.O. 12372 but has not been selected by the State for review.	
<input type="checkbox"/> c. Program is not covered by E.O. 12372.	
<b>* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)</b>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
If "Yes", provide explanation and attach	
	<input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>
<b>21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)</b>	
<input type="checkbox"/> <b>** I AGREE</b>	
** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.	
<b>Authorized Representative:</b>	
Prefix:	* First Name:
Middle Name:	
* Last Name:	
Suffix:	
* Title:	
* Telephone Number:	Fax Number:
* Email:	
* Signature of Authorized Representative:	* Date Signed:

Figure 3-4 Application for Federal Assistance (Page 3 of 3)

Federal Emergency Management Agency - Mitigation Division, Chief  
Federal Railroad Administration – Director  
Federal Railroad Administration  
U.S. Department of Interior - Bureau of Land Management, Southeastern States Office  
U.S. Department of Housing and Urban Development, Regional Environmental Officer  
U.S. Department of Interior - U.S. Geological Survey Chief  
U.S. Environmental Protection Agency - **ETAT Representative**  
U.S. Department of Interior – U.S. Fish and Wildlife Service - **ETAT Representative**  
U.S. Army Corps of Engineers - Regulatory Branch - **ETAT Representative**  
U.S. Department of Commerce - National Marine Fisheries Service – Southeast Regional Administrator or Southeast Regional Director  
U.S. Department of Commerce - National Marine Fisheries Service - Habitat Conservation Division - **ETAT Representative**  
U.S. Department of Agriculture - Southern Region  
U.S. Department of Interior - National Park Service - Southeast Regional Office - **ETAT Representative**  
Federal Aviation Administration – Orlando Airports District Office  
U.S. Department of Health and Human Services – National Center for Environmental Health  
U.S. Department of Interior - Bureau of Indian Affairs - Office of Trust Responsibilities  
U.S. Coast Guard - Commander (obr) - Eighth District - **ETAT Representative** (District 3 only)  
U.S. Coast Guard - Commander (oan) - Seventh District - **ETAT Representative**  
Florida Inland Navigation District  
Poarch Band of Creek Indians of Alabama  
Muscogee (Creek) Nation of Oklahoma  
Seminole Tribe of Florida - **ETAT Representative**  
Miccosukee Tribe of Indians of Florida - **ETAT Representative**  
Seminole Nation of Oklahoma  
Mississippi Band of Choctaw Indians  
Florida Fish and Wildlife Conservation Commission - **ETAT Representative**  
U.S. Forest Service - **ETAT Representative**  
Florida Department of Environmental Protection - **ETAT Representative**  
Florida Department of Environmental Protection- State Clearinghouse  
Florida Department of State - **ETAT Representative**  
Florida Department of Economic Opportunity – **ETAT Representative**  
Florida Department of Agriculture and Consumer Services - **ETAT Representative**  
Federal Transit Administrator - **ETAT Representative**  
Regional Planning Council  
Water Management District - **ETAT Representative**  
Engineer/Manager, Environmental Office  
Local Government Officials

**Figure 3-5 Example Transmittal List**

FROM: [FDOT ETDM Coordinator]  
TO: [ETAT Member, ETDM Coordinator Management Team, FDOT CLC, FDOT CLC Primary, FDOT ETDM Coordinator Primary, MPO CLC Primary, MPO CLC, MPO ETDM Coordinator Primary, MPO ETDM Coordinator, Advance Notification – Commenting Interested Parties, Consistency Reviewers, Project Managers, District Environmental Manager, State Clearinghouse Coordinator, Federal Consistency – Commenting Interested Party]

Subject: Notice: ETDM Programming Screen and Federal Consistency Review have begun

The ETDM Programming Screen and the Florida State Clearinghouse federal consistency review period have begun for the following project. This notice also constitutes the Advance Notification in accordance with Presidential Executive Order 12372. Please review instructions below and then proceed to the Environmental Screening Tool to submit your comments at:

[www.fla-etat.org](http://www.fla-etat.org)

ETDM # : \_\_\_\_\_  
PROJECT NAME : \_\_\_\_\_  
ALTERNATIVE : \_\_\_\_\_  
MODES : \_\_\_\_\_  
PHASE : \_\_\_\_\_  
DISTRICT : \_\_\_\_\_  
COUNTY : \_\_\_\_\_  
PLANNING ORGANIZATION : \_\_\_\_\_  
POTENTIAL LEAD AGENCIES : \_\_\_\_\_

ETDM COORDINATOR : \_\_\_\_\_  
Phone: \_\_\_\_\_ Email:

PROJECT MANAGER : \_\_\_\_\_

<Click to view the Advance Notification Package> Link: [http://etdmpub.fla-etat.org/est/AN\\_Package.jsp?pkg=2085](http://etdmpub.fla-etat.org/est/AN_Package.jsp?pkg=2085)

---

**Figure 3-6 Sample Programming Screen Notification**

The review period starts today XX-XXX-XX, and will end in 45 days, on XX-XXX-XX.

=====

The following Water Management District(s) should review this project:

\_\_\_\_\_

=====

INSTRUCTIONS FOR ETDM PROGRAMMING SCREEN REVIEW ETAT reviewers are asked to proceed with their Programming Screen review of the above-referenced project. Those ETAT reviewers who also serve as Federal Consistency Reviewers for their agency should reference the "Federal Consistency Review" instructions below. Those agencies that use different personnel to perform the ETDM and federal consistency reviews should coordinate internally to ensure that the Federal Consistency Review and the ETDM comments are not in conflict.

Your review of this project should include:

- \* Review of Project Description and Purpose and Need
- \* Commentary on potential direct and indirect effects. Consider:
  - Standardized GIS analyses provided in the EST
  - Studies and other data about the area
  - Your professional knowledge about potential effects in the area
- \* Assignment of degree of effect
- \* Scoping recommendations for future project development phase to address:
  - Potential technical studies necessary to evaluate potential project effects
  - Identify critical issues/resources for analysis during PD&E

Your commentary and input will be used to assist in determining the Class of Action for the NEPA study.

For those involved in Sociocultural Effects Evaluations, please review the 'Sociocultural Effects Evaluation- Guidelines for the ETDM Process' document at <https://www.fdot.gov/environment/pubs/sce/sce1.shtm>.

If you have any technical questions, need assistance, or require additional training, the following three options are available to you:

- 1) Contact the ETDM Help Desk at 850-414-5334 or [help@fla-etat.org](mailto:help@fla-etat.org)
- 2) Contact ETDM Coordinator or CLC
- 3) Contact Project Manager

**Figure 3-6 Sample Programming Screen Notification (Page 2 of 3)**

NOTICE TO MPO ETDM Coordinators and CLCs: Some projects may not fall within your geographic jurisdiction; however, the Department would not want to prevent you from commenting on a project if you believe that it may impact your organization. Therefore, you are being notified of any project entering a review cycle within your FDOT District.

=====

INSTRUCTIONS FOR FEDERAL CONSISTENCY REVIEW The Florida State Clearinghouse requests that applicable state agency contacts review the referenced project for consistency with the Florida Coastal Management Program. If you are not the designated Clearinghouse contact for your agency, please advise the designated contact of this notice. Those agencies that use different personnel to perform the ETDM and Clearinghouse reviews should coordinate internally to ensure that the Federal Consistency Review and the ETDM comments are not in conflict.

State reviewers should note that if a finding of inconsistency is made, the finding must cite the section of the relevant statute under that agency's authority with which the project is inconsistent, and must identify actions that can be taken to resolve the conflict. Prior to actually issuing a finding of inconsistency, the reviewing agency should immediately notify the Clearinghouse of identified problems (phone 850-245-2161).

The Florida State Clearinghouse requests the participation of the regional planning councils and local governments in the federal consistency review process. Please note that participation is advisory in nature, based upon such issues as consistency with the strategic regional policy plan or the local government comprehensive plan, or conflict with other known area activities.

Thank you,

ETDM Coordinator and CLC

**Figure 3-6 Sample Programming Screen Notification (Page 3 of 3)**

(DATE)

Organization  
Title of preservation official  
Name of preservation official  
Street address  
City, Florida Zip Code

SUBJECT: Advance Notification  
Project Name  
ETDM Number  
Federal Aid Project Number X-XXX(X)-X  
Financial Management Number XXXXXXXXXXXX  
\_\_\_\_\_ County, Florida

Dear Name:

This Advance Notification (AN) package is being sent to your office for distribution to State agencies that conduct federal consistency reviews (consistency reviewers) in accordance with the Coastal Zone Management Act and Presidential Executive Order 12372. Although we will request specific comments during the permitting process, we are asking that consistency reviewers examine the attached information and provide us with their comments.

Consistency reviewers have 45 days from the Programming Screening Notification to provide their comments. Once you have received their comments, please submit a consistency determination for the State of Florida within 60 days of the Programming Screen Notification. If you need more review time, send a written request for an extension to our office within the initial 60 day comment period

(Projects that qualify for screening and involve a federal action, federal funds, or are maintaining federal eligibility, require a Federal Consistency Review Determination. If any of these conditions are anticipated for any phase through construction, then add the following statement):

*"This is a federal action. 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. -FDOT will determine what type of environmental documentation will be necessary. The determination will be based upon in-house environmental evaluations and comments received through coordination with other agencies. Please provide a consistency review for this project in accordance with the State's Coastal Zone Management Program.*

*In addition, please review this project's consistency, to the maximum extent feasible, with the requirements of Chapter 163 of the Florida Statutes."*

### Figure 3-7 Cover Letter to the Preservation Officials

(DATE)  
Page 2

If a project is non-federal, then include the following statement:

*"This is a non-federal action and the Florida Department of Transportation will determine what type of environmental documentation will be necessary. The determination will be based upon in-house environmental evaluations and comments from other agencies. A consistency review for this project is not required by 15 CFR Part 930 because no federal actions are involved.*

*In addition, please review this project's consistency, to the maximum extent feasible, with the requirements of Chapter 163 of the Florida Statutes."*

**Conditional if previously screened – insert the following paragraph:**

*The project was previously reviewed through the Environmental Screening Tool as part of the Efficient Transportation Decision Making (ETDM) Programming Screen. The project is listed as \_\_\_\_\_.  
The Programming Screen Summary Report was published on \_\_\_\_\_.  
The Environmental Technical Advisory Team (ETAT) members may review this report on the ETDM website. Non-ETAT agencies may review this report on the public access website located at: <http://etdmpub.fl-a-etat.org/>.*

Please inform FDOT if you have any concerns related to historic or archaeological resources of importance to you or if wish to be a consulting party under Section 106 of the National Historic Preservation Act of 1966 (as amended). Furthermore, if there are any traditional religious and/or culturally important places in or the project area which you want FDOT to consider in the development of this project, you may contact FDOT to identify your concern. The information regarding any such properties will be kept confidential.

Should you wish to inform FDOT on how to proceed to address the Tribe's concerns, you may provide this as well. Requests and comments should be forwarded to:

Director, Office of Environmental Management  
Florida Department of Transportation  
605 Suwannee Street Tallahassee, Florida  
32399-0450.  
Email xxx or phone (850) 414-4316.

Or you may contact the State Cultural Resources Coordinator at the same address:  
email xxx or phone (850) 414-5323.

**Figure 3-7 Cover Letter to the Preservation Officials (Page 2 of 3)**

Your comments should be submitted via the EST, or emailed or mailed to the District contact:

District Environmental Office  
Florida Department of Transportation  
Street address XXXX  
District / City, Florida XXXXX  
Email address

Sincerely,

Manager of District office in charge of  
PD&E studies as appropriate based  
on District organizational structure

Attachment

**Figure 3-7 Cover Letter to the Preservation Officials (Page 3 of 3)**



**FEDERAL AND STATE AGENCIES**

<p>Orlando Airports District Office                  Federal Aviation Administration                  8427 South Park Circle, Suite 524                  Orlando, FL 32819</p>	<p>Southeast Regional Office                  National Park Service                  U.S. Department of Interior                  75 Spring St., SW, Suite 1130                  Atlanta, GA 30303</p>
<p>Director                  Region IV Mitigation Division                  Federal Emergency Management Agency                  3003 Chamblee Tucker Road                  Atlanta, GA 30341-4148</p>	<p>National Center for Environmental Health                  Centers for Disease Control and Prevention                  U. S. Dept. of Health and Human Services                  1600 Clifton Rd.                  Atlanta, GA 30329-4027</p>
<p>Regional Administrator                  Federal Railroad Administration                  61 Forsyth Street SW, Suite 16T20                  Atlanta, GA 30303-3104</p> <p>Director                  Office of Public Engagement                  Federal Railroad Administration                  1200 New Jersey Ave. SE, Mail Stop 10                  Washington DC, 20590</p>	<p>Director                  U.S. Department of Interior, USGS                  Florida Water Science Center                  12703 Research Parkway                  Orlando, FL 32826</p>
<p>(FDOT District 3 and parts of 2)                  Commander</p> <p>U.S. Coast Guard Eighth District                  500 Poydras Street                  New Orleans, LA 70130-3310</p>	<p>Chief                  Division of Natural Resources                  Office of Trust Services                  Bureau of Indian Affairs                  U.S. Department of Interior                  1849 C Street, NW                  MS-4620-MIB                  Washington, D.C. 20240                  (Only when a project may potentially involve Indians)</p>
<p>Field Manager                  Southeastern States Field Office                  Bureau of Land Management                  U.S. Department of Interior                  411 Briarwood Drive, Suite 404                  Jackson, MS 39206</p>	<p>Regional Environmental Officer                  U.S. Dept. of Housing and Urban Development                  Five Points Plaza                  40 Marietta St.                  Atlanta, GA 30303-2086</p>
<p>Southeast Regional Administrator                  National Marine Fisheries Service                  National Oceanic and Atmospheric Administration                  263 13th Ave, South                  St Petersburg, FL 33701                  In addition, for actions involving the FL Keys:                  Southeast Regional Director                  National Marine Sanctuaries Program                  National Oceanic and Atmospheric Administration                  33 East Quay Rd                  Key West, FL 33040</p>	<p>Chief                  Office of Parks Planning                  Division of Recreation and Parks                  Department of Environmental Protection                  3900 Commonwealth Boulevard                  Tallahassee, Florida 32399                  (850)245-3051                  (for projects in the vicinity of Florida State Parks)</p>
<p>Florida Inland Navigation District                  1314 Marcinski Road                  Jupiter, FL 33477</p>	

**Figure 3-8 Contact Information**

## **PART 1, CHAPTER 4**

# **PROJECT DEVELOPMENT PROCESS**

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## PART 1, CHAPTER 4

# PROJECT DEVELOPMENT PROCESS

### 4.1 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).

This chapter provides an overview of the project development and delivery process for transportation projects prepared by FDOT. This chapter is not applicable to Federal Transit Administration (FTA) led or Federal Railroad Administration (FRA) led projects. See [Part 1, Chapter 14, Transit Project Delivery](#) for guidance on how to develop FTA led projects. The project development process for LAP projects should follow the procedure outlined in the [Local Agency Program Manual, Topic No. 525-010-300](#). Environmental review for LAP projects requires preparation of a **NEPA** document and FDOT oversight by the Districts and OEM as appropriate.

The project development and delivery process begin with planning studies and end with a constructed project. The FDOT project development and delivery process is a comprehensive process involving Planning, Project Development and Environment (PD&E), Design, Right of Way (ROW), and Construction phases. It is important to understand the sequence and interrelation between these phases to successfully deliver a project. PD&E is the FDOT process for evaluating potential environmental impacts from transportation projects and complying with the **NEPA** and applicable laws and regulations for federal projects and other regulations for state-funded projects. Environmental review continues through Design and Construction through Re-evaluations and permitting. FDOT projects that are Type 1 Categorical Exclusions (Type 1 CEs) or Non-Major State Actions (NMSAs) do not have a PD&E phase. Environmental evaluations for Type 1 CEs and NMSAs are performed and approved by the District Environmental Office during the Design phase.

Communication among various offices involved in the project development and delivery process and transition of the project from one phase to another is critical to a project's success. Project Managers are responsible for establishing and maintaining communication and coordination throughout the project development and delivery

process. [Figure 4-1](#) shows the project development and delivery process, along with the building blocks of each phase and how the phases connect with the PD&E process. To deliver transportation projects, FDOT uses a variety of project delivery methods, which range from the traditional Design-Bid-Build to alternative contracting methods such as Design-Build and Public Private Partnership (P3) Concessionaire Agreements. The choice of delivery method depends on a variety of factors such as project context, status, schedule, risk factors, funding availability, level of complexity, and other project-specific factors.

A project begins with the identification of transportation needs or deficiencies through a planning process that prioritizes short and long-range transportation improvements. For qualifying projects, FDOT uses the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) to gather project information and coordinate with resource and regulatory agencies, public and other project stakeholders about the project's potential effect on the social, cultural, natural, and physical resources. This information is used to develop the scope of services for a feasibility study or PD&E Study. During the PD&E phase, FDOT performs alternatives analyses, conducts environmental and engineering studies, and prepares various technical studies and reports necessary to obtain the project's Location and Design Concept Acceptance (LDCA). The PD&E phase identifies and addresses environmental issues, if any, on a project. Information obtained during PD&E phase is used to develop the scope of work for the Design phase. The scope of the Design phase also depends on the delivery method chosen for the project. The Design phase includes preparation of final construction plans, specifications and final estimates. However, the Design phase does not include final construction plans for projects that use alternative contracting methods. Typically, acquisition of ROW occurs concurrent with, or just after the Design phase before the project moves into construction.

The project development process described in this chapter supports the FDOT Statewide Acceleration Transformation (SWAT) process. The initial evaluation of all projects uses the SWAT process so that appropriate state and federal funding decisions are made. SWAT streamlines project development by following a structured process to develop project scopes and schedules; reducing duplicative work; performing initial data collection and analysis ahead of the PD&E Study, as applicable; and performing design activities concurrent with PD&E when possible.

The Districts have flexibilities to adapt the SWAT process within their existing project selection and programming processes. The SWAT process applies to both state and federal PD&E studies.

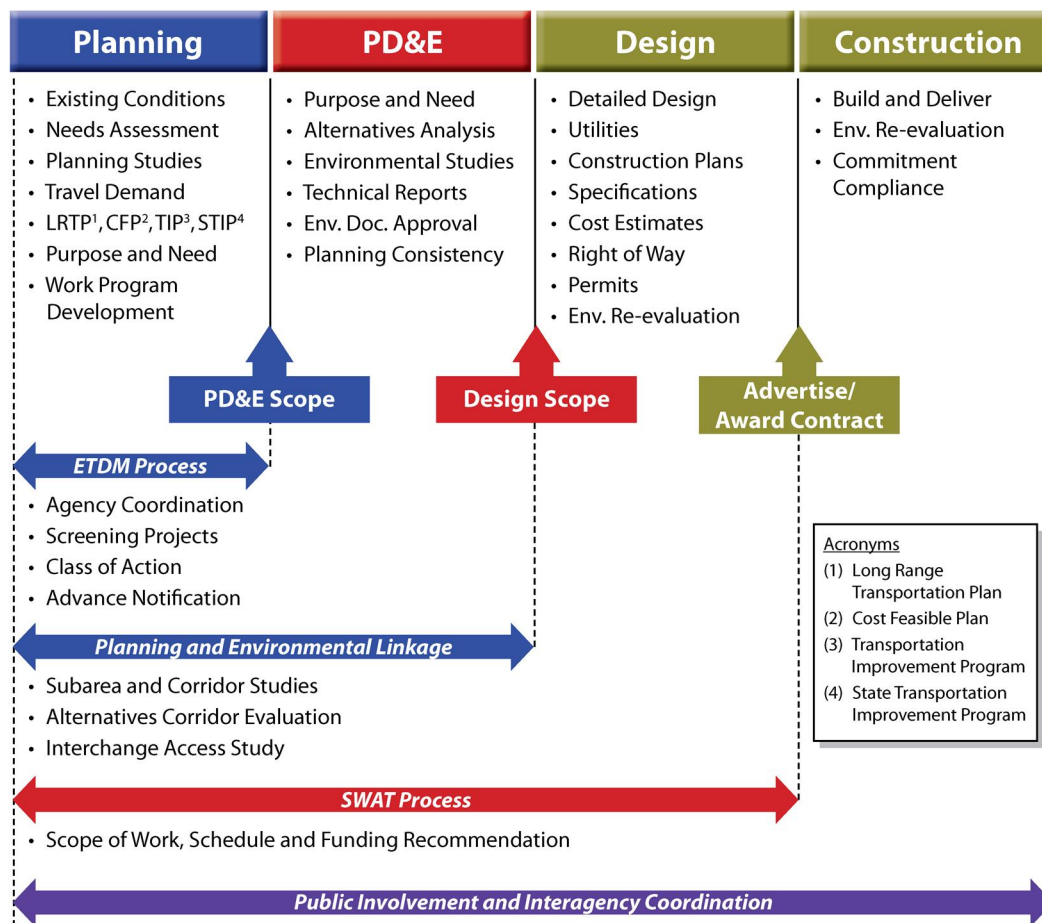


Figure 4-1 Project Development Process

### 4.1.1 Definitions

**Administrative Record** – Project documents that are submitted by the Lead Agency to the court for a **NEPA** project involving litigation. The Administrative Record is prepared using the StateWide Environmental Project Tracker (SWEPT).

**Build Alternatives** – Project alternatives that require reconstruction or widening of existing facilities or building a new facility in a new location consistent with the project’s purpose and need.

**Cost Feasible Plan (CFP)** – A plan that consists of projects in a long range transportation plan that have been identified as being able to be funded within the 20-year planning horizon.

**Federal Nexus**– A term used when a project involves federal funding, federal permit, use of federal lands, or a federal program.

**Final Design** – Any design activities following preliminary design and expressly lead to the preparation of final construction plans, detailed specifications, final quantities as defined by **23 Code of Federal Regulations (CFR) § 636.103**.

**Lead Agency** – The agency that oversees the preparation of, and approves an Environmental Document.

**Long Range Transportation Plan (LRTP)** – A 20-year transportation plan that identifies current and future transportation needs based on population and employment growth, travel demand, and other considerations for a region.

**Major Project** – A project with a total estimated cost of \$500 million or more that is receiving (federal) financial assistance as defined by **23 U.S.C. § 106**. At its discretion, FHWA can designate a project with a total cost of less than \$500 million as a major project in situations where the projects require a substantial portion of the State Transportation Agency program resources, have a high level of public or congressional interest, are unusually complex, have extraordinary implications for the national transportation system, or are likely to exceed \$500 million in total cost. This is not related to the environmental impacts of a project.

**Metropolitan Planning Organization (MPO)** – A policy board of an organization created and designated to carry out the metropolitan transportation planning process. MPOs are required to represent localities in all urbanized areas of populations over 50,000, as determined by the U.S. Census. Also referred to as Transportation Planning Organization (TPO).

**NEPA Process** – A process followed by the project sponsors and Lead Agencies to comply with the procedures and achieve the goals of the **NEPA**. The **NEPA** process, PD&E, and the federal process are used interchangeably throughout this Chapter.

**No-Action or No-Build Alternative** – A project alternative that consists of the existing facility and any minor improvements already programmed that are not specifically tied to the proposed project. This alternative serves as the baseline for comparison against the various build alternatives.

**Planning and Environment Linkages (PEL)** – A collaborative and integrated approach to transportation decision-making that 1) considers environmental, community, and economic goals early in the transportation planning process, and 2) uses the information, analysis, and products developed during planning to inform the environmental review process.

**Planning Product** – A decision, analysis, study, or other documented information that is the result of an evaluation or decision making process carried out by a metropolitan planning organization or a State, as appropriate, during metropolitan or statewide transportation planning under **23 U.S.C. § 134, 135, or 168** respectively.



**Preliminary Design** – Activities that define the general project location and design concept. These include, but are not limited to, preliminary engineering and other activities and analysis, such as environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analysis, utility investigation/coordination, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of materials, and other work needed to establish parameters for the final design as defined by **23 CFR § 636.103** and **FHWA Order 6640.1A Policy on Permissible Project Related Activities During the NEPA Process**.

**Project File** – A file that documents the decision-making process and technical support during the PD&E Study and serves as the basis for the Administrative Record. The Project File is organized in SWEPT.

**Project Scoping** – A project development activity that involves determining and documenting project goals and objectives, tasks, responsibilities, deliverables, schedule, cost and delivery method.

**Rail System Plan (RSP)** – A plan that establishes a vision for passengers and freight rail transportation systems. It identifies inventory of needs, establishes priorities for investments and sets forth future action steps necessary to implement the plan.

**Reasonable Alternatives** (Only applies to Environmental Impact Statements) – Alternatives meeting the purpose and need which are practical or feasible from a technical and economic standpoint.

**Scope of Services** – An attachment to the contractual agreement between FDOT and the procured consultant that outlines project tasks to be performed by the consultant. Development of a scope of services requires input and coordination with several offices within the District. FDOT has developed Standard Scopes of Services for procuring PD&E studies and Design services, and guidelines for estimating and negotiating staff hours.

**State Funds Only (SFO) project**– A project that will be funded by state funds only. If it is determined that the project will be state funded only, then this must be maintained throughout all the work program phases, and the District must use the SFO item group identifier in the work program.

**State Highway System (SHS)** – means as defined in **Section 334.03(24), Florida Statutes (F.S.)**.

**State Transportation Improvement Program (STIP)** – a federally mandated document prepared by FDOT which must include a listing of projects planned with federal participation in the next four fiscal years.

**State Process** – FDOT process for environmental evaluation of projects that do not have a federal nexus or do not involve an Interstate Highway, FRA facility or FTA facility.

**Strategic Intermodal System (SIS) Plan** – A plan that sets policies to guide decisions about which facilities are designated as part of the SIS (a high-priority network of transportation facilities critical to Florida’s economic competitiveness and quality of life), where future SIS investments should occur, and how to set priorities among these investments based on funding.

**Transit Development Plan (TDP)** – A 10-year transit plan which is prepared by a transit agency to present the agency’s planning, development and operation of public transit facilities (service or infrastructure). TDPs are required for grant program recipients of Public Transit Block Grant Program **Section 341.052, F.S.**

**Transportation Improvement Program (TIP)** – Is the staged multiyear program of transportation improvement projects developed by a Metropolitan Planning Organization consistent with the LRTP.

## 4.2 PROCEDURE

### 4.2.1 Planning Process

The project planning process begins when MPOs, FDOT, and other authorities identify transportation needs and projects that would meet those needs. The following planning products assist in documenting transportation needs: Long Range Transportation Plan (LRTP), Cost Feasible Plans (CFP), Strategic Intermodal System (SIS) Plans, Transit Development Plans (TDPs), Local Government Comprehensive Plans (LGCP), Municipal or Citywide Transportation Master Plans, and corridor planning studies. At the MPO level, project needs are matched and prioritized to available funding for projects in the MPO/TPO LRTPs. At the state level, FDOT develops CFPs for the SHS and Florida Rail System Plan (RSP). Priority projects are selected annually from CFPs and are presented to the Florida Legislature as a **Tentative Work Program**. Projects included in the Work Program and approved by the legislature may wait for funding for up to five years before significant work can proceed.

FDOT coordinates with the various MPOs/TPOs and local stakeholders throughout the state to develop a vision for the State’s transportation system. This includes the establishment of goals, objectives and policies to sustain and support the growth of the State’s population and economy. Additionally, FDOT provides guidance and technical assistance for transit providers for their TDPs.

During the Planning phase, the purpose and need for the project is established based on identified transportation problems, or deficiencies. Transportation, land use, safety, public and agency involvement, and other planning data are primary sources of information used to establish or define the purpose and need for the project and range of alternatives to analyze.

Technical studies for a project can be performed within the Planning phase to define or refine project parameters; establish the purpose and need for the project; determine funding needs; identify alternatives, including alternative mode(s); and define the concept

and scope for transportation improvements, including general location of the proposed improvement. These technical studies inform the development of the scope of work for PD&E studies. Alternatives development may begin during the Planning phase. Project alternatives developed (including those eliminated from further consideration) during the Planning phase may be incorporated directly or by reference into the Environmental Document provided certain conditions are met (see [Section 4.2.2](#)).

## 4.2.2 Linking Planning and Environmental Review

Linking Planning and **NEPA**, also known as Planning and Environmental Linkages (PEL), provides a connection between planning-level and environmental review decisions. Planning decisions and the environmental review process should be integrated to eliminate duplication of analysis effort and minimize delays in project delivery. The benefit of linking planning decisions and the PD&E Study is the ability to reuse data gathered, methodology developed, results obtained, and decisions made during the Planning phase to streamline the project delivery. Other benefits include the ability to identify environmental issues before developing the scope of the PD&E Study and focus the analyses and technical studies conducted during the PD&E Study to issues that have potential to impact the project's delivery and recommendations.

Pursuant to **23 U.S.C. § 168**, **23 CFR § 450.212** and **23 CFR § 450.318**, results or decisions from a system-level corridor or subarea planning study may be used in the **NEPA** analysis if they meet certain conditions. **Appendix A** of **23 CFR Part 450 - Linking the Transportation Planning and NEPA Processes** details how to adopt or incorporate by reference information from transportation planning into **NEPA** documents and/or environmental review process under existing laws. **Appendix A** of **23 CFR Part 450** is intended to be non-binding and voluntary.

The following decisions from a planning product for a transportation project, codified in **23 U.S.C. § 168(c)(1)**, may be adopted or incorporated by reference into the **NEPA** process:

1. Whether tolling, private financial assistance, or other special financial measures are necessary to implement the project;
2. A decision with respect to general travel corridor or modal choice, including a decision to implement corridor or subarea study recommendations to advance different modal solutions as separate projects with independent utility;
3. The purpose and need for the proposed action;
4. Preliminary screening of alternatives and elimination of unreasonable alternatives;
5. A basic description of the environmental setting;
6. A decision with respect to methodologies for analysis; and/or,

7. An identification of programmatic level mitigation for potential impacts of a project, including a programmatic mitigation plan developed in accordance with **23 U.S.C. § 169**, that the relevant agency determines are more effectively addressed on a national or regional scale, including:
  - a. Measures to avoid, minimize, and mitigate impacts at a national or regional scale of proposed transportation investments on environmental resources, including regional ecosystem and water resources; and
  - b. Potential mitigation activities, locations, and investments.

The following planning analyses from a planning product for a transportation project, codified in **23 U.S.C. § 168(c)(2)**, may be adopted or incorporated by reference into the **NEPA** process:

1. Travel demands;
2. Regional development and growth;
3. Local land use, growth management, and development;
4. Population and employment;
5. Natural and built environmental conditions;
6. Environmental resources and environmentally sensitive areas;
7. Potential environmental effects, including the identification of resources of concern and potential direct, indirect, and cumulative effects on those resources; and,
8. Mitigation needs for a proposed project, or for programmatic level mitigation, for potential effects that the Lead Agency determines are most effectively addressed at a regional or national program level.

The degree to which information, analyses, or decisions from the planning process can be adopted or incorporated by reference into the **NEPA** process depends upon how well the planning products meet standards applicable under the **NEPA** and associated implementing regulations (**23 CFR Part 771** and **40 CFR §§ 1500-1508**). The relevant agency in the environmental review process may adopt or incorporate by reference decisions from a planning product when the Lead Federal Agency determines that the conditions set forth in **23 U.S.C. § 168(d)** and restated below are met:

1. The planning product was developed through a planning process conducted pursuant to applicable federal law.
2. The planning product was developed in consultation with appropriate federal and State resource agencies and Indian Tribes.

3. The planning process included broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects, including effects on the human and natural environment.
4. The planning process included public notice that the planning products produced in the planning process may be adopted during a subsequent environmental review process in accordance with this section.
5. During the environmental review process, the relevant agency has:
  - a. Made the planning documents available for public review and comment by members of the general public and federal, state, local, and tribal governments that may have an interest in the proposed project;
  - b. Provided notice of the intention of the relevant agency to adopt or incorporate by reference the planning product; and,
  - c. Considered any resulting comments.
6. There is no significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product.
7. The planning product has a rational basis and is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.
8. The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.
9. The planning product is appropriate for adoption or incorporation by reference and use in the environmental review process for the project and is incorporated in accordance with, and is sufficient to meet the requirements of, the **NEPA** and **40 CFR § 1502.21** [as in effect on the date of enactment of the **Fixing America's Surface Transportation (FAST) Act**].
10. The planning product was approved within the 5-year period ending on the date on which the information is adopted or incorporated by reference.

Linking planning and **NEPA** does not mean the planning products should be prepared to a level comparable to a **NEPA** analysis. Pursuant to **23 U.S.C § 134(o)**, **23 U.S.C. § 135(j)** and **49 U.S.C. § 5305(h)**, transportation plans and programs are exempted from **NEPA** review. Environmental evaluations that are conducted during the Planning phase are not required to address all regulatory requirements that should be addressed by the **NEPA** analysis. To ensure that the public is provided an opportunity for input and proper disclosure that FDOT may adopt a planning product, the following public notice must be inserted in the planning products that are to be adopted in a subsequent environmental review process:

*The Florida Department of Transportation may adopt this planning product into the environmental review process, pursuant to Title 23 U.S.C. § 168 (d) or the state project development process.*

If the planning product being adopted into the **NEPA** analysis is older than 5 years (from the date the product was approved), the information used to prepare the planning product must be reviewed to check whether conditions or planning context have changed since its approval. If the conditions or planning context have not changed, the PD&E Study may use the information from the planning product and explain why that information is valid to the **NEPA** decision-making process. OEM must be consulted when making this decision.

### 4.2.3 ETDM Screening

The purpose of the ETDM process is to provide early identification of potential environmental considerations in transportation planning to streamline project delivery. This process supports FDOT's environmental policy to "protect and preserve the quality of life, and the natural, physical, social and cultural resources of the state, while expeditiously developing safe, cost effective, and efficient transportation systems" ([Environmental Policy, Topic No. 000-625-001](#)). The ETDM process provides agencies and other stakeholders the opportunity for early input on proposed transportation projects. The objectives of the ETDM process are:

1. Early identification of potential issues for project scope development;
2. Early consideration of environmental issues in the planning process;
3. Full and early public and Environmental Technical Advisory Team (ETAT) member participation;
4. Linkage between Planning and PD&E (including **NEPA**); and,
5. Incorporation of appropriate issue resolution mechanisms during the planning process.

These objectives are accomplished through stakeholder involvement, early consideration of environmental effects, integrating processes which were previously conducted sequentially, using interactive techniques.

The ETDM process facilitates early interaction among transportation planners; federal, state, and local agencies; Native American Tribes; and affected communities. Through this process, FDOT provides the opportunity for early stakeholder input on qualifying transportation projects, which helps support planning decisions and develop the PD&E project scope with a clearer understanding of the environmental setting and potential concerns. The types of transportation projects that qualify for screening are listed in the [ETDM Manual, Topic No. 650-000-002](#).

Intergovernmental coordination is accomplished through an ETAT member assigned to each of the seven FDOT Districts and Florida's Turnpike Enterprise. The ETAT includes representatives from MPOs/TPOs, federal and state agencies, and participating Native

American Tribes. Agency agreements between the FDOT and other state and federal agencies document the interagency understandings and agency-specific requirements for participating as an ETAT member in the ETDM process.

ETAT members use the Environmental Screening Tool (EST) to review project information, identify potential project effects, and submit comments to FDOT. This web-based Geographic Information system (GIS) database and mapping tool provides access to project information and data about natural, physical, cultural, and community resources in the project area. The comments and other information are made available to the public on the [ETDM public access site](#). See [ETDM Manual, Topic No. 650-000-002](#) for more information about the EST.

Ideally, the ETDM process consists of the Planning Screen and the Programming Screen. The Planning Screen should occur when considering projects for inclusion or prioritization within a CFP. The Programming Screen should occur to support development of the FDOT's Five Year Work Program. The Programming Screen also should inform development of a scope of services for the PD&E Study. The results of the screening events link the Planning phase and the PD&E phase. Each screening event centers on a project review and includes project preparation activities and follow-up tasks occurring before and after the review.

The ETDM Coordinator for the project sponsor (i.e., FDOT District, Florida's Turnpike Enterprise, or MPO/TPO) uses the EST to notify the ETAT when a project is ready for review. At the same time, the information is published on the [ETDM public access site](#). During the review period, FDOT affords an opportunity for ETAT members and the public to provide input about potential project effects. The project sponsor also begins to identify potential effects on surrounding communities. They seek to receive information on community preferences and concerns, as well as identify potential controversies related to the project. ETAT members perform multidisciplinary reviews specific to their area of expertise within their jurisdictions (e.g., wetlands, land use). These reviews help to:

1. Evaluate the feasibility of a proposed project.
2. Allow for early identification of potential avoidance, minimization, and mitigation opportunities.
3. Identify environmental issues that need focused attention during the PD&E phase.
4. Create documentation and analyses in the PD&E phase. The ETDM process meets the requirements set forth in **23 U.S.C. § 168(d)**, for the adoption of planning products into the PD&E phase.

The Programming Screen provides opportunities for ETAT members and the public to review and comment on qualifying priority projects being considered for inclusion in the TIP, Five Year Work Program or being advanced to the PD&E phase. ETAT members' comments assist with project scoping; and identification of opportunities for avoidance, minimization, and mitigation of potential project impacts. The **Programming Screen Summary Report** summarizes recommendations and results from the ETAT reviews. FDOT uses the report to advance or focus analyses and studies conducted prior to the

PD&E phase (as appropriate), develop the scope of services for the PD&E Study, and assist in determining the appropriate Class of Action (COA) for the project.

The ETDM **Programming Screen Summary Report** also contains screening documentation of project alternatives developed as part of the Planning Screen.

Within the ETDM process, Environmental Scoping Process [as required by **40 CFR § 1501.7**, for Environmental Impact Statements (EISs) only] begins with ETAT reviews during the EST screening events. This process continues throughout the Planning phase and early stages in the preparation of an EIS. Details on the Environmental Scoping Process is in [Part 1, Chapter 8, Draft Environmental Impact Statement](#) and the process to conduct a Scoping meeting is in [Part 1, Chapter 11, Public Involvement](#).

#### 4.2.4 Alternative Corridor Evaluation

FDOT uses the Alternative Corridor Evaluation (ACE) process to identify, evaluate, and eliminate alternatives on qualifying projects prior to the PD&E phase. The decisions made in an ACE can be used to refine the purpose and need for a project; determine the project area; define general travel modes or corridors (including logical termini); describe general environmental setting for a project; identify preliminary environmental impacts and environmental mitigation; develop and evaluate a range of alternatives to be refined in detail during the PD&E Study; and document elimination of unreasonable alternatives. The ACE process links planning and **NEPA**. However, adoption and use of ACE decisions in the **NEPA** process is subject to a determination by OEM.

The ACE is typically performed as part of the ETDM screening efforts that precede the PD&E phase. Alternatives should support the purpose and need for a project in accordance with all applicable laws and regulations, through the balancing of engineering, environmental, and economic aspects while considering comments received through the Programming Screen.

The Districts should use the ACE process to support potential EIS and certain Environmental Assessment (EA) projects. The ACE process may also be used to eliminate corridors that are part of the State Environmental Impact Report (SEIR) when new alignments are under consideration. Projects that qualify for the ACE process include:

1. New alignments – new roadways; new roadway connections or extensions;
2. Major realignments;
3. Major bypasses – truck bypasses, city/town bypasses; and,
4. Other alignments based on consultation with OEM.

Additionally, new alignments or major realignments for freight corridors (that are not bypasses), and bicycle or trail corridors may be evaluated using the ACE process.



The FDOT process for early planning and evaluation of transit projects in Florida is documented in the [Transit Concept and Alternatives Review \(TCAR\) Guidance](#). The TCAR process is a uniform approach for advancing transit projects by linking early planning work to the PD&E and FTA Project Development processes. See [Part 1, Chapter 14, Transit Project Delivery](#), for PD&E guidance on corridor analysis for transit projects.

The ACE process identifies and evaluates corridor alternatives using the **Methodology Memorandum (MM)** agreed upon by the project stakeholders (local, state, tribal and federal agencies). The results of the ACE are documented in the **Alternative Corridor Evaluation Report (ACER)**. The **ACER** may be used in the **NEPA** process to support a decision to eliminate corridors from further study that are not feasible or do not meet the purpose and need for the project. Resource agency coordination in the ACE process is accomplished through the ETDM screening process. The ETDM screening facilitates demonstration and documentation that alternatives considered during the ACE process received support from regulatory and resource agencies and affected stakeholders (see [ETDM Manual, Topic No. 650-000-002](#)). Public input regarding development of the ACE is received using public meetings and outreach.

The level of detail in the analysis of an ACE is higher than that used to prepare a typical planning product, but less than that of a PD&E Study. The **ACER** must establish and document criteria and the public involvement process used to evaluate and eliminate alternatives that are not feasible or do not meet the purpose and need for the project. Such documentation is essential to ensure results are incorporated into the **NEPA** process. The cover of the **ACER** must include the public notice stated in [Section 4.2.2](#).

The ACE process varies depending on whether it is started in the Planning Screen or Programming Screen. [Chapter 3](#) and [Chapter 4](#) of the [ETDM Manual, Topic No. 650-000-002](#) explain how to conduct an ACE during the Planning Screen and Programming Screen, respectively. The following sections summarize the basic steps of the ACE process.

#### 4.2.4.1 Define the Initial Corridors

Based on initial data collection effort, the District identifies and defines a reasonable range of initial alternatives (including alternative modes) that would address the project's purpose and need. The District also considers corridor alternatives from previously completed planning activities that may guide the ACE process. The previously completed planning activities may include planning-level corridor/subarea/feasibility studies, multimodal corridor plans, vision plans, or master plans that might inform the ACE process. If no corridor alternatives were previously developed, the District should identify initial corridors within the study area. The initial corridors can range from swaths to broad corridors to narrower alignments. The naming of each corridor or alternative should remain consistent throughout the ACE and be carried through the PD&E phase.

When evaluating major urban corridors, the District must consider the need for public transportation systems, facilities and services, and alternative corridors that will address

multimodal transportation needs consistent with [Major Urban Corridor Studies Policy, Topic No. 000-725-010](#). Such consideration can include analysis for reasonable corridors based on the presence of alternative transportation modes and the feasibility of developing an interconnected multimodal transportation system. Multimodal options that must be considered include, but are not limited to, fixed guide way facilities and expanded bus service with supporting facilities. The policy requires each major urban corridor study to determine if there is justification for continued consideration of public transportation systems, and facilities or services in conjunction with the development of the corridor.

Consideration of alternative transportation modes, particularly in urban areas, should also include the need for bicycle and pedestrian facilities. See [Part 2, Chapter 3, Engineering Analysis](#) for more guidance.

#### **4.2.4.2 Decision to Advance Project**

The District considers the involvement and potential impacts to environmental issues/resources and the presence of issues that may prevent development of the project to decide if the project should be advanced. In making decisions, the District may perform GIS analysis and field observations; and consider potential permitting and mitigation options, known environmental issues in the area, and early project stakeholders' comments. Once the decision has been made to advance the project, the District defines the goals for the ACE process (e.g., performing an action plan corridor study or determining reasonable alternatives for the PD&E Study).

#### **4.2.4.3 Develop Methodology Memorandum**

The District develops an **MM** based on stakeholder comments and other information regarding the project environmental context. The **MM** is a technical memorandum which describes the goals of the ACE, identifies alternative corridors, and details the data and procedure the District will use to develop, evaluate, and screen alternative corridors. The **MM** also details the process, including public involvement, and criteria that form the basis for decision-making. The evaluation criteria may include purpose and need evaluation, engineering feasibility (i.e., traffic operational and safety performance measures, design components, urban design issues and opportunities, constructability, maintainability, utility conflicts), construction costs, avoidance of potential environmental impacts (social-economic, cultural, natural, and physical environmental resources), consistency with and/or impact on adopted plans, and other unique issues specific to the study area.

The **MM** includes the following:

##### **1. Background**

- a. Contact personnel
- b. Basic project information

1. Previous planning studies or relevant information
2. Known project issues of concern
- c. Project description
- d. Purpose and need for the project
- 2. Goals and objectives of the ACE**
  - a. Provide the status in project delivery
  - b. Define the goals and objectives of the study
  - c. Identify the decision points/milestones
- 3. Methods to analyze the alternative corridors and make decisions**
  - a. Describe needs for alternative modes such as transit, freight, or pedestrian/bicycle facilities
  - b. Describe alternative corridors
  - c. Describe data needs
  - d. Describe criteria to evaluate and screen alternative corridors
  - e. Describe the data analysis tools (e.g., EST)

In the following situations, the **MM** may be reviewed by project stakeholders more than once:

1. There is a change in project termini (expanded);
2. There is a change in purpose and need for the project;
3. There is significant change in project concept(s) (e.g., alignment, typical section, interchange/intersection configuration);
4. There is significant change in alternative mode components such as pedestrian, bicycle, transit, freight facilities;
5. There is a change in supporting data that may affect the methodology and any resulting decisions made from it (e.g., population changes, economic changes, land use changes); and,
6. There are significant revisions (based on stakeholders input) to the methodology to analyze the alternative corridors and make decision.

During the ETDM screening, the ETAT reviews, comments, and agrees on the **MM** in the EST. The OEM concurs with the **MM** after the ETAT comment period, through the EST. See [ETDM Manual, Topic No. 650-000-002](#) for procedures on how to develop a **MM** using the EST.

#### 4.2.4.4 Refine Corridors

The District evaluates the corridors using initial data and the criteria established and agreed upon in the **MM**. In studying the alternatives and considering input from ETAT and other project stakeholders, the District may refine corridors, eliminate corridors, or develop additional corridors to avoid potential environmental effects. The refinement of corridors to avoid potential environmental effects also considers the corridor vision; purpose and need; public input, and both engineering and economic feasibility. Alternative corridors that do not meet the purpose and need are eliminated from further study through the ACE process and documented in an **ACER**. Alternative corridors that meet the purpose and need are developed to a conceptual planning level sufficient to evaluate their benefits and impacts relative to the purpose and need for the project. Preliminary design for alternative corridors that are recommended for further studies is done during the PD&E phase.

#### 4.2.4.5 Prepare Alternative Corridor Evaluation Report

The **ACER** summarizes the alternative corridors analysis and documents the alternatives that are eliminated from further study or otherwise carried forward to the PD&E Study (pursuant to **23 U.S.C. § 168** and **Appendix A of 23 CFR Part 450**). The **ACER** documents the basis for eliminating alternatives. Documentation regarding the elimination of alternatives in the **ACER** must be included in the project file for the **NEPA** process. Therefore, it is critical to properly document the methodology, data, analysis, public and agency involvement, and resulting planning decisions in the **ACER** to ensure that these analyses meet requirements for use in the **NEPA** process. The **ACER** must document assumptions supporting planning analysis such as travel demand forecast year; forecast method and its rationale, and future year data. Additionally, the **ACER** should document policy assumptions related to land use, socio-economic factors, transportation costs, and the transportation network that were used to develop and evaluate alternatives. The **ACER** should document recent, current or near future planning studies or projects located in the vicinity and discuss their relationship with the ACE. The **ACER** should also document any unresolved project issues with the public, stakeholders or agencies and how they will be addressed in the subsequent phases of project development. An **ACER Template** is available on the [OEM website](#).

When completed, the **ACER** is uploaded into the EST for comment. The ETAT members have 30 days to acknowledge their understanding of the **ACER** and submit comments in the EST. After ETAT review, the **ACER** is submitted to the OEM for concurrence.

The OEM considers the **ACER** for adoption and reviews the recommendations of the alternatives eliminated from further study or considered for additional study in the subsequent PD&E phase. The District will make a formal request for adoption through

either the EST or email. After OEM concurrence, the EDTM Coordinator publishes the **Planning (or Programming) Screen Summary Report** with the **ACER**.

The **ACER** should be included in the project file as part of the supporting documentation of a PD&E Study and should be summarized in the “Alternatives Development” section of an EA or EIS (see [Part 2, Chapter 3, Engineering Analysis](#)). The Alternatives Considered but Eliminated section of an EA or EIS should include documentation explaining why an eliminated alternative did not meet the purpose and need or was otherwise unreasonable or not feasible. The Alternatives Considered but Eliminated section should also include the coordination that assisted in making the determination with reference to the **ACER**.

#### 4.2.5 Environmental Review for Early Acquisition Projects

**Section 108 of Title 23 U.S.C.** allows for federal aid participation in certain property rights acquisitions prior to completion of a **NEPA** decision on a transportation project. FDOT may undertake early acquisition projects before the completion of the environmental review process for the proposed transportation project for corridor preservation, access management, or other purposes. Pursuant to **23 U.S.C. 108** and **23 CFR 710.501**, FDOT may:

- Fund early acquisition project costs entirely with State funds with no **Title 23** participation;
- Use State funds initially but seek **Title 23** credit or reimbursement when the acquired property is incorporated into a transportation project eligible for federal surface transportation program funds; or
- Use the normal federal-aid project agreement and reimbursement process to fund an early acquisition project. (Note: any early acquisition of **Section 4(f)** property would disqualify the project from federal eligibility.)

The early acquisition of a real property interest must be carried out in compliance with all requirements applicable to the acquisition of real property interests for federally assisted transportation projects. For additional information review the early acquisition process described in **Chapter 7.1**, of the [Right of Way Procedures Manual, Topic No. 575-000-000](#).

The early acquisition project can consist of the acquisition of a specific parcel(s), a portion of a transportation corridor, or an entire transportation corridor. In pursuing early acquisition of real property interests, the selection of preferred alternatives cannot be impacted. Additionally, once the real property interests have been acquired no activities related to demolition, site preparation, or construction of the related transportation project that is not necessary to protect public health or safety can occur until **NEPA** is completed on that project.

Since the acquisition of real property interests cannot impact future decisions regarding the selection of alternatives of the future transportation project, the District should consider areas for acquisition that are in common to all the proposed alternatives of the future transportation project. Regardless of the funding that will ultimately be used, the area of acquisition will have to be evaluated through the environmental review process, which will have to be completed prior to the acquisition. For additional information, see [Section 4.2.5.3](#).

#### 4.2.5.1 State Funded Early Acquisition of Real Property Interests

As stated in **23 U.S.C. 108(c)(1)**, a state may carry out, at the expense of the state, acquisitions of interests in real property before completion of the **NEPA** review process without affecting subsequent approvals required for the transportation project by the state or any federal agency. Although the acquisition of the real property interest can occur prior to the **NEPA** decision on the transportation project, it cannot influence the selection of the preferred alternative.

FDOT must meet **NEPA** requirements and terms and conditions described in **23 U.S.C. 108(c)(2)** and **23 CFR 710.501** to maintain eligibility for federal aid reimbursement. The request for federal reimbursement of early acquisition costs to the Federal-Aid Office may be approved by FHWA if the acquisition is consistent with the terms and conditions per **23 U.S.C. 108(c)(3)** and **23 CFR 710.501(d)**. For additional information, see [Section 7.1.4, Early Acquisition](#) of the [Right of Way Procedures Manual, Topic No. 575-000-000](#).

#### 4.2.5.2 Federally Funded Early Acquisition of Real Property Interests

FHWA may authorize the use of federal funds by the FDOT for the acquisition of a real property interest per **23 U.S.C. 108(d)** and **23 CFR 710.501(e)**. When planning to perform early acquisition of real property interests with federal funds, FDOT must document that:

1. The FDOT has the authority to acquire the real property interest under state law; and,
2. The acquisition of the real property interest
  - a. is for a transportation purpose;
  - b. will not cause any significant adverse environmental impact;
  - c. will not limit the choice of reasonable alternatives for the project or otherwise influence decisions on any approvals required for the project;
  - d. does not prevent OEM from making an impartial decision to accept an alternative that is being considered in the environmental review process;
  - e. is consistent with the state transportation planning process under **23 U.S.C. § 135**;
  - f. complies with other applicable federal laws and regulations;

- g. will be acquired through negotiation, without the threat of condemnation; and,
  - h. will not result in a reduction or elimination of benefits or assistance to a displaced person required to move by the ***Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)*** and ***Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.)***.
3. The early acquisition project is included as a project in an applicable transportation improvement program under ***23 U.S.C. 134 and 135*** and ***49 U.S.C. 5303 and 5304***.
  4. The environmental review process for the early acquisition project is complete and the project is treated as having an independent utility pursuant to ***23 U.S.C. 108(d)(4)(B)***.

#### 4.2.5.3 Documentation of Early Acquisition Projects

Typically, the environmental review for an early acquisition projects can be accomplished by completing a ***Type 1 Categorical Exclusion Checklist***. This activity meets the criteria of ***23 CFR 771.117(d)(12)***. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#), for more details. Coordination with OEM is needed before District approval of a Type 1 CE to verify that the acquisition project:

- Will not limit the choice of reasonable alternatives for the project or otherwise influence the decision on any approval required for the transportation project, and
- Does not prevent OEM from making an impartial decision as to whether to accept an alternative that is being considered in the environmental review process for the transportation project.

#### 4.2.6 Approval of Interchange Access Requests

The approval of an Interchange Access Request (IAR) on Interstate highways is a two-part process. The first part is the determination of safety, operational and engineering (SO&E) acceptability of the request by satisfying and documenting the requirements of the ***FHWA's Policy on Access to the Interstate System*** and ***FDOT's Procedure No. 525-030-160, New or Modified Interchanges***. The first part (SO&E acceptability) may precede or occur concurrently with the PD&E Study. The second part is the approval of the ***NEPA*** document (completion of the PD&E Study or Type 1 CE). The affirmative determination constitutes the final approval of IAR by FHWA and cannot precede the completion of the ***NEPA*** document. The IAR process is discussed in detail in the [Interchange Access Request User's Guide](#). IAR documentation is included in SWEPT.

The ***2017 FHWA's Policy on Access to the Interstate System*** focuses on the technical feasibility of access request proposals in support of the FHWA's determination of SO&E acceptability. To streamline project reviews, the 2017 Policy requires environmental impacts evaluation, and planning considerations of IAR proposals be addressed through

the **NEPA** review process. FDOT addresses and documents environmental impacts evaluation and planning considerations in the PD&E Study.

FDOT will request final approval (affirmative determination) of an IAR from FHWA only after LDCA (or completion of the Type 1 CE) for the access proposal is granted by OEM, and verification that the **NEPA** and SO&E concepts are the same (see [Figure 4-5](#)).

#### 4.2.7 Scoping a PD&E Study

The project scoping process in this chapter builds on the SWAT process. Project scoping is a project development activity that identifies and considers various project related issues which may affect cost and schedule; determines work activities to be performed for the project; and develops or refines key project parameters and requirements sufficient to define the project. The project scoping process outlined in this chapter is applicable to both state and federally funded projects.

The project scoping process discussed in this section is not the Environmental Scoping Process required by **23 CFR Part 771** for preparation of an EIS. For the Environmental Scoping Process, see [Part 1, Chapter 8, Draft Environmental Impact Statement](#).

Project scoping of a PD&E Study starts towards the end of the planning process as the project transitions to the PD&E phase. Project scoping helps to focus specific project activities toward addressing issues that may have a potential to impact the project delivery. Project scoping also helps to identify actions needed during the PD&E phase to avoid, minimize or mitigate project's potential impacts. Additionally, project scoping provides the foundation to begin a PD&E Study. Scoping requires coordination of project stakeholders within and outside the District to realize best options to deliver the project.

The PD&E scope of services documents the project parameters and the level of engineering and environmental analyses required to develop a project solution that will meet the purpose and need. The level of engineering and environmental analyses is commensurate with the project type and its context, and the significance of potential project impacts. A well-prepared PD&E scope produces a foundation upon which the project development occurs. Additionally, a well-prepared scope sets expectation for project management and performance, supports development of a realistic project delivery schedule, and provides a basis for managing project change and risk.

The PD&E Project Manager is responsible for scoping the PD&E Study. The PD&E Project Manager should use the guidance in this section to identify work activities and deliverables, and then prepare the preliminary schedule to deliver the project. During project scoping, the Project Manager should work collaboratively with District staff from relevant functional offices, as applicable, to identify or verify project needs and potential issues that will be addressed by the PD&E Study. This can be accomplished through engagement with the District SWAT team. Early input from the various District offices and subject matter experts is essential to develop effective project scopes that focus on project issues.



### 4.2.7.1 SWAT Process

The SWAT process is a project management approach that streamlines FDOT's project delivery process through early coordination and communication among the different functional offices within the District when identifying projects for funding and scoping in the planning process. **All state and federally funded projects are recommended to be evaluated through the SWAT Process to determine project parameters for funding, scope of work, programming, and scheduling.** The SWAT process promotes and enhances communication and collaboration within District offices when projects are evaluated for inclusion in the *Tentative Work Program*.

The Districts can adapt the SWAT process to their planning, programming, and project scoping processes. See the [FDOT SWAT Training Workbook](#) for more guidance.

Each District has an established SWAT team composed of cross-functional, multi-disciplinary staff experienced in project delivery. SWAT team members are experts who are involved at key milestones during project planning, prior to development of the PD&E Scope of Services to ensure that project decisions get broad input and early support. Members of the SWAT team typically include representatives from Work Program, Production/Scheduling, Intermodal Systems Development (ISD)/Planning, Design, ROW, Traffic Operations, and Environmental Management. Other staff from relevant District functional offices may be invited to participate in the SWAT team meetings. The SWAT team actively engages with the Project Manager, SIS Coordinator, MPO Liaisons, ETDM Coordinator and Environmental Office staff to evaluate the projects.

SWAT consists of planning, strategy, and kickoff team meetings. The purpose of these meetings is to plan and review the preliminary scope, schedule and funding of the projects. The SWAT team meetings should use the *Statewide Acceleration Transformation Scoping Form* and other SWAT guide materials, which are available from the [OEM Website](#).

The Districts may combine the SWAT team meetings with other related meetings such as scope team meeting, priority projects programming meeting, or project planning meeting, that are used to evaluate candidate projects in the District.

#### 4.2.7.1.1 SWAT Planning Meeting

Each District's SWAT team should hold an annual planning meeting to review potential projects that will be included in the *Tentative Work Program*. The SWAT team should meet with District management prior to the planning meeting to obtain their input on projects being considered in the *Tentative Work Program*.

During the planning meeting, the SWAT team reviews and discusses each candidate project's description and purpose and need, context classification, risk, and cost estimate. The outcome of the SWAT planning meeting is a list of funding recommendations for each candidate project; anticipated COA assigned to each project; and a list of projects to be screened through the ETDM process.

During the SWAT planning meeting, each project is recommended as either a state or federal project. When programmed, an SFO identifier is assigned to projects that are recommended to be only funded through state funds. To recommend whether to use federal funds on the project, the SWAT team considers factors such as environmental considerations, anticipated permits, [Work Program Instructions](#), and expected time savings that will result by pursuing a state-funded project delivery process. Projects that must follow the federal process or must stay federalized are listed in [Work Program Instructions, Part III - Chapter 24, Project Development and Environment \(PD&E\)](#).

During the SWAT planning meeting, the SWAT team should complete **Section A** of the **Statewide Acceleration Transformation Scoping Form** based on the District's knowledge of project scope and potential project impacts. The District should complete **Section B** of the form during the SWAT Strategy Meeting. The results of the SWAT planning meeting should be used by Work Program staff when developing the **Tentative Work Program**.

#### 4.2.7.1.2 SWAT Strategy Meeting

The SWAT team should hold a strategy meeting annually to discuss each PD&E project identified in the **Tentative Work Program** to strategically define (or refine) the scope of work, review funding, create a baseline schedule (which include pre-PD&E activities and project delivery milestones), and confirm the advertisement date and initial construction cost estimate are realistic.

Project evaluation during the SWAT strategy meeting should revisit **Section A** of the **Statewide Acceleration Transformation Scoping Form**, which was completed during the SWAT planning meeting. The SWAT strategy meeting should also complete **Section B** of the form, based on available project information at the time of the meeting. It is recommended that during the strategy meeting, the SWAT team:

- Evaluate project scope, cost estimate, and baseline schedule to determine if adequate time and funding are available to address the project objectives;
- Recommend planning activities (such as ETDM Programming Screening, ACE, corridor feasibility studies) that may be performed to support development of the project;
- Explore options for, and recommend project activities that may start ahead of the PD&E Study for each project;
- Explore opportunities to overlap PD&E and Design phases (when appropriate) by considering complexity in cost, design, schedule constraints, and potential environmental issues. Environmental complexity is estimated based on the likelihood of encountering substantial environmental issues on the project, and the design complexity is a function of how quickly a preferred alternative can be determined in the PD&E process.

- Create baseline project schedules that include project milestones such as scope development, project advertisement, PD&E phase contract execution, LDCA, and other project phases (Design, ROW, Construction) that will be programmed.

During the SWAT strategy meeting, the District SWAT team lead is responsible for gathering and disseminating available project data; identifying and inviting additional team members from other District functional offices; planning, leading and facilitating the meeting; communicating and coordinating with other District's functional offices regarding potential project issues; documenting decisions made in the meeting; and transmitting the **Statewide Acceleration Transformation Scoping Form** to the Project Managers of upcoming PD&E projects.

#### **4.2.7.1.3 Activities that May Advance Prior to PD&E**

As part of the SWAT process, the Districts should explore options to collect data and conduct technical studies and surveys ahead of the PD&E Study. Ideally, these activities should start before the SWAT kickoff meeting to assist in clarifying the project scope of work. Project activities that may be advanced ahead of the PD&E Study can be accomplished using District staff, districtwide or continuing services consultant contracts, Phase 12 (Planning) funds, or phase 22 (PD&E phase) funds. Phase 22 funds can be used for PD&E activities prior to initiation of the PD&E Study, as per the [Work Program Instructions](#).

Examples of project activities that may start ahead of a PD&E Study include:

1. Design survey;
2. Traffic data collection and traffic forecast;
3. Preliminary geotechnical investigation;
4. Existing condition analysis;
5. Public Involvement Plan, including public outreach;
6. Long lead species surveys, if the time of year is right such that doing the species survey earlier prevents delays during PD&E or otherwise helps to clarify or remove the risk of species impact avoidance measures;
7. Cultural resources assessment survey;
8. Contamination screening; and,
9. Other technical studies or coordination as project characteristics allow.

#### **4.2.7.1.4 SWAT Kickoff Meeting**

Each project that has a PD&E phase should hold a SWAT kickoff meeting at least one year before the start of the PD&E Study. Districts have a flexibility of adapting or combining the SWAT kickoff meeting with existing District's scope team meetings (inter-disciplinary team meetings).

The purpose of the kickoff meeting is to evaluate the preliminary project scope by:

- Understanding the project objectives and purpose and need;
- Discussing, confirming or refining the project limits;
- Reviewing context classification;
- Reviewing and verifying the status of project planning activities (e.g., COA determination, ETDM Programming Screen, ACE, or corridor feasibility study) that are performed to support the PD&E Study;
- Recommending project activities that may start ahead of the PD&E Study;
- Reviewing and discussing environmental issues and special designs or standards that may affect the project delivery schedule;
- Determining how the Design phase can be advanced concurrent with PD&E, if appropriate—the decision to perform the PD&E Study concurrent with Design is made in the SWAT strategy meeting;
- Discussing and recommending the delivery method for the project—Design-Bid-Build, Design Build or other innovative delivery methods;
- Evaluating identified potential risks (including threats and opportunities) and developing a risk mitigation plan;
- Discussing schedule effects of any adjacent on-going (or planned) projects and required coordination;
- Reviewing initial (stage I) project's scope of services;
- Preparing for field review and scheduling additional project scope meetings; and
- Discussing and refining the initial project schedule to ensure appropriate critical tasks (with planned durations) for the project development are included.

The SWAT kickoff meeting typically includes members of the SWAT team, PD&E Project Manager, Design Project Manager, subject matter experts, and staff from Environmental Management, Environmental Permitting, Design, Program Management, and Planning offices. Staff from the Professional Services Unit and Work Program should also attend the SWAT kickoff meeting, as contracting and funding issues may be discussed. The PD&E Project Manager's role in the kickoff meeting is to plan, lead and facilitate the meeting; gather technical information necessary to scope the project; identify the subject matter experts that should attend the meeting; and monitor completion of pre-PD&E tasks in the schedule and update members of the team members accordingly, as the project

progresses through the consultant acquisition process. The role of subject matter experts in the SWAT kickoff meeting is to provide technical and analytical inputs within their areas of technical expertise.

Project scope evaluation by the SWAT team starts by revisiting the **Statewide Acceleration Transformation Scoping Form** prepared during the SWAT planning and strategy meetings. The project scope evaluation further uses the **Programming Screen Summary Report**, and SWAT tools and templates to finalize the initial (stage I) scope of services. See [FDOT SWAT Training Workbook](#) for available tools.

#### 4.2.7.1.5 Project Schedule

To streamline development of PD&E schedules, FDOT has developed project schedule templates for PD&E studies (by COA) to support sequencing, implementation and execution of the Work Breakdown Structure (WBS) or task list. The project schedule templates provide consistent activity names at the deliverable level. The templates can be customized to meet the complexity and context of the project. The WBS provides an activity/task coding structure that is used in the Production Schedule and Management (PSM) system. It also identifies the project milestones, activities and activity durations to successfully deliver the project. [Table 4-1](#) lists some of PD&E activities that can be tracked in the project schedule. Approved Environmental PSM codes can be downloaded from the [OEM website](#).

**Table 4-1 PD&E Project Schedule and Management (PSM) Codes**

PSM Code	Activity
703	PD&E Scope and Schedule Completion
705	PD&E Advertisement
707	EA Start
708	Notice of Intent (NOI), EIS Start
709	SEIR Start
710	Planning Consistency Completion
711	Alternatives Workshop

Entering the PD&E phase is defined as work occurring on the project after the official start date of the PD&E Study represented by PSM codes (Type 2 CE Start = 706, EA Start = 707, NOI-EIS Start = 708, or SEIR Start = 709). The start of the PD&E phase date is the date the project team begins PD&E Study activities, thus signaling the beginning of **NEPA** coordination and analysis for federal projects, and the beginning of coordination and analysis to support development of a SEIR for state-funded projects. For an EIS, Notice of Intent (NOI) serves as the official start date. For an EA, the Notice to Proceed date for PD&E Study consultant services is the EA start date.

The responsibility for developing the schedule typically lies with the Project Manager. The PD&E Project Manager should work with the District Program Management Office to

create a detailed schedule that uses PSM codes. As referenced in [Section 4.2.7.1.2](#), the Project Manager should develop a project schedule, using information discussed in the SWAT kickoff meeting, and convey the project schedule to the District Program Management Office Scheduler. The Scheduler should enter identified schedule milestones in the PSM with corresponding codes prior to advertisement for consultant acquisition. Importantly, the Project Manager and Scheduler should ensure the project schedule has realistic timeframes and project work activities proceed in a logical order. The project schedule should include time required for document reviews by the District, OEM and Cooperating Agencies, as appropriate. If the consultant is under contract for the project, the Project Manager should also communicate the expectation of the project schedule to ensure the consultant meets the schedule demands. Scheduling guidance and recommended practices for both FDOT and consultant project managers can be found in FDOT's [Project Management Resource Page](#).

#### 4.2.7.2 Level of Design Detail

Engineering activities for a PD&E Study are performed to a level of detail to analyze and compare the effects of the project alternatives on the social, natural, cultural, and physical environment. The level of design detail required for a PD&E Study should be sufficient to establish preliminary geometry (i.e., typical section, preliminary horizontal and vertical alignments, and ROW needs) for the preferred alternative. Depending on the context and schedule of the project being studied under the **NEPA** process, PD&E Study and Design phase can begin concurrently provided that the preliminary design activities comply with **23 CFR Part 771** and **40 CFR §§ 1500-1508**. Essentially, the preliminary design activities must not limit the choice of reasonable alternatives [**40 CFR §1506.1(a) and (b)**]. Projects that follow the state process have more flexibility in advancing Design phase activities concurrent with the PD&E phase (see [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)).

##### 4.2.7.2.1 Permissible Project Related Activities During NEPA

**FHWA Order 6640.1A, Policy on Permissible Project Related Activities during the NEPA Process**, clarifies the level of design detail allowed in PD&E studies. To comply with and utilize the flexibility provided in the FHWA directive during PD&E, the Districts may perform preliminary design activities prior to a **NEPA** decision regardless of the project delivery method that is used. However, final design activities may not be advanced until a **NEPA** decision has been issued [**23 CFR § 771.113(a)**]. Preliminary design activities to be completed by FDOT in the PD&E process are listed as “preliminary” (or “P”) in the [FDOT Design Manual \(FDM\), Part 3, Chapter 301, Topic No. 625-000-002](#). Most items are in the preliminary status through Phase II Plans (60%) of the Design Phase. Design items that are not listed in the Sequence of Plans Preparation chapter, but are identified in Appendix A of the **FHWA Order 6640.1A**, such as noise wall justification, can be advanced to preliminary design levels. Preliminary design is further discussed in [FDM, Part 1, Chapter 110, Topic No. 625-000-002](#).

Other activities necessary to establish the final design parameters for a project (as defined at **23 CFR § 636.103**) may proceed as preliminary design so long as those

activities do not materially affect the objective consideration of alternatives in the **NEPA** process or have an adverse environmental impact. The form in [Figure 4-2](#) should be completed and signed by both the District and OEM to authorize activities permitted to advance as preliminary design that are not listed in the definition of preliminary design or **Appendix A of FHWA Order 6640.1A**. Preliminary engineering activities are defined in **23 U.S.C. § 101(a)(4)(A)** and are referenced in **Guidance on Preliminary Engineering Authorizations in FMIS**. The activities are eligible for Federal-Aid reimbursement once they are approved by FHWA.

#### **4.2.7.2.2 Overlapping PD&E and Design Phases**

Preliminary design activities for a project can commence during the PD&E process by overlapping PD&E and Design phases or procuring the two phases concurrently. This is one of the outcome of the SWAT process. However, the Project Manager should be familiar with and consider the risks associated with overlapping preliminary design activities with PD&E. First, there is always the possibility that the No-Action (No-Build) Alternative could be chosen as the preferred alternative. Second, preliminary design activities must be equally performed for all Build Alternatives. These risks include performing additional engineering analysis that would not be needed for alternatives which do not move forward. Third, the District should refrain from performing any preliminary design activity that will materially affect the objective consideration of alternatives or cause an adverse environmental impact. See [Section 4.2.7.2.1](#) for the level of preliminary design detail allowed in PD&E studies. To mitigate the risk, only PD&E studies for some Type 2 CEs may be procured concurrently with the Design phase. Type 2 CEs with complex scopes that may require evaluation of multiple alternatives should not be procured concurrently the Design phase.

There are three options for dual procurement of PD&E and Design phases that the District may consider. These options are:

1. One contract for both PD&E and Design funded together;
2. One contract for PD&E with an option for Design; and,
3. Two overlapping contracts procured simultaneously or separately.

Dual procurement options are shown in [Figure 4-3](#). Project management structures for these options are shown in [Figure 4-4](#). The Project Manager should work closely with the SWAT team, District Environmental Office, District Design Office and District Professional Services Unit when deciding the appropriate dual procurement option such that the consultant procurement process is vetted for issues that may prevent the project from moving forward.

Final design activities for federal projects should proceed beyond Phase II Plans only after OEM approval of the Environmental Document. Contract agreement, scope of services and schedules for projects with overlapping PD&E and Design phases should include this requirement. There is no limitation to the level of design plans which may be completed concurrently with a SEIR. However, the SWAT team and Project Manager

must be mindful of alternatives analysis considerations and other risks associated with advancing final design activities with a SEIR particularly if a federal permit is involved.

### 4.2.7.3 Scope of Services

The Project Manager reviews the **Programming Screen Summary Report** before advancing the project to PD&E. The report helps the Project Manager to become familiar with the existing environmental setting and helps with the understanding of the environmental or social resources that may be impacted by the project. By reviewing the **Programming Screen Summary Report**, the Project Manager will also understand project needs and objectives as well as the level of analysis and documentation required to accomplish the project objectives. The Project Manager gathers other technical information needed to scope the project in addition to the **Programming Screen Summary Report**. This may include field visits and results of technical studies that were conducted prior to project scoping.

When technical studies and surveys were completed prior to PD&E, the Project Manager must review the reports and adjust the scope of work by eliminating the activities or tasks that were previously completed and are still current or valid. Additionally, the Project Manager should explore opportunities to adopt or incorporate by reference planning analyses (such as interchange access request studies, traffic models, corridor studies, multimodal corridor studies, transit alternatives analysis, bicycle plans, feasibility studies, freight corridor studies) for the PD&E Study. See [Section 4.2.2](#) for guidance on how to use planning products in the PD&E Study.

The Project Manager consults with the District Environmental Office staff for input regarding project activities and/or impacts. The Project Manager must work in concert with an interdisciplinary project team, largely composed of members from the District SWAT team, (from Planning, Environmental Management, Design, ROW, Construction) to complete the PD&E Study scope of services. The team uses the recommendations from the District SWAT kickoff meeting and any new information to complete the scope of services for the PD&E Study. The Project Manager must use the **PD&E Study Standard Scope of Services** development tool to prepare the scope of services for the project. The Project Manager must have a SWEPT account to access the scope of services development tool.

Environmental resources determined to be absent in the project (or no involvement) through the ETDM screening, SWAT kickoff meeting, and/or field observations should not be included in the scope of services. The scope of services must require the consultant performing the PD&E Study to review the ETDM screening documentation for resources determined to be absent before including a statement to that effect in the Environmental Document.

### 4.2.7.4 Alternative Project Delivery Methods

The procurement process for alternative project delivery methods such as Design-Build and contract administration processes follow standard FDOT practices as specified in the



**[Design-Build Procurement and Administration, Procedure No. 625-020-010](#)**. Districts are responsible for conducting the design-build procurement and contract administration processes for projects within their jurisdictions. The Project Finance Office in the Office of Comptroller provides support, coordination, and oversight for P3 projects that involve Design-Build-Finance or Design-Build-Finance-Operate-Maintain. Florida's Turnpike Enterprise is responsible for conducting traffic and revenue studies for District projects that involve tolling.

For Design-Build projects and other projects that follow the alternative delivery methods, FDOT ensures that the requirements set by **23 CFR Part 636** are met, which include those imposed to protect the objectivity and integrity of the **NEPA** process. The **[Design-Build Procurement and Administration, Procedure No. 625-020-010](#)** provides flexibility by allowing projects to be advertised and selected while the **NEPA** process is being concluded. This means the Design-Build firm may proceed with certain preliminary engineering activities while the **NEPA** process is being concluded. The procedure recognizes the requirement for obtaining **NEPA** approval before the District can issue the notice to commence construction, pursuant to **23 CFR § 771.113**. Additionally, the procedure requires a Design-Build contract to have a termination clause if the No-Build Alternative is selected when the preliminary design phases are authorized in the Design-Build contract prior to completion of the **NEPA** document. Pursuant to **23 CFR § 636.109(b)(6)**, the Design-Build firm must not prepare the **NEPA** document or have decision-making responsibility with respect to the **NEPA** process but can assist in preparation of information to support **NEPA** activities under the supervision of the District Environmental Office.

#### **4.2.7.5 Project Management Plan and Financial Plan**

A successful project has objectives that are fulfilled and delivered within the planned budget and schedule, and meets or exceeds FDOT quality metrics. Each project must have a Project Management Plan (PMP), also called the Project Work Plan. The purpose of the PMP is to promote the efficient, organized, and timely completion of the work product according to schedule, budget, and contract requirements. The PMP details the project scope; defines the project delivery; and establishes project schedule, budget, resource allocation, communication plan, and the management methods used by the project team to deliver the project. Depending on the context and complexity of the project, the PMP may include a project Risk Management Plan, Change Management Plan, and Transition/Closure Plan. Guidance on the development of PMPs can be found in FDOT's **[Project Management Resource Page](#)**.

Pursuant to **23 U.S.C. § 106(h)**, Major Projects are required to have an FHWA approved PMP and an annual Financial Plan, including a phasing plan when applicable. The PMP for Major Projects must document procedures and processes that are in effect to provide timely information to the project decision makers to effectively manage the scope, costs, schedules, risk, and quality of the project deliverables. The PMP also includes the role of the agency leadership and management team in the delivery of the project. The PMP is prepared in accordance with ***FHWA Project Management Plan Guidance for Major***

**Projects.** The Project Manager should work with the District Production Office to prepare the draft PMP prior to submitting to FHWA.

It is generally recommended that a draft PMP be submitted to FHWA Florida Division Office at least 60 days prior to OEM approval of **NEPA** document for Major Projects. The FHWA Florida Division Office will coordinate with the FHWA Major Projects Team in the Office of Infrastructure to review all project management plans and any subsequent updates that require FHWA review or approval.

The Financial Plan for a Major Project is coordinated by the Project Finance Office in the Office of Comptroller and must be based on detailed estimates of project costs and the programmed funding for the project. The Initial Financial Plan and subsequent annual updates are prepared in accordance with FHWA guidance. The Financial Plans include an assessment of the appropriateness of the project delivery method. Visit the Project Finance Office SharePoint site on Major Project Financial Plans for more information.

#### **4.2.7.6 Quality Control**

The Project Manager is responsible for the quality and technical accuracy required for the Environmental Document and supporting technical studies. To reach quality objectives, each project must establish and follow Quality Assurance (QA) and Quality Control (QC) protocols. The Project Manager must make a conscious effort to maximize quality for every project.

All work associated with a PD&E Study must adhere to a project specific QC Plan which will ensure that project deliverables conform to applicable laws, regulations and FDOT procedures. The QC Plan must address the internal QC process performed by the PD&E Study team. The Plan must ensure that quality is achieved through checking, reviewing, and oversight of work activities and deliverables by objective and qualified individuals who were not directly responsible for performing the initial work. The QC Plan must also include processes and procedures for QA measures to evaluate and document compliance of the QC process. OEM has prepared a QC Plan template and associated checklists for PD&E studies. The template can be downloaded from the [OEM website](#). Additional information on the development of QC Plans can be found in FDOT's [Project Management Resource Page](#).

#### **4.2.7.7 Risk Management**

Project risk management is the systematic process of identifying, analyzing, planning for, responding to, and monitoring project risk. It involves processes, tools, and techniques that help the Project Manager minimize the probability and consequences of adverse events by developing and following a risk management plan, which should identify the risks that need to be managed (the highest priority risks and possibly some or all intermediate priority risks) and the selected risk response strategy for each. The risk management plan should address technical, external (i.e., funding and political risks), environmental, and organizational resources that may prevent the project from achieving its objectives.

Risk management is most effective when performed early in the life of a project and assessed continuously throughout the project. ETDM screening events ([Section 4.2.3](#)) and SWAT kickoff meetings ([Section 4.2.7.1](#)) are examples of project activities that are used to manage risk for PD&E projects.

When a formal risk analysis is performed for the project, its outcome is documented in a risk register. The risk register is a document that identifies and quantifies risks and is tracked and passed from one phase of the project development process to another. Risk analysis can be qualitative or quantitative depending on the complexity of the project and information that is known at the time of analysis. In many situations, risk analysis performed during PD&E is qualitative where risk trigger features are identified and their impact to the scope, schedule, budget, or quality are analyzed and prioritized for further action.

Since risk management and analysis is an on-going process throughout the life of the project, Project Managers must continuously monitor and control, and identify and analyze new risks for their projects. This can be achieved by adding project risk to the agenda of project meetings. Additional information for identifying and managing project risks can be found in FDOT's [Project Management Resource Page](#).

## 4.2.8 PD&E Phase

The PD&E phase builds on the outcome of the ETDM screening, SWAT team meetings, prior planning products and ACE, as applicable, to further refine the project's purpose and need. The PD&E phase may also identify project alternatives that satisfy the purpose and need for the project. Alternatives may include alignments, alternative modes, and typical sections that avoid or minimize environmental impacts. See [Part 1, Chapter 14, Transit Project Delivery](#) and [Part 2, Chapter 3, Engineering Analysis](#) for more information on alternatives analysis. Environmental analyses performed during PD&E evaluate the project's effect on social, cultural, natural, and physical resources. During the environmental analysis, potential mitigation options may be developed based on unavoidable impacts. See [Part 2, Chapter 4 through Chapter 21](#), for procedures on how to perform environmental resource analyses.

Throughout the PD&E process, interagency coordination is conducted to identify project impacts, permitting requirements, project commitments, and funding sources. Commitments identified during the PD&E process can include requirements for future coordination, avoidance and minimization and/or mitigation for unavoidable impacts to resources. These commitments are documented in the Environmental Document and advanced, tracked, and implemented in later phases of the project per [Procedure No. 650-000-003, Project Commitment Tracking](#). See [Part 2, Chapter 22, Commitments](#) for more information on commitments during the PD&E phase.

### 4.2.8.1 Environmental Documents

The COA for federal projects may have been determined during ETDM; however, a COA determination is not mandatory prior to advancing a project to PD&E phase. If the COA

is known, the project may proceed as a CE, EA, or EIS. If the project is state-funded, it may proceed as a SEIR.

## Processing

Projects requiring a federal action or that use federal-aid funds must meet planning consistency requirements outlined in **23 CFR Part 450** prior to being submitted to OEM for LDCA. The planning consistency documentation for EAs and EISs submitted to OEM for approval must include the appropriate planning consistency form ([Figure 4-6](#) and [Figure 4-7](#)) with attached LRTP, Transportation Improvement Program (TIP), and current State Transportation Improvement Program (STIP) pages. The **Planning Requirements for Environmental Document Approvals with Segmented Implementation, Form No. 650-050-42** ([Figure 4-7](#)) is to be completed for projects with segmented (phased) implementation. For information on documenting planning consistency in the Environmental Document and links to planning consistent spreadsheets, see [Part 2, Chapter 1, Project Description and Purpose and Need](#) and [FDOT/FHWA Consistency Guidance](#), respectively.

## Type 2 Categorical Exclusions

Type 2 CEs are projects with no known significant impacts, but which may require more detailed analysis of relevant issues and public involvement than Type 1 CEs. These projects go through a PD&E phase before advancing into the Design phase. The document of record for LDCA is the signed **Type 2 Categorical Exclusion Determination Form**. The **Type 2 Categorical Exclusion Determination Form** is prepared using SWEPT. The technical reports or documents prepared to support Type 2 CE projects must be uploaded into the project file in SWEPT and appropriately summarized or referenced in the **Type 2 Categorical Exclusion Determination Form**. The processing and documentation of Type 2 CEs is discussed in [Part 1, Chapter 5, Type 2 Categorical Exclusion](#).

## Environmental Assessments

An EA is prepared for actions in which the significance of the environmental impact is unknown. Depending on the significance of the impacts, an EA may result in a Finding of No Significant Impact (FONSI) where the analysis of the technical studies indicates that no significant environmental impact will result from the proposed project or an EIS if the analysis indicates significant environmental impacts will result. In either case, these projects will require environmental technical studies to comply with **NEPA**, address agency comments, or investigate potential impacts as necessary. The processing, review, and approval of an EA and a FONSI are discussed in [Part 1, Chapter 6, Environmental Assessment](#) and [Part 1, Chapter 7, Finding of No Significant Impact](#).

## Environmental Impact Statements

All projects that are determined to have a significant environmental impact require an EIS and should address environmental issues identified during the Programming Screen and PD&E phase. An EIS receives LDCA once the Record of Decision (ROD) is approved by

OEM. The processing, review, and approval of the DEIS and FEIS are described in [Part 1, Chapter 8, Draft Environmental Impact Statement](#) and [Part 1, Chapter 9, Final Environmental Impact Statement](#).

### State Funded Projects

Transportation projects qualifying for EST screening, without federal involvement require a SEIR. When a Local Agency or other entity is the lead agency, a Project Environmental Impact Report (PEIR) should be prepared. PEIRs are used by non-FDOT entities when state funds are used or the project lies on a SIS, SHS facility, or a project advanced through other unique funding mechanisms. The processing, review, and approval of non-federal projects are described in [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

#### 4.2.8.2 Environmental Technical Studies

Environmental technical studies are performed and their results documented according to the appropriate Chapters in [Part 2 of the PD&E Manual](#). Reports documenting these studies ([Section 4.2.8.3](#)) are prepared in response to the relevant environmental issues/resources.

Below is a list of environmental technical studies that may be performed during PD&E. This list is not all inclusive.

1. Water Quality Impact Evaluation;
2. Natural Resources Evaluation;
3. Noise Study;
4. Air Quality;
5. Contamination Screening Evaluation/ Level I Contamination Assessment;
6. Conceptual Stage Relocation;
7. **Section 4(f)** Evaluation;
8. Cultural Resource Assessment Survey;
9. Sociocultural Effects Evaluation; and,
10. Drainage and Floodplains Evaluation.

#### 4.2.8.3 Project Reports and Documentation

Documentation for a PD&E Study typically includes the Environmental Document, technical reports, data, memoranda, maps, meeting summaries, comment/response

matrices. The PD&E Project Manager is responsible for collecting, maintaining, and filing documentation for a PD&E Study in the project file. SWEPT maintains the official project file for PD&E Studies. The project file provides the supporting rationale and technical support behind the PD&E Study's decision-making process. The Project Manager should begin compiling the project file at the start of the PD&E Study, continue to add documents throughout the study, and complete the file when a final decision is made. Complete and accurate documentation of the project file is needed to ensure decisions made during PD&E are passed to the next phase of the project development process. Additionally, a complete project file is essential to preparing and compiling a complete administrative record for the project.

All project documents will be filed/stored in accordance with [Records Management, Procedure No. 050-020-025](#) utilizing the process outlined in [Part 1, Chapter 15, Project File and Records Management](#).

Below is a list of reports and design information the Project Manager should maintain in the project file if completed in the PD&E phase. Additional environmental and technical reports (including planning products), which are the basis of PD&E decisions, must also be kept in the project file.

1. Approved Environmental Document (Type 2 CE, EA with FONSI, DEIS, FEIS/ROD, FEIS, ROD, or SEIR)
2. **Project Traffic Analysis Report**
3. **Travel Analysis Report** (if applicable)
4. **Typical Section Package**
5. **Intersection Control Evaluation (ICE) Forms** (if applicable)
6. **Public Involvement Plan (PIP)**
7. Major Intersection and Interchange Concepts (if applicable)
8. Transportation Improvement Concepts (if applicable)
9. **Preliminary Engineering Report (PER)**
10. **Bridge Replacement Report** (if applicable)
11. **Natural Resources Evaluation** (wetlands, protected species and habitat, Essential Fish Habitat)
12. **Cultural Resource Assessment Survey**
13. **Section 4(f) Evaluation Report** (if applicable)
14. **Sociocultural Effects (SCE) Evaluation Technical Memorandum**

15. **Conceptual Stage Relocation Plan** (if applicable)
16. **Noise Study Report**
17. **Air Quality Technical Memorandum**
18. **Contamination Screening Evaluation Report** or **Level 1 Contamination Assessment Report**
19. **Water Quality Impact Evaluation Checklist**
20. **Location Hydraulics Report (LHR)**
21. **Planning Consistency Form** (except for Type 2 CEs where it is included in the form)
22. Preliminary stormwater design (including any drainage reports, preliminary drainage design, and/or **Pond Siting Report**)
23. Preliminary plans for preferred alternative with ROW dimensions
24. **Comments and Coordination Report**
25. **Utility Assessment Technical Memorandum**
26. Conceptual Transportation Management Plan (TMP)
27. Preliminary bridge analysis with supporting location and design recommendations for each viable structure alternative (if applicable).
28. **Draft Bridge Hydraulic Report** for the preferred alternative (if applicable)
29. **Preliminary Scour Analysis** (if applicable)
30. **DEP Form 62-257.900(1)-Notice of Asbestos Renovation or Demolition** (if completed during PD&E) (if applicable)
31. **Value Engineering Study Report** (if applicable)
32. **Interchange Access Request Report** (if applicable) and associated documents (**Methodology Letter of Understanding** and FHWA's SO&E Affirmative Determination Letter)
33. **System Engineering Management Plan** (if applicable)
34. **Design Exceptions/Variation Package** (if applicable)
35. **Project Commitment Record (PCR)**

36. **Risk Management Plan** (if applicable)
37. **Project Management Plan** (if applicable)
38. **Project Financial Plan** (if applicable)

#### 4.2.9 Design and Construction

The purpose of the Design phase is to prepare the detailed engineering design, contract plans, specifications, and estimates for the project. FDOT's design process follows the design criteria and procedures established in the [FDM, Part 2, Topic No. 625-000-002](#) and the requirements for preparation and assembly of contract plans established in [FDM, Part 3, Topic No. 625-000-002](#).

The review of design and construction plans for design-bid-build projects (conventional projects) follows a standard four-phase submittal approach to facilitate review of the projects. The four submittal phases are Phase I, Phase II, Phase III, and Phase IV. Projects that are Type 1 CE or NMSA, typically have two phase reviews. The appropriate number of submittal phases for Type 1 CE and NMSA projects is determined when developing the scope of services. Design-Build projects have three standard submittal phases, namely Technical Proposal, 90% Component Plans and Final Component Plans. [FDM, Part 3, Chapter 301, Topic No. 625-000-002](#) identifies phase submittal requirements for both conventional and non-conventional projects.

Phase I plans submittal allows for the establishment and review of preliminary geometry and grades, drainage design, traffic control, and ROW. Certain projects have a mandatory Value Engineering (VE) requirement that must be performed during the PD&E phase prior to the public hearing. If a mandatory VE study was not performed during PD&E, one should be conducted during the development of Phase I plans. See [Procedure No 625-030-002, Value Engineering Program](#) for further details on VE requirements.

Phase II plans submittal includes the proposed plan and profile with complete drainage design. Preliminary design of the plans themselves is complete at the completion of Phase II. Typically, with completion of Phase II plans, sufficient information exists for permit application submittal and ROW acquisition to start. Throughout the remainder of the design process continued agency coordination should take place to address permitting requirements, address additional avoidance and minimization measures that can be taken, and develop mitigation plans.

Phase III plans submittal includes completion of all plan sheets and quantity calculations. Phase IV is the final submittal of the project contract plans where specifications are complete and all corrections noted in the Phase III plans are complete.

During the Design phase, new or updated surveys may be needed to confirm impacts. Additionally, mitigation requirements may be reconciled with actual impacts based on the final design features of the project. Prior to authorization to advertise the project for construction, the project must undergo a - Re-evaluation to ensure that there are no



conditions in place that would alter the original approval of the decision and commitments made during the PD&E Study. Any change in design, environment, or laws which may have occurred since the approval of the final Environmental Document or any previous reevaluations are addressed. [Part 1, Chapter 13, Re-evaluations](#) explains the required re-evaluation process.

#### 4.2.10 Interagency Coordination and Public Involvement

Public involvement, which provides opportunity for input from interested and affected members of the public, local governments, and environmental, regulatory, and resource agencies, is required by both federal and state laws, as well as FDOT procedure (see [Public Involvement Opportunities, Topic No. 000-525-050](#)). Public involvement is required in all phases of a transportation project. The public involvement effort should be scaled to match the magnitude or complexity of the project and should consider the potential for controversy, project issues or challenges, ROW acquisition, relocations, and access modifications. See [Public Involvement Handbook](#) for guidance on developing and implementing effective public involvement for transportation projects.

During the ETDM Planning and Programming screens, regulatory and resource agencies and interested project stakeholders review and comment on a project's potential effects on the natural and human environment. MPOs can input public comments from LRTP outreach activities into the EST during the ETDM Planning or Programming Screen. PD&E Project Managers use information from the EDTM **Planning** or **Programming Screen Summary Report** to plan and implement public involvement activities during the PD&E phase.

Public involvement during the PD&E phase begins the preparation of a **PIP**. The purpose of a **PIP** is to identify the potentially affected people in a community, identify special community needs to support the SCE evaluation and define the outreach methods and schedule to involve and gain their input. Depending on the COA for the project, different public involvement actions are used to meet federal and state requirements. See [Part 1, Chapter 11, Public Involvement](#) and [Part 2, Chapter 4, Sociocultural Effects Evaluation](#) for more information.

Public involvement activities during the Design phase typically begin by preparing a Community Awareness Plan (CAP) and may involve activities such as public information meetings or a design public hearing. See [FDM, Part 2, Section 201, Topic No. 625-000-002](#) for more information. For projects that have completed a PD&E phase, the Design phase public involvement is built upon the public involvement activities conducted during the PD&E phase.

Public involvement during construction involves responding to public requests for information regarding construction activities and informing the public about construction activities such as lane closures, median changes, business access impacts, work hours, work zones, detours, temporary access, and grand openings. Through public involvement, FDOT provides up-to-date information and solicits public concerns related to the project.

### 4.3 EMERGENCY RELIEF

When the President of the United States signs an emergency declaration, the cost of debris removal from federal aid roads will be reimbursable from the Federal Emergency Management Agency (FEMA), **not** FHWA. All other damages are eligible for reimbursement from FHWA. Federal aid roads in Florida are all roadways except those classified as local roads or rural minor collectors.

Each damage site with an estimated cost of repair exceeding \$5,000 will be eligible for FHWA reimbursement under the Emergency Relief Program. Each damage location will require documentation on **FHWA Form 1547, Detailed Damage Inspection Report (DDIR)**. Pictures of the damage should be included to support the **DDIR** description and estimated cost of repair.

There are two types of repairs under the Emergency Relief Program, emergency repairs and permanent repairs. Emergency repairs are those performed to restore essential traffic, to minimize the extent of damage, or to protect the remaining facilities. Repairs that go beyond these three objectives are permanent repairs.

Emergency repairs are eligible for 100 percent federal share if they are made during or right after a disaster (within 180 days). The 180-day period for 100 percent eligibility of emergency repairs may be extended if a District cannot access a site to evaluate damages and the cost of repair. FDOT will request, and the FHWA Division Office will approve and document, extensions on a case-by-case basis for specific locations that cannot be accessed. Emergency repairs do not need an approved federal authorization in place prior to the work being done. The federal authorization can be processed after the repair work is completed.

Emergency repair projects under the Emergency Relief Program must comply with **NEPA** requirements. Environmental review process for emergency repair projects can be conducted during or after the project is completed (only if the emergency repair is within the existing ROW). Typically, Type 1 CE documentation for emergency repairs is completed pursuant to **Title 23 U.S.C. § 125**. Emergency repair projects to permanently restore the existing facility in-kind at the existing location also qualify and Type 1 CE documents. However, if impacts to protected or otherwise sensitive resources are anticipated, advance coordination with the appropriate resource agencies should be performed to ensure those impacts are adequately addressed.

Permanent repairs must have an approved federal authorization in place before any repair work is done to maintain eligibility for emergency relief federal funding. Permanent repairs are treated just like any ordinary federally funded highway or bridge project. All permanent repair projects shall comply with the environmental clearance requirements prior to FHWA initial authorization. The District Federal Aid Coordinator should be contacted for additional information on the prerequisites needed to obtain an approved federal authorization.

A copy of all **DDIRs** should be provided to the District Federal Aid Coordinator as soon as possible, even if they haven't yet been signed by an FHWA engineer. Eventually **DDIRs** with all necessary signatures will be needed, but it is essential for the District Federal Aid Coordinator to obtain the initial unsigned copies as soon as possible to perform a preliminary assessment of the damage statewide. Additional information on the Emergency Relief Program, including **FHWA's Emergency Relief Manual**, can be found at FHWA's Emergency Relief Program website.

In cases where emergency actions may affect federally listed species and/or critical habitats, emergency consultation with the U.S. Fish and Wildlife Service or National Marine Fisheries Service is required by **Section 7** of the **Endangered Species Act**, as amended (**50 CFR § 402.05**). See [Part 2, Chapter 16, Protected Species and Habitat](#) for guidance on emergency consultation. Emergency consultation procedures allow federal agencies to incorporate endangered species concerns into their response actions—they are not intended to interfere with emergency response efforts.

See [Part 2, Chapter 8, Archaeological and Historical Resources](#) for guidelines on complying with **Section 106, Chapter 267, F.S.**, and **Section 4(f)** where emergency action may affect historic and **Section 4(f)** resources.

#### 4.4 REFERENCES

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Title 23 CFR § 636.103

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## **4.5 FORMS**

[Planning Requirements for Environmental Document Approvals, Form No. 650-050-41](#)

[Planning Requirements for Environmental Document Approvals with Segmented Implementation, Form No. 650-050-42](#)

## **4.6 HISTORY**

1/12/2000, 5/20/2008, 1/21/2011, 3/30/2015, 8/18/2016, 6/14/2017: NEPA Assignment, 1/14/2019

<b>Approval to Advance Preliminary Design Activities</b>		
<b>Date:</b>	<u>(Current Date)</u>	<b>Document Ty:</b> <u>EIS/EA/Type 2 CE</u> <b>Status:</b> <u>Draft/Final</u>
<b>Project Title:</b>	<u>(PD&amp;E Project Title)</u>	<b>FM #:</b> <u>(PD&amp;E FM#)</u>
<b>Project Limits:</b>	<u>(NEPA Logical Termini/PD&amp;E Study limits)</u>	<b>ETDM #:</b> _____
		<b>FAPN #:</b> _____
Attachment		
1) Provide a brief description of the project purpose		
2) Briefly describe alternative being advanced (Physical characteristics; proposed alignment, right-of-way, and typical section)		
3) Has alternative been presented to public		<i>yes/no</i>
4) Identify what advanced design is requested and reasons for developing the preferred alternative to a higher level of detail.		
5) Summarize commitments that affect the findings and/or design, if any		<i>Project Commitment Record</i>
6) Is Planning Consistency Form complete?		<i>yes/no</i>
7) Indicate if additional design is necessary to make or support findings or permitting as appropriate. (including but not limited to the examples below)		
a) Section 106		
b) Section 4(f)		
c) USFWS		
d) NMFS		
e) Concurrent 404b(1)		
f) Concurrent state ERP		
g) Concurrent USCG Bridge Permit		
** Undertaking these activities prior to a NEPA decision is at the risk of the District. OEM will not be committed to approving the Environmental Document. **		

**Print Name:** \_\_\_\_\_ **Date:** \_\_\_\_\_ **Phone #:** \_\_\_\_\_  
Project Development Manager/ Environmental Manager

**Signature:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Project is approved for preliminary engineering:** \_\_\_\_\_




**Additional information required:** \_\_\_\_\_ **Explain:**

**OEM Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Figure 4-2 Approval to Advance Preliminary Design Activities**



## Dual Procurement Options under SWAT Process:

① One contract for both PD&E and design, funded together

- One firm 
- Team of firms 
- One firm with subcontractors 

② One contract for PD&E with option for design 

③ Two contracts for PD&E and design

- Let simultaneously (at once) 
- Let separately but overlapping 

**Figure 4-3 Dual Procurement Options**



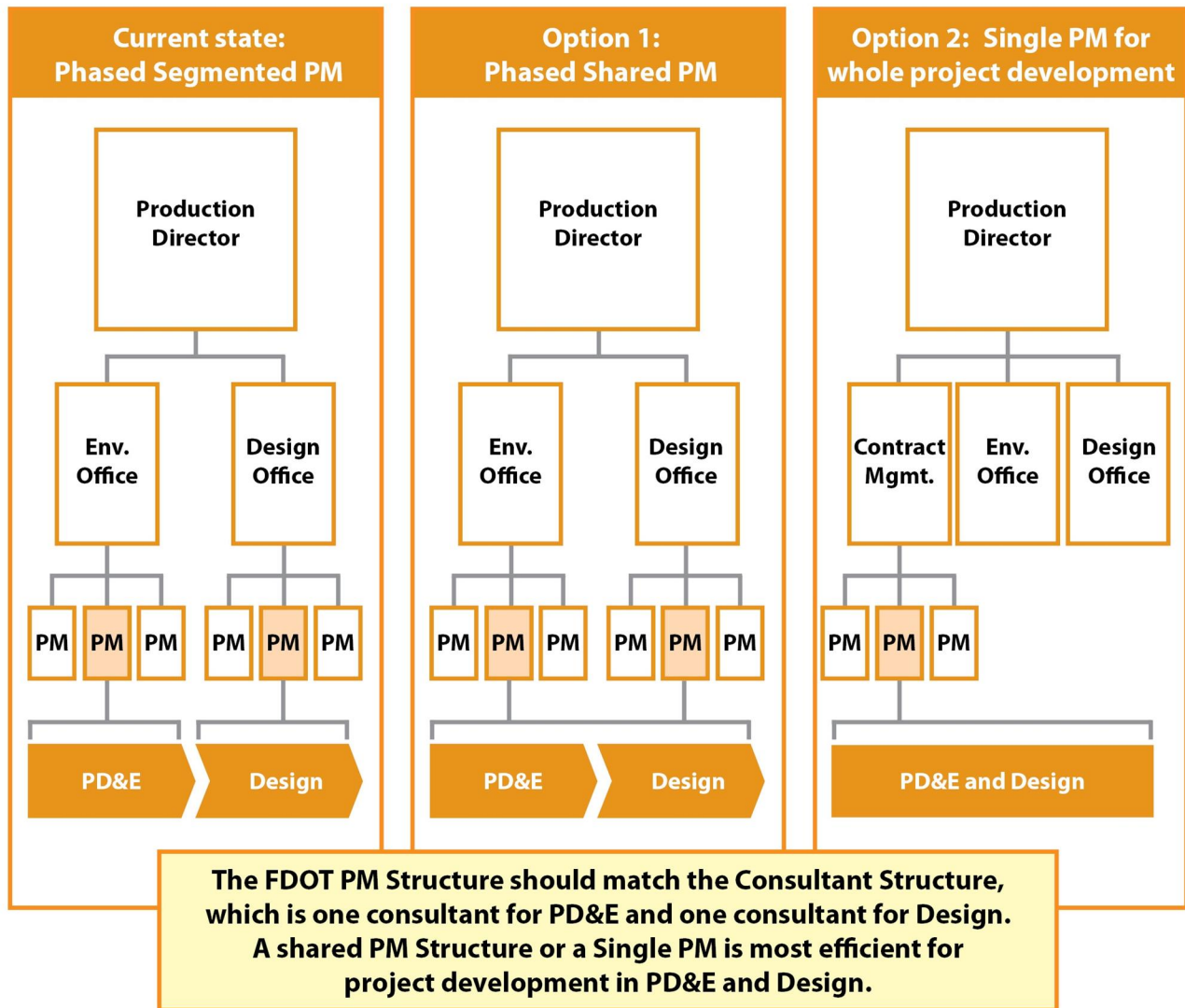
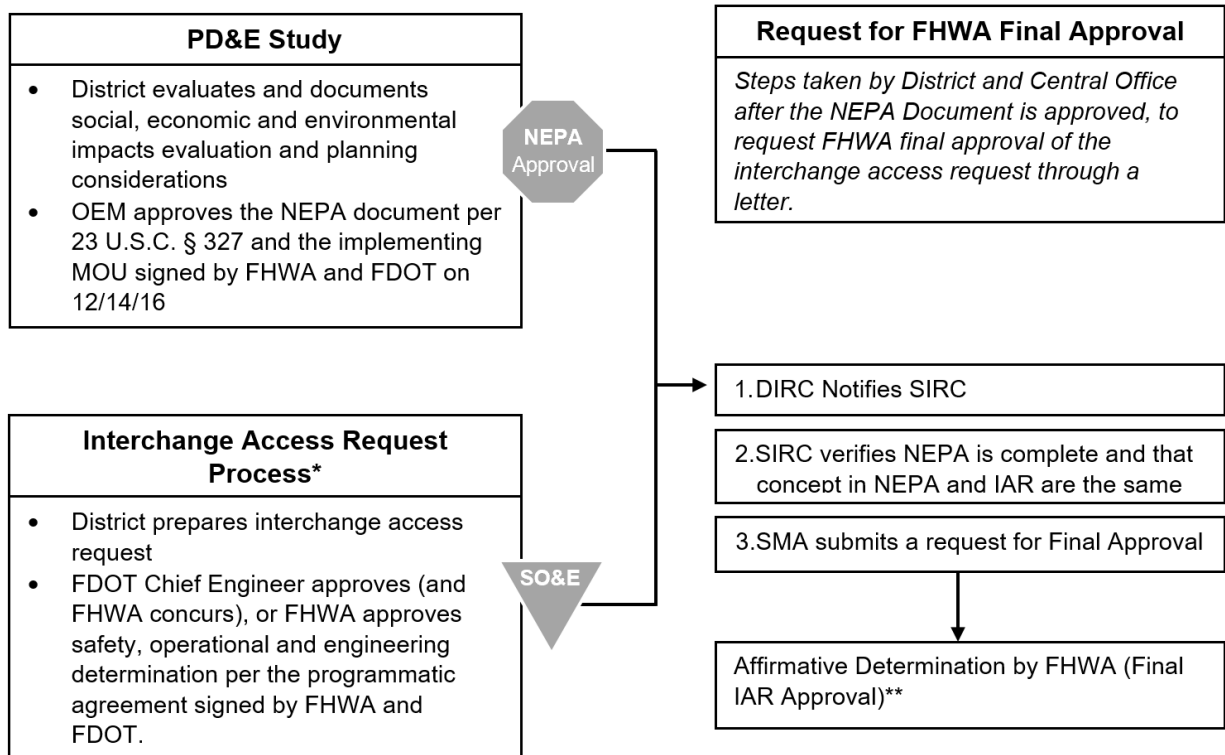


Figure 4-4 Project Management Structures



DIRC = District Interchange Review Coordinator SIRC = State Interchange Review Coordinator SMA= System Management Administrator

\*Determination of safety, operation and engineering acceptability of the interchange access request may precede the PD&E study, or occur concurrent with the PD&E Study.  
 \*\*FHWA approves the access request by signing the letter of request from FDOT.

**Figure 4-5 Final Approval of Interchange Access Requests and the PD&E Study**

Planning Requirements for Environmental Document Approvals

<b>Document Information:</b>					
<b>Date:</b> _____ (Current Date)		<b>Document Type:</b> <u>EIS/EA/Type 2 CE</u>		<b>Document Status:</b> <u>Draft/Final</u>	
<b>Project Name:</b> _____ (PD&E Project Title)			<b>FM #:</b> _____ (PD&E FM#)		
<b>Project Limits:</b> _____ (NEPA Logical Termini/PD&E Study limits)			<b>ETDM #:</b> _____		
<b>Are the limits consistent with the plans?</b> <u>Y/N</u> (Limits presented for approval should be consistent with LRTP, TIP/STIP. If no, explain)					
<b>Identify MPO(s) (if applicable):</b> _____ (Provide MPO(s) Name)			<b>Original PD&amp;E FAP#:</b> _____ (FAP# Assigned to the PD&E if applicable)		
<b>Currently Adopted CFP-LRTP</b>	<b>COMMENTS</b>				
Y/N	(If N, then provide detail on how implementation and fiscal constraint will be achieved)				
<b>PHASE</b>	<b>Currently Approved TIP</b>	<b>Currently Approved STIP</b>	<b>TIP/STIP \$</b>	<b>TIP/STIP FY</b>	<b>COMMENTS</b>
PE (Final Design)	Y/N	Y/N	\$		(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)
R/W	Y/N	Y/N	\$		(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)
Construction	Y/N	Y/N	\$		(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)
<b>Project Segmented:</b> <u>N</u>					
<b>FDOT Preparer's Name:</b> _____			<b>Date:</b> _____ <b>Phone #</b> _____		
<b>Preparer's Signature:</b> _____			<b>Email:</b> _____		

\*Attach: LRTP, TIP, STIP pages

**Figure 4-6 Planning Requirements for Environmental Document Approvals**

Planning Requirements for Environmental Document Approvals with Segmented Implementation

**Document Information:**  
 Date: \_\_\_\_\_ (Current Date) Document Type: EIS/EA/Type 2CE Document Status: Draft/Final  
 Project Name: \_\_\_\_\_ (PD&E Project Title) FM #: \_\_\_\_\_ (Original FM#)  
 Project Limits: \_\_\_\_\_ (NEPA Logical Termini/PD&E Study limits) ETDM #: \_\_\_\_\_  
 Are the limits consistent with the plans? Y/N (Limits presented for approval should be consistent with LRTP, TIP/STIP. If no, explain)  
 Identify MPO(s) (if applicable): \_\_\_\_\_ (Provide MPO(s) Name) Original PD&E FAP# \_\_\_\_\_ (FAP# Assigned to the PD&E if applicable)

**Segment Information:** (Add additional tables as needed to describe all segments within the logical termini limits. Clearly identify segment representing the next funded phase)  
 Segment Limits: \_\_\_\_\_ Segment FM #: \_\_\_\_\_

Currently Adopted CFP-LRTP	COMMENTS				
Y/N	(if N, then provide detail on how implementation and fiscal constraint will be achieved)				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
PE (Final Design)	Y/N	Y/N	\$		(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)
R/W	Y/N	Y/N	\$		(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)
Construction	Y/N	Y/N	\$		(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)

**Segment Information:** (Add additional tables as needed to describe all segments within the logical termini limits. Clearly identify segment representing the next funded phase)  
 Segment Limits: \_\_\_\_\_ Segment FM #: \_\_\_\_\_

Currently Adopted CFP-LRTP	COMMENTS				
Y/N	(if N, then provide detail on how implementation and fiscal constraint will be achieved)				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
PE (Final Design)	Y/N	Y/N	\$		(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)
R/W	Y/N	Y/N	\$		(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)
Construction	Y/N	Y/N	\$		(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)

FDOT Preparer's Name: \_\_\_\_\_ Date: \_\_\_\_\_ Phone #: \_\_\_\_\_  
 Preparer's Signature: \_\_\_\_\_ Email: \_\_\_\_\_

\*Attach: LRTP, TIP, STIP pages

**Figure 4-7 Planning Requirements for Environmental Document Approvals with Segmented Implementation**

## **PART 1, CHAPTER 5**

### **TYPE 2 CATEGORICAL EXCLUSIONS**

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## PART 1, CHAPTER 5

### TYPE 2 CATEGORICAL EXCLUSIONS

#### 5.1 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 Categorical Exclusion (CE) is a project or action which does not individually or cumulatively have a significant environmental impact, and is excluded from the requirement to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). A CE as defined in **40 Code of Federal Regulations (CFR) § 1508.4**. **Title 23 CFR § 771.115** prescribes the level of documentation required to comply with **NEPA**. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for more information on Class of Action (COA) determinations.

Generally, CEs are either listed, **23 CFR § 771.117(c)**, or documented, **23 CFR § 771.117(d)**. Listed CEs, known as Type 1 CEs in Florida, are those project types listed in either the (c) or (d) list in the regulation. Type 1 CEs are discussed in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#). Documented CEs, known as Type 2 CEs in Florida, are projects which do not have significant effects based on past experience but must demonstrate that the project meets the criteria under **23 CFR § 771.117(a)**. For Type 2 CE projects, the level of detail required to reach these conclusions is dependent upon the complexity of the project and the significance of environmental impacts from the proposed action.

Type 2 CEs require review and approval by OEM whereas a Type 1 CE determination is made by the District. Type 2 CEs require a higher level of public involvement than Type 1 CEs, and typically require a public hearing. If the project is a major transportation improvement as described in **Section 339.155(5), Florida Statutes (F.S.)**, a public hearing is required as outlined in [Part 1, Chapter 11, Public Involvement](#). If a public hearing is required, a draft Type 2 CE is made available for public inspection at the public hearing.

Under limited circumstances, when a Type 2 CE does not constitute a major transportation improvement, the District must obtain OEM approval in order to offer the public an opportunity to request a public hearing in lieu of holding it without a public request.

## 5.2 PROCEDURE

This chapter outlines the required processing and documentation for Type 2 CE projects ([Figure 5-1](#)) and provides guidance on completing the ***Type 2 Categorical Exclusion Determination Form***.

The Type 2 CE must include interagency coordination on respective jurisdictional issues and public involvement efforts to adequately support the determination. In addition, it must list commitments made throughout the Project Development and Environment (PD&E) Study. A summary of coordination and/or consultation efforts and results, which support the findings, should be included on the form and findings or concurrence documentation should be attached.

The results of the Efficient Transportation Decision Making (ETDM) screening events are used for project scoping and to prepare the Type 2 CE. For projects which fall under the criteria of **23 CFR § 771.117(a)** which were not screened through the Environmental Screening Tool (EST), the District is responsible for gathering enough information to scope the project and coordinating with OEM and applicable agencies according to the Minor Categorical Exclusion (MiCE) process. The MiCE process is discussed in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#).

A Type 2 CE does not typically require consideration of multiple build alternatives during the screening process. However, in some situations, the impacts to issues/resources may result in the need to consider additional alternatives during the PD&E Study. This should not preclude a District from considering minor shifts in the alignment during the PD&E Study. Districts are encouraged to prepare up to 60% preliminary design during PD&E as described in [Part 1, Chapter 4, Project Development Process](#). The ***Preliminary Engineering Report (PER)*** should be referenced in the ***Type 2 Categorical Exclusion Determination Form*** and uploaded to the StateWide Environmental Project Tracker (SWEPT) project file with the other Technical Materials. A summary of the engineering considerations and alternatives evaluation (if applicable) is included in the project description section of the ***Type 2 Categorical Exclusion Determination Form***. Guidance on completing a ***PER*** is provided in [Part 2, Chapter 3, Engineering Analysis](#).

During the PD&E Study, impacts are evaluated and engineering and environmental analysis is completed to verify that the COA determination is a Type 2 CE. Social, Cultural, Natural, and Physical issues/resources are evaluated using the pertinent chapters in **Part 2** of the [PD&E Manual, Topic No. 650-000-001](#) to satisfy applicable federal and state environmental laws, regulations, and executive orders. The analysis should focus on the relevant issues and those requiring findings. A finding implies that a

decision must be made or a signature is needed by OEM, and/or an appropriate resource agency.

The preparer uses the results of the environmental analysis, knowledge of the project area, and input received through agencies and the public, to complete the **Type 2 Categorical Exclusion Determination Form**.

The analysis should document that the project has no significant impacts and address mitigation, if applicable. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for guidance on determining significance. Information to substantiate the impact determination of not significant, or enhancement must be discussed in the Type 2 CE, added as Technical Materials or attached to the form, as appropriate. If, during this effort, a significant impact is identified, coordination will need to occur with OEM to revise the COA determination for the project. A project with a significant impact to any resource or issue cannot be processed as a Type 2 CE.

Technical Materials are documents contained under separate cover. They should be referenced in the Type 2 CE and are included in the project file in SWEPT. This includes technical reports (e.g., **Project Traffic Analysis Report, Conceptual Stage Relocation Plan, Natural Resource Evaluation**), technical memorandums, and studies. Documents included in the Appendix are considered to be a part of the Type 2 CE document. The Appendix contains documents which support the findings of the document. This may include concurrence letters, determinations of effect, and MOUs.

### **5.2.1 Guidance for Preparing a Type 2 Categorical Exclusion Determination Form**

This section provides guidance for preparing a **Type 2 Categorical Exclusion Determination Form** in SWEPT.

#### **Section 1: Project Information**

**Project Information:** Information such as the project name or title [including bridge number(s), if appropriate]; project limits; county(ies) involved; project numbers [ETDM Number (if applicable), Financial Management Number, and Federal-Aid Project Number] are automatically populated in the form.

Identify the Project Manager.

**Cooperating Agencies:** Add Cooperating Agencies. Cooperating agencies are determined following the procedures in **40 CFR § 1500 et seq.** and associated FHWA guidance. Add Cooperating Agency correspondence as Technical Materials. Participating Agencies may also be added. Cooperating and Participating Agencies are defined in [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#).



**District Contact Information:** Add the name, title, address, phone, and email address of the District Contact. This is typically the Project Manager, but may be a different District staff person. Also include any consulting firm information, if applicable.

**Has FDEP determined Coastal Zone Consistency?** Identify if the Florida Department of Environmental Protection (FDEP) has determined Coastal Zone Consistency for the project and provide the date that this was determined. If this was determined during the Programming Screen it can be populated by entering the ETDM Number, if not, the date will need to be added by the preparer. See [Part 2, Chapter 14, Coastal Zone Consistency](#) for more information.

**Project Description:** Add a Project Description to the form. Briefly describe the proposed action in terms of location, length, and termini of the project and typical section(s). Use appropriate engineering detail to show the number of lanes and their width, major structures, proposed capacity and safety improvements, estimated Right of Way (ROW) to be acquired, and construction year (if available). This description should also include existing conditions of the transportation facility, accommodations for pedestrians, bicyclists, and navigational needs as applicable. See [Part 2, Chapter 1, Project Description and Purpose and Need](#) for detailed guidance. Add a project location map.

**Purpose and Need:** Add the purpose and need to the form. Identify and describe the transportation need(s) and the purpose it is intended to satisfy (e.g., provide system continuity, alleviate traffic congestion, and/or correct safety or roadway deficiencies). If the project was screened through the EST, update the purpose and need, as appropriate to reflect current project conditions. See [Part 2, Chapter 1, Project Description and Purpose and Need](#) for detailed guidance on preparing the purpose and need.

The form then provides a place to add project file documents that will be listed as Technical Materials. There is also a separate place to add attachments to be included in the Appendix.

## Section 2: Planning Consistency

Follow the instructions in the form to prepare the planning consistency table. This information is needed to verify that a project meets the planning requirements in **23 CFR § 450**. Instructions on meeting the requirements are provided in [Guidance for Meeting Planning Requirements for NEPA Approval](#) and [FDOT/FHWA Consistency Guidance](#). The intent is to advance projects derived from transportation plans and clearly describe the steps toward implementation as described in those plans.

Add supporting documentation for project plan consistency as an attachment, such as the appropriate Long Range Transportation Plan (LRTP), Cost Feasible Plan (CFP) LRTP, Transportation Improvement Program (TIP), and State Transportation

Improvement Program (STIP) relevant pages. For future phases (e.g., ROW or Design, and Construction) not currently shown on the referenced plans and programs, this form should also document planned steps towards implementation, including the anticipated fiscal years. This should be coordinated with District Planning staff and may need to be documented in the appropriate plans and programs as well.

To address LRTP consistency for Type 2 CE projects that were not screened through the EST, coordinate with District planning staff and verify that the project is represented in the LRTP summary sheet (e.g., general sidewalk, pedestrian improvement, and safety projects), which shows projects that are not individually listed in the LRTP. Include the sheet as an attachment.

Reporting should be the same for projects with segmented implementation, with each segment added to the table. It is important to note that when the project is going to be divided into segments, these segments should be described in the table. For example, if the project is 15 miles long and the first segment is 5 miles, then the table should clearly describe the other segments. It is not sufficient to simply state that the remaining 10 miles may be segmented at some point in the future. For additional clarity, a map showing project segments may also be included with the form. Additional information may also be added in the comment boxes.

The form provides a place to add project file documents that will be listed as Technical Materials. There is also a separate place to add attachments to be included in the Appendix.

### Section 3: Social and Economic

Consider social and economic effects in accordance with procedures in [Part 2, Chapter 4, Sociocultural Effects Evaluation](#). Identify if there were any significant impacts to social and economic resources. If there were significant impacts, then the project cannot proceed as a Type 2 CE. If there were no significant impacts, summarize the evaluation completed for the following resources or issues, including minimization and anticipated enhancements:

**Social Resources:** Summarize the potential for the project to affect community groups, neighborhoods, and variables of local community concern. Consider and describe the likelihood of disproportionate impacts and discuss whether there any areas of controversy resulting directly or indirectly from the project. Reference results of public hearings or any other public involvement. If applicable, include a summary of information from the **Sociocultural Data Report**, and include the report in the project file as Technical Material.

**Economic Resources:** Summarize the project's potential effect on economic activity in the study area, local area, and region.

**Land Use Changes:** Summarize the potential for the project to induce secondary development or change existing land use patterns. Add a land use map, if applicable.

**Mobility:** Summarize the project's potential effect on mobility and accessibility in the study area with emphasis on non-driving population groups (i.e., elderly, young, disabled, and low-income individuals).

**Aesthetic Effects:** Summarize the project's aesthetic effects evaluation in accordance with [Part 2, Chapter 5, Aesthetic Effects](#).

**Relocation Potential:** Identify if relocation potential is present or not present and add the **Conceptual Stage Relocation Plan (CSRP)** as Technical Material, if applicable. If relocations are anticipated, indicate the number and type of relocatees (residents, tenants, businesses, institutions or community facilities), and discuss the relocation impact to groups protected by nondiscrimination laws. If there is relocation potential, indicate whether comparable replacement housing is available.

**Farmland Resources:** Identify if project is excluded from coordination with the Natural Resources conservation Service (NRCS) for the **Farmland Protection Act**. If it is excluded identify why excluded, if not, identify if there is involvement with farmland. If there is no involvement with farmland, identify if it is in urbanized areas or non-urbanized areas. If there is involvement with farmland, summarize project effects on farmlands and attach the applicable farmland conversion rating form as an Appendix to the Type 2 CE. For guidance see [Part 2, Chapter 6, Farmland](#).

The form then provides a place to add project commitments for this section. A place is provided to add file documents that will be listed as Technical Materials, as well as a separate place to add attachments to be included in the Appendix.

#### Section 4: Cultural Resources

Identify if there were any significant impacts to cultural resources. If there were, then the project cannot proceed as a Type 2 CE. If not, identify the presence of, and summarize the evaluation completed for the following resources or issues:

**Section 106 protected resources (National Historic Preservation Act):** Consider potential involvement with properties listed in or eligible for listing in the National Register of Historic Places (NRHP), and if present, indicate whether the resources were found to meet the eligibility criteria for inclusion in the NRHP. If eligible, identify if there is an adverse effect to any of these resources. If there is at least one adverse effect on a resource, select "Adverse Effect" and describe all the resources in the summary box. Include findings and summarize approvals and concurrence documents per [Part 2, Chapter 8, Archaeological and Historical Resources](#). Add the **Cultural Resource Assessment Survey, Section 106 Programmatic Agreement Minimal Impact Determination Form, Form No. 650-050-17, Section 106 Programmatic Agreement Desk Top Review, or Section 106 Case Study Report** as Technical Materials, if applicable. Include State Historic Preservation Officer (SHPO) concurrence letters as attachments and add a **Section 106** resource map as necessary.

It should be noted that while historic properties are also protected by **Section 4(f)**, archaeological sites that are listed in or eligible for listing in the NRHP under Criterion D (significant primarily for the information they contain) are not protected by **Section 4(f)**. **Section 4(f)**, however, does protect archaeological sites that are important for preservation in place. For additional guidance, see [Part 2, Chapter 7, Section 4\(f\) Resources](#).

**Section 4(f) pursuant to USDOT Act of 1966:** If present, identify, by formal name, existing or proposed **Section 4(f)** protected resources (i.e., public parks, recreational areas, wildlife and waterfowl refuges, and public or private historic and archeological sites) within the project study area and discuss any project-related impacts to these properties and specifically identify any ROW or other acquisition from these resources which may be required to complete the project in the summary box. It should be noted that **Section 4(f)** documentation will be prepared, reviewed and approved separately or concurrently depending on the level of documentation necessary to address and resolve the issue. For guidance on determining **Section 4(f)** applicability, see [Part 2, Chapter 7, Section 4\(f\) Resources](#). Add **Section 4(f)** letters, forms, and supporting documentation as attachments.

**Section 6(f) of the Land and Water Conservation Fund Act of 1965:** If present, identify, by formal name, all park and recreational properties funded wholly or in part under **Section 6(f)** of the **Land and Water Conservation Fund Act** within the project study area in the summary. Discuss any project-related impacts to these properties and specifically identify any ROW or other acquisition from these resources which may be required to complete the project. For guidance see [Part 2, Chapter 7, Section 4\(f\) Resources](#). Add **Section 6(f)** supporting documentation as attachments or Technical Materials.

#### **Recreational Areas and Protected Lands:**

Identify if there are state-owned conservation lands in the project area subject to review and approval by the Acquisition and Restoration Council (ARC), or other protected public lands. For guidance see [Part 2, Chapter 23 Acquisition and Restoration Council Coordination](#). If there are, then describe the resources and how the project may impact them in the summary box.

The form then provides a place to add commitments. There is also a place to add project file documents that will be listed as Technical Materials, and a separate place to add attachments to be included in the Appendix.

### **Section 5: Natural Resources**

Identify if there were any significant impacts to natural resources. If there were, then the project cannot proceed as a Type 2 CE. If there were not, add the **Natural Resource Evaluation (NRE)** as a Technical Material. Identify the presence of, and summarize the evaluation completed for the following resources:

**Protected Species and Habitat:** Summarize involvement with protected species and habitat including a brief description of the analysis, mitigation and results of agency coordination or consultation if applicable. For guidance see [Part 2, Chapter 16, Protected Species and Habitat](#). Attach concurrence letters from resource agencies (if required) and include a species and habitat map as necessary.

**Wetlands and Other Surface Waters:** Summarize involvement with wetlands or other surface waters. If present, identify the type of wetlands or other surface waters involved, their approximate acreage, and their overall functional value based on the Uniform Mitigation Assessment Methodology (UMAM), as appropriate in the summary. Add a map of the wetlands and surface waters identifying the location as they relate to the project. The level of detail of the summary should be sufficient to clearly define wetland involvement, describe interagency coordination, and finalize the findings. See [Part 2, Chapter 9, Wetlands and Other Surface Waters](#) for further guidance. If wetland impacts are anticipated, include a brief discussion of potential mitigation options and a wetlands finding in the summary.

**Essential Fish Habitat:** Summarize the potential impacts to Essential Fish Habitat. If present, identify if there are adverse effects, provide a summary of the evaluation and consultation with the National Marine Fisheries Service (NMFS) for impacts as appropriate per [Part 2, Chapter 17, Essential Fish Habitat](#). Add Essential Fish Habitat correspondence with NMFS as an attachment, if applicable.

**Floodplains:** Determine if the 100-year floodplain is present within the project and summarize the project involvement with the floodplain based on the results of the floodplain analysis in accordance with [Part 2, Chapter 13, Floodplains](#). Provide a summary of the **Location Hydraulics Report (LHR)** and the floodplains finding, as applicable. Add the **LHR** as Technical Material and include a floodplains map as necessary. If the project involves a regulatory floodway, summarize the project's consistency with the floodway and coordination with Federal Emergency Management Agency (FEMA) and local floodway management agencies in accordance with [Part 2, Chapter 13, Floodplains](#).

**Sole Source Aquifer:** Identify if a Sole Source Aquifer is present in the project area. For guidance on making this determination see [Part 2, Chapter 11, Water Resources](#). If a Sole Source Aquifer is present, select the aquifer name and add any sole source aquifer coordination letters as a Technical Materials, if applicable.

**Water Resources:** Summarize water resource involvement or impacts as evaluated and documented in the **Water Quality Impact Evaluation Checklist, Form No. 650-050-37, Pond Siting Report, or Conceptual Drainage Report** in accordance with [Part 2, Chapter 11, Water Resources](#). Summarize best management practices (BMPs) which will be implemented to address potential water quality and stormwater impacts during construction. Add the **Pond Siting Report** and **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** as Technical Materials.

**Aquatic Preserves:** Identify if there are any Aquatic Preserves in the project area and if they are impacted. Provide the name and potential involvement (i.e., water quality impacts, in water work, ROW needs) in the summary. For guidance see [Part 2, Chapter 11, Water Resources](#). Add any FDEP Aquatic Preserves coordination letters as attachments, if applicable.

**Outstanding Florida Waters:** Identify if there are any Outstanding Florida Waters in the project area and if present, provide the name and potential involvement (i.e., water quality impacts, in water work, ROW needs) in the summary. For guidance see [Part 2, Chapter 11, Water Resources](#).

**Wild and Scenic Rivers:** If present, identify if the river is impacted or not impacted. If not impacted, identify if the river is a Federally Designated Wild and Scenic River, Study River, river on the Nationwide Rivers Inventory, or Florida Wild and Scenic River and identify the name of the river. In the comment box include details to support this determination and identify if there are any other protected rivers present in the project limits. If they are impacted, identify any Federally Designated Wild and Scenic Rivers, Study Rivers, rivers on the Nationwide Rivers Inventory, or Florida Wild and Scenic Rivers by name, and provide detail in the summary. See [Part 2, Chapter 12, Wild and Scenic Rivers](#) for further guidance. Add any National Parks Service letters or other coordination as Technical Materials, if applicable.

**Coastal Barrier Resources:** If present, summarize impacts to Coastal Barrier Resources protected under the *Coastal Barrier Resources Act (CBRA)* and *Governor's Executive Order 81-105*. For guidance see [Part 2, Chapter 15, Coastal Barrier Resources](#). Briefly summarize the consultation process and final determination in the summary. Include any letters from the U.S. Fish and Wildlife Service (USFWS) concerning Coastal Barrier Resources as an attachment, if applicable.

The form then provides a place to add commitments. A place is also provided to attach project file documents that will be listed as Technical Materials, and a separate place to add attachments to be included in the Appendix.

## Section 6: Physical Resources

Identify if there were any significant impacts to physical resources or issues. If there were, then the project cannot proceed as a Type 2 CE. If not, summarize the evaluation completed for the following resources or issues:

**Highway Traffic Noise:** Identify if it is a Type I or Type III project pursuant to **23 CFR Part 772** and **Section 335.17, F.S.** Summarize the results of noise impacts documented in the *Noise Study Report (NSR)*. The summary should include locations with the predicted noise impacts that have feasible and reasonable abatement, and locations with impacts that have no feasible or reasonable noise abatement alternative per [Part 2, Chapter 18, Highway Traffic Noise](#). Include the

**NSR** as Technical Material and add a map showing noise receptors, impacted noise benefited receivers, or proposed noise barriers as an attachment, if applicable.

**Air Quality:** Summarize the potential project impact on air quality in accordance with [Part 2, Chapter 19, Air Quality](#). Add the **Air Quality Technical Memorandum** as Technical Material, if applicable.

**Contamination:** Summarize project involvement with contamination (based on Level I evaluation) in accordance with [Part 2, Chapter 20, Contamination](#). Include in the summary discussion of known or potentially contaminated sites within or near the project area, measures taken to avoid or minimize impact to contaminated sites and sites that will require additional investigation (Level II or Level III investigation). Include the **Contamination Screening Evaluation Report** as Technical Material and add a potential contamination site map, if applicable.

**Utilities and Railroads:** Summarize the project's involvement with utilities and/or railroads in accordance with [Part 2, Chapter 21, Utilities and Railroads](#). Add any railroad coordination and/or **Utilities Assessment Package** as Technical Materials.

**Construction:** Summarize the measures that will be taken to minimize potential construction impacts in accordance with [Part 2, Chapter 3, Engineering Analysis](#).

The form then provides a place to add commitments for this section. A place is provided to add project file documents that will be listed as Technical Materials, as well as a separate place to add attachments to be included in the Appendix.

## Section 7: Engineering Analysis Support

Add the title of the document that includes the engineering analysis to support the Type 2 CE (e.g., **PER**, **Project Traffic Analysis Report**, **Bridge Development Report**) and add that document as Technical Material. For guidance on preparing the Engineering Analysis see [Part 2, Chapter 3, Engineering Analysis](#).

The form then provides a place to add project file documents to be listed as Technical Materials for this section.

## Section 8: Permits

Identify if there are environmental permits anticipated for the project. Select the appropriate permit types listed on the form and indicate status (e.g., to be acquired, application submitted, permit received). Local or other permit types may also be added if needed for the project. If there are no permits anticipated, indicated that on the form. For guidance on environmental permits see [Part 1, Chapter 12, Environmental Permits](#).

## Section 9: Public Involvement

Add the **Public Involvement Plan (PIP)** as Technical Material. Or in cases where a **Community Awareness Plan (CAP)** was prepared, include a document explaining why a **CAP** was prepared instead of a **PIP**. Summarize the public involvement activities, including those outside of the public hearing (e.g., kickoff meetings, public information meetings, newsletters, flyers, and small group meetings). Identify if the project meets the definition of major transportation improvement pursuant to **Section 339.155(5), F.S.** and follow the form instructions to document the public hearing, or the process of providing opportunity for a public hearing. The **Public Hearing Transcript, Public Hearing Certification, Form 650-050-56** should be added as an attachment, when applicable. The draft Type 2 CE displayed for the public hearing should be saved in the project file in SWEPT. For more information on public involvement activities see [Part 1, Chapter 11, Public Involvement](#).

The form then provides a place to add project file documents that will be listed as Technical Materials. There is also a separate place to add attachments to be included in the Appendix.

## Section 10: Commitments Summary

This section of the form includes a list of commitments that were added when preparing previous sections and provides a place to add additional commitments. Refer to [Part 2, Chapter 22, Commitments](#) for guidance on commitments. Commitments should be transmitted to the next phase of project development in accordance with [Procedure No. 650-000-003, Project Commitment Tracking](#).

## Section 11: Approval and Signature

**Office of Environmental Management Approval:** The Director of OEM or designee must sign and date this section. Signing the Type 2 CE constitutes Location and Design Concept Acceptance (LDCA).

## Section 12: Technical Materials:

This section contains a list of Technical Materials that have been prepared to support the Type 2 CE. They were uploaded to the project file when preparing previous sections of the form. The project file should contain the analytical documentation to support the project decisions ([Section 5.3](#)). Technical Materials are not attached to the approved document, instead they are referenced.

## Section 13: Attachments

This section contains a list of documents that are incorporated into the Type 2 CE. They are included as attachments, and were added when preparing previous sections of the form. Attachments may include coordination letters, memos, maps,



and summaries of the environmental analysis as appropriate for each section. These documents are included in the Appendix.

When the Type 2 CE form is completed and a pdf version of the document is opened, two cover pages are generated using the information that was entered into SWEPT. The top cover page includes general project information, the **NEPA** Assignment standard statement, and the OEM Signature for LDCA. The second cover page includes the District contact information, the **Civil Rights Act of 1964** standard statement, required by [Part 2, Chapter 4, Sociocultural Effects Evaluation](#), and the coastal zone consistency standard statement required by [Part 2, Chapter 14, Coastal Zone Consistency](#), if applicable. A table of contents and Appendices are also generated upon completion and opening of the pdf version of the document.

### 5.2.2 FDOT Document Review Process

The District is not required to send the **Type 2 Categorical Exclusion Determination Form** to OEM prior to the public hearing, if held. However, it is recommended that the District submit the form and attachments for a preliminary OEM review. When the draft Type 2 CE is submitted to OEM prior to the public hearing, an **Environmental Document Submittal Form** is not required. Documents are reviewed using FDOT's Electronic Review and Comment (ERC) application.

After the public hearing, the District certifies the public hearing and uploads the public hearing transcript to SWEPT. The District also confirms the project file in SWEPT is complete. A diagram of FDOT's Document Review Process for Type 2 CEs is available on the [OEM website](#). The timeframes identified in this process are calendar days.

After preparing the **Type 2 Categorical Exclusion Determination Form**, the District conducts a quality control review and uses the SWEPT application to complete the **Environmental Document Submittal Form** for initial OEM review. The District uploads the **Type 2 CE Determination Form** and supporting information into the ERC application.

The OEM Project Delivery Coordinator (PDC) receives email notification and acknowledges the document is ready for review by confirming the **Environmental Document Submittal Form** in SWEPT. If necessary, the District schedules a project briefing for OEM reviewers and the Office of General Counsel (OGC) reviewers, as needed. The OEM and OGC review team will have 30 days to review the draft 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 the comments have not been addressed, additional comment resolution time may be needed. If necessary, the District will schedule a meeting with the project review team to discuss comments.

If there are Cooperating Agencies, the District shares the Type 2 CE with the Cooperating Agencies. This review may be concurrent with OEM review. The District will address any Cooperating Agency comments.

Once comments have been addressed, the District submits the revised Type 2 CE along with the ***Environmental Document Submittal Form*** for approval in SWEPT. The PDC receives email notification and has 14 days to confirm that the submittal is complete. Following confirmation by the PDC, the document can advance to OEM Environmental Process Administrators for review, who have 25 days to recommend the Type 2 CE for approval. The Director of OEM, or designee, then has 5 days to approve the ***Type 2 Categorical Exclusion Determination Form***. This approval provides concurrence with the COA and grants LDCA.

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

### **5.2.3 Actions Taken After Approval**

Once the Type 2 CE is approved, the District must provide notification that LDCA has been granted.

#### **Distribution to Agencies and Stakeholders**

Announcement of LDCA is sent electronically to Cooperating Agencies and Participating Agencies through the EST. The District should also send the announcement to other interested state and federal agencies and other stakeholders. The announcement should be sent to Native American tribes according to their requested method as reflected 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 publishes an announcement of LDCA in the same local newspaper(s) used for the public hearing notification, if one was held, informing the public that the project has received LDCA and is being advanced. If the Type 2 CE includes an Individual ***Section 4(f)*** Evaluation, then the LDCA notice should also notice that the Final ***Section 4(f)*** Evaluation was approved by OEM. 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).

## **5.3 REFERENCES**

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

<https://environment.fhwa.dot.gov/projdev/impta6640.asp>

FHWA, 2011. Supplement to the Transportation Planning Requirements and Their Relationship to NEPA Process Completion.

[http://www.fhwa.dot.gov/planning/tpr\\_and\\_nepa/supplementmemo.cfm](http://www.fhwa.dot.gov/planning/tpr_and_nepa/supplementmemo.cfm)

FDOT, Project Commitment Tracking, Procedure No. 650-000-003.

<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=650-000-003>

FDOT, 2014. Section 2. Meeting Planning Requirements for NEPA Approval.

<http://www.fdot.gov/planning/policy/metrosupport/Resources/Section2.pdf>

FDOT, Efficient Transportation Decision Making Manual.

<http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

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>

National Environmental Policy Act of 1969 (NEPA) as amended (42 USC § 4321 et seq.).

[http://energy.gov/sites/prod/files/nepapub/nepa\\_documents/RedDont/Req-NEPA.pdf](http://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/Req-NEPA.pdf)

Title 23 CFR 450, Planning Assistance and Standards

Title 23 CFR 650(h), Navigational Clearances for Bridges

Title 23 CFR 771, Environmental Impact and Related Procedures

Title 40 CFR 1500-1508, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. 1978. [http://energy.gov/sites/prod/files/NEPA-40CFR1500\\_1508.pdf](http://energy.gov/sites/prod/files/NEPA-40CFR1500_1508.pdf)

Title 23 United States Code § 139(I), Efficient Environmental Reviews for Project Decisionmaking

## **5.4 FORMS**

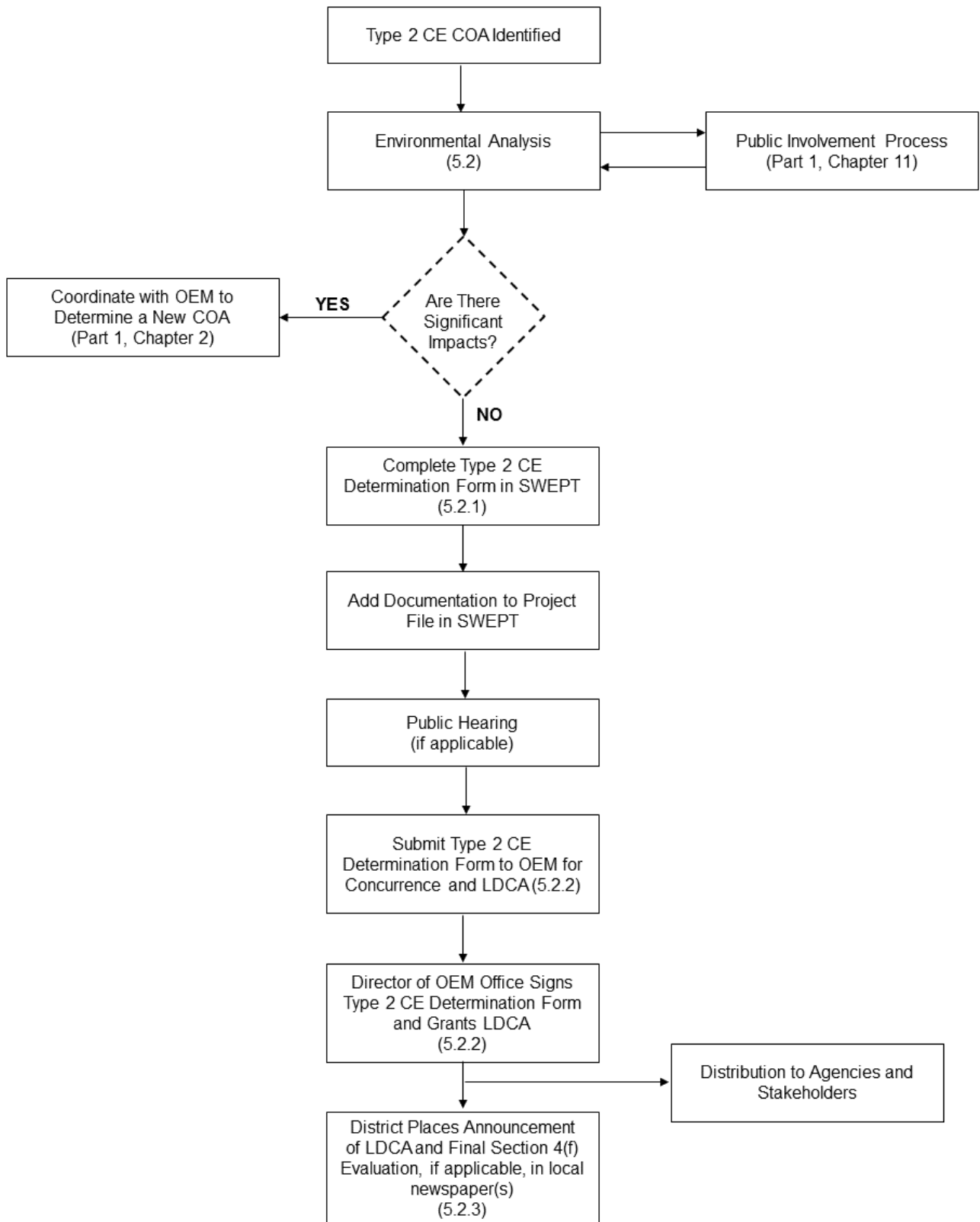
[Public Hearing Certification, Form No. 650-050-56](#)

[Section 106 Programmatic Agreement Minimal Impact Determination, Form No. 650-050-17](#)

[Water Quality Impact Evaluation Checklist, Form No. 650-050-37](#)

## **5.5 HISTORY**

1/31/2007, 10/3/2012, 7/15/2016, 6/14/2017: NEPA Assignment, 1/14/2019



**Figure 5-1 Type 2 Categorical Exclusion Process**

## **PART 1, CHAPTER 6**

# **ENVIRONMENTAL ASSESSMENT**

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## PART 1 CHAPTER 6

# ENVIRONMENTAL ASSESSMENT

### 6.1 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).

This chapter provides guidance for the development of an Environmental Assessment (EA). An EA, as defined in **40 Code of Federal Regulations (CFR) §1508.9**, is a concise public document prepared when the significance of environmental impacts associated with a project are unknown.

The EA should:

1. Provide sufficient information and analysis for determining whether to prepare a Finding of No Significant Impact (FONSI) or an Environmental Impact Statement (EIS)
2. Aid in complying with **NEPA** and other applicable federal environmental laws, regulations, and Executive Orders when an EIS is not necessary
3. Facilitate preparation of an EIS when one is necessary

The EA is prepared by the District in consultation with OEM and includes agency and public coordination. The **NEPA** process for an EA begins with the Notice to Proceed for the Project Development and Environment (PD&E) Study and ends with either approval of a FONSI or a Record of Decision (ROD). It is important for the PD&E scope of services to recognize the result of the study could be either a FONSI or an EIS. If after completing the EA it is determined there are no significant impacts resulting from the project, a FONSI is prepared; however, if it is determined that the project will result in significant impacts, an EIS must be prepared. See [Part 1, Chapter 2, Class of Action Determination for](#)



**Federal Projects** for guidance on significance. Significance is identified by the District, but the final determination is made by OEM.

All projects subject to **23 U.S.C. § 139** and “covered projects” under **42 U.S.C. § 4370m** are required to be tracked on the Permitting Dashboard established under **42 U.S.C. § 4370m-2(b)**. Under **NEPA** Assignment, OEM enters project schedules for EAs and EISs into the Permitting Dashboard. The District is responsible for providing specific project schedule information to OEM as requested. The Permitting Dashboard is updated quarterly.

## **6.2 PROCEDURE**

An EA is prepared by following the procedures in this chapter. A Public Involvement Plan (PIP) is developed and administered in accordance with procedures in **Part 1, Chapter 11, Public Involvement**. **Figure 6-1** shows the EA process.

### **6.2.1 Environmental Assessment Preparation**

The EA should be clear, concise, and focused on the relevant issues or resources where the significance of the impacts is in question. To support the concise discussion of relevant issues or resources, the EA may incorporate technical reports by reference. Comments submitted from the Environmental Technical Advisory Team (ETAT) during the Environmental Screening Tool (EST) screening should be used to focus the content of the EA.

According to the U.S. Department of Transportation (USDOT) ***Interim Policy on Page Limits for NEPA Documents and Focused Analyses*** memorandum, the text of an EA should generally be no more than 75 pages for EAs initiated after August 23, 2019. This limit does not include the pages of the appendices or materials incorporated by reference. Before the page limit is exceeded, the District shall coordinate and receive authorization from OEM.

#### **6.2.1.1 Cover Page and Table of Contents**

EA cover pages are only prepared as electronic forms in the StateWide Environmental Project Tracker (SWEPT). Sample cover pages for EAs, both with and without a Draft ***Section 4(f)*** Evaluation, are provided as a visual in **Figure 6-2** and **Figure 6-3**. Remove the draft cover page prior to the final submittal of the EA in SWEPT.

The layout of the Table of Contents is provided in **Figure 6-4**.

#### **6.2.1.2 Project Description and Purpose and Need**

This section of an EA should be developed in accordance with **Part 2, Chapter 1, Project Description and Purpose and Need**. The EA must include information reflecting the status of planning consistency [Long Range Transportation Plan (LRTP), State

Transportation Improvement Program (STIP), and Transportation Improvement Program (TIP)]. Guidance on planning consistency is also in [FDOT/FHWA Consistency Guidance](#). Planning consistency should be met prior to requesting Location and Design Concept Acceptance (LDCA).

### 6.2.1.3 Alternatives

The EA must describe the alternatives in accordance with [Part 2, Chapter 3, Engineering Analysis](#). This section provides guidance on engineering analysis and considerations concerning evaluation of existing conditions, selection of design parameters, development of alternatives, analysis of alternatives, selection of a preferred alternative, and documentation.

An EA must evaluate at least one Build Alternative and a No-Action (No-Build) Alternative. The EA does not need to evaluate in detail all reasonable alternatives for the project, and may be prepared for one or more viable build alternatives. Additionally, any alternative considered but eliminated prior to preparation of the EA should be discussed and the reasons for its elimination documented in the EA according to [Part 2, Chapter 3, Engineering Analysis](#).

### 6.2.1.4 Environmental Analysis

The Environmental Analysis section includes discussion of existing conditions of the project area and potential impacts and/or enhancements the project may have on applicable issues/resources. The Table of Contents in [Figure 6-4](#) provides a layout of subsections that should be included in the Environmental Analysis section. [Table 6-1](#) provides references to chapters in [Part 2 of this Manual](#) which provide guidance on addressing each issue/resource. Recall, the primary purpose of the EA is to determine whether an EIS is needed and thus the EA should focus on those resources which have a likelihood of being significantly impacted. If there is no involvement with, or impact to the issue/resource, the chapters listed in [Table 6-1](#) provide standard statements to include in these subsections.

The level of analysis for resources/issues should be sufficient to adequately identify the impacts and address comments provided by the ETAT, other agencies, interested parties, or the public during the Efficient Transportation Decision Making (ETDM) Programming Screen and/or the Advance Notification (AN) process. The analysis should also fulfill the resource agency consultative processes, address opportunities and approaches to mitigation when needed, and aid in coordination with the public or other interested stakeholders.

In general, this section should provide sufficient detail to support the conclusions and provide the scientific and analytic basis for the comparison of project alternatives. Each issue/resource subheading must describe the potential impacts of the proposed project and the alternatives evaluated. It should also include discussion of enhancements and identify potential benefits to the issue/resource. The document should make full use of

charts, tables, maps, and other graphics illustrating comparisons between the alternatives and their respective impacts (i.e., costs, residential displacements, noise impacts). Impacts that can be mitigated should be discussed.

#### **6.2.1.4.1 Anticipated Permits**

The Environmental Analysis section should include a subsection on anticipated permits identified during the PD&E Study. This list should include the name of the permit, the name of the permitting agency, and the permit status. Documentation of regulatory agency coordination should be added to the project file. Coordination with the District Permit Coordinator should occur when preparing this section of the document. See [Part 1, Chapter 12, Environmental Permits](#) for more information on documenting permits in the EA.

#### **6.2.1.5 Comments and Coordination**

A Comments and Coordination section is included in an EA to summarize the public and agency comments and coordination involved in developing the project and the EA. This includes early comments received by the District during the AN, or if combined, the ETDM Programming Screen, as well as documentation of meetings and coordination with government officials, government agencies, community groups and individual citizens. This also includes documentation of the early coordination process.

This section is divided up into three subsections:

1. Discussion of ETDM Programming Screen and Advance Notification
2. Coordination and Consultation
3. Concluding Statement

##### **6.2.1.5.1 Discussion of Efficient Transportation Decision Making Programming Screen and Advance Notification**

The comments received by the District during the AN, or if combined, the ETDM Programming Screen, should be referenced, or summarized in a subsection of the Comments and Coordination section of the EA. This subsection must include the following information:

1. The date of the AN distribution, or if combined with the ETDM Programming Screen, the screening date;
2. A list of federal, state, local agencies and other interested parties that provided comments;

3. A reference to relevant comments on the project and District responses. Reference the appropriate section where comments/District responses can be located.

### **6.2.1.5.2 Coordination and Consultation**

This subsection summarizes the coordination and consultation which occurred with agencies, the public, and other interested parties during preparation of the EA. This should include a chronology of meetings, events, attendees, comments received, and District responses. This information can be exhibited as a table.

### **6.2.1.5.3 Concluding Statement**

Since the draft document is subject to modification, place the following statement as the concluding statement for the Comments and Coordination section.

*FDOT will not make a final decision on the proposed action or any alternative until a public hearing or the opportunity for a public hearing has been provided for this project and comments received have been taken into consideration.*

### **6.2.1.6 Commitments**

This section should contain all commitments made during the PD&E process, including those identified in associated technical reports ([Part 2, Chapter 22, Commitments](#)). All commitments should be transmitted to the next phase of project development in accordance with [Procedure No. 650-000-003, Project Commitment Tracking](#).

### **6.2.1.7 Appendix**

The Appendix is the final section of an EA. The Appendix contains documents which support the significance findings of the document. This may include concurrence letters, determinations of effect, MOUs, and Referendums.

#### **6.2.1.7.1 Appendix Divider Page**

The Appendix divider page should include a list of the documents provided. Material contained in the Appendix must be numbered for ease in referencing. The organization of material, into federal, state, and local groupings, or by chronological order, or some other category, is up to the preparer. A sample of the type of listing generally found on the divider page is provide in [Figure 6-5](#).

#### **6.2.1.7.2 Correspondence Contained in the Appendix**

The following is a list of correspondence that is generally found in the Appendix:

1. Letters from state agencies

2. Letters from elected or appointed state officials
3. Letters from local agencies and officials
4. Letters from statewide and regional clearinghouses
5. Letters from federal agencies
6. Letters from elected or appointed federal officials
7. Letters from cooperating agencies
8. Letters from citizens or citizens groups
9. Letters from private interest groups

### **6.2.1.7.3 Types of Support Material Usually Found in the Appendix**

The following is a list of the types of support data usually incorporated into the Appendix of an EA. The preparer should note that this list is not all inclusive.

1. Lists (i.e., meetings)
2. Resolutions
3. Letters of Agreement
4. Memoranda of Agreement (i.e., **Section 106 - Historic Preservation Act**)
5. Special Reports
  - a. Material prepared in connection with the Environmental Document which substantiates an analysis and is not contained under separate cover;
  - b. Material which is analytical and is relevant to the decision to be made and is not contained under separate cover; and
  - c. Material which, due to its nature, should be circulated with the EA.

Items 5a through 5c are rarely used since most, if not all, of the support data and analysis developed for an EA is contained under separate cover and incorporated in the document by reference.

Note, the Appendix should not contain materials that do not support the significance finding such as internal FDOT memos or letters between FDOT and its consultant,

comments on draft documents, or ETDM Planning or Programming Screen Summary Reports.

#### **6.2.1.7.4 Material Incorporated by Reference**

Material contained under separate cover should be referenced in the EA and included in the project file in SWEPT. This includes technical reports (e.g., ***Project Traffic Analysis Report, Conceptual Stage Relocation Plan, Natural Resource Evaluation***), technical memorandums, and studies. For a complete list of technical reports see [Part 1, Chapter 4, Project Development Process](#). The documents referred to in the EA must be readily available for public review at the District office. During the public availability period, the document and support documentation are also placed in other locations for public availability ([Part 1, Chapter 11, Public Involvement](#)).

#### **6.2.2 FDOT Document Review Process**

A diagram of the FDOT Document Review Process is available on the [OEM website](#). The timeframes identified in this process are calendar days. After preparing the EA, the District conducts a quality control review and uses the SWEPT application to complete the ***Environmental Document Submittal Form*** for initial OEM review. The District uploads the EA into the FDOT's Electronic Review and Comment (ERC) application.

The OEM Project Delivery Coordinator (PDC) receives email notification and acknowledges the document is complete and ready for review by confirming the ***Environmental Document Submittal Form*** in SWEPT. If necessary, the District schedules a project briefing for OEM reviewers and the Office of General Counsel (OGC) reviewers, as needed. The OEM and OGC review team will have 30 days to review the draft 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 the comments have not been addressed, additional comment resolution time may be needed. 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 EA to the 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*** for approval in SWEPT. The PDC receives email notification and 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 EA for approval. The Director of OEM, or designee, then has 5 days to approve the EA.

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

## 6.2.3 Actions Taken After Approval of the Environmental Assessment

### Distribution to Agencies and Stakeholders

The approved EA is sent electronically to the Florida State Clearinghouse (SCH) and ETAT agencies, which includes Cooperating Agencies and Participating Agencies, through the EST. The District should also send the document to other interested state and federal agencies and other stakeholders listed in [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#), including contacts to which the AN was originally sent. 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. See [Figure 6-6](#) for a sample transmittal letter.

### Public Notice and Public Hearing

The District places a notice in the local newspaper(s) which advertises the public hearing, announces that the approved document is available for public inspection for 30 days, and provides the locations where the approved document can be inspected by the public, **23 CFR § 771.119** ([Part 1, Chapter 11, Public Involvement](#)). It is recommended that project websites or other publicly accessible electronic means be used to make the EA available.

The public hearing is held a minimum of twenty-one (21) days after the notice is placed in the local newspaper(s), **23 CFR § 771.119**. Notice should also be placed in the **Florida Administrative Register (FAR)**.

### Decision of FONSI or Draft Environmental Impact Statement (DEIS)

After the public hearing has been held, the comment period has closed, and comments have been addressed and determined to not be significant, the District prepares a FONSI according to procedures in [Part 1, Chapter 7, Finding of No Significant Impact](#). If significant impacts are anticipated at any point, consult with OEM to determine if a DEIS should be prepared in accordance with [Part 1, Chapter 8, Draft Environmental Impact Statement](#).

## 6.3 REFERENCES

CEQ, 40 Most Asked Questions Concerning CEQ's NEPA Regulations, March 16, 1981

CEQ, 1978. Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 43 FR 55978-56007 and 40 CFR Parts 1500-1508

FHWA, 1987. Technical Advisory T6640.8A. Guidance for Preparing and Processing Environmental and Section 4(f) Documents.  
<http://environment.fhwa.dot.gov/projdev/impta6640.asp>

FHWA guidance on NEPA documentation.  
<http://environment.fhwa.dot.gov/projdev/docuea.asp>

FDOT. Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002. <http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

FDOT. Project Commitment Tracking, Procedure No. 650-000-003.  
<http://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.  
<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=3f0e8ae65ee76fc13c0bc7a240e9fc59&mc=true&r=PART&n=pt23.1.771>

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)

USDOT. Interim Policy on the Page Limits for NEPA Documents and Focused Analysis. August 23, 2019.  
<https://www.transportation.gov/sites/dot.gov/files/docs/mission/transportation-policy/permittingcenter/345206/nepa-page-limits-policy-081919.pdf>

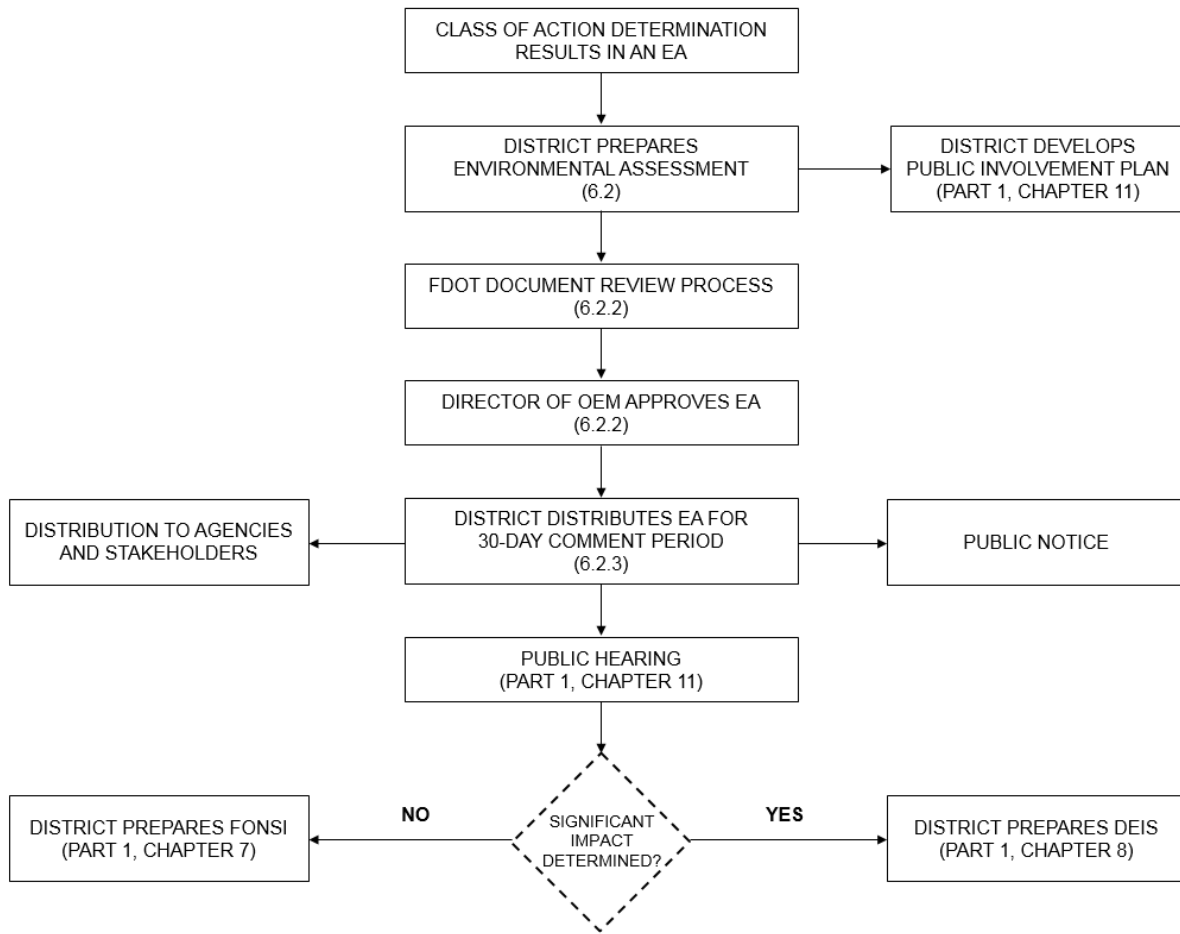
## 6.4 HISTORY

11/1/2002, 1/31/2007, 8/27/2012, 10/21/2013: Pen and Ink to Section 6-2.3, 5/30/2014: Mandatory inclusion of OEM approval, 5/30/2014, 8/15/2016, 6/14/2017: NEPA Assignment, 1/14/2019



<b>Issue/Resource</b>	<b>Part</b>	<b>Chapter</b>
<b>Social and Economic</b>		
Social	2	4
Economic	2	4
Land Use Changes	2	4
Mobility	2	4
Aesthetic Effects	2	5
Relocation Potential	2	4
Farmland	2	6
<b>Cultural</b>		
Section 4(f)	2	7
Historic Sites/Districts	2	8
Archaeological Sites	2	8
Recreational Areas and Protected Lands	2	7 and 23
<b>Natural</b>		
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Water Resources	2	11
Wild and Scenic Rivers	2	12
Floodplains	2	13
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Protected Species and Habitat	2	16
Essential Fish Habitat	2	17
<b>Physical</b>		
Highway Traffic Noise	2	18
Air Quality	2	19
Contamination	2	20
Utilities and Railroads	2	21
Construction	2	3
Bicycles and Pedestrians	2	3
Navigation	1	16
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**Table 6-1 Chapter References for Issue/Resources**



**Figure 6-1 Environmental Assessment Process**

ADMINISTRATIVE ACTION  
ENVIRONMENTAL ASSESSMENT

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

(Brief description 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 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.

Approved For Public Notice

\_\_\_ / \_\_\_ / \_\_\_  
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 6-2 Environmental Assessment Sample Cover Page**

ADMINISTRATIVE ACTION  
ENVIRONMENTAL ASSESSMENT/DRAFT 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

(Brief description of the project)

XX  
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 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 49 U.S.C. § 303.

Approved For Public Notice

\_\_\_ / \_\_\_ / \_\_\_  
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

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**Figure 6-5 Sample Appendix**

(DATE)

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

Subject: Environmental Assessment  
(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 Environmental Assessment as approved by the Office of Environmental Management. The comment period for this document closes 30 days from publication in *(insert name of newspaper)*. The document may be found at *(insert link to website)*.

Sincerely,

District Environmental Office

Enclosures

cc: OEM / without enclosure

**Figure 6-6 Sample Transmittal Letter for EA Distribution**



## **PART 1, CHAPTER 7**

### **FINDING OF NO SIGNIFICANT IMPACT**

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## PART 1, CHAPTER 7

### FINDING OF NO SIGNIFICANT IMPACT

#### 7.1 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 Finding of No Significant Impact (FONSI) is the **NEPA** decision document which briefly describes why the project will not have any significant environmental effect. This determination is based on the analysis contained in an Environmental Assessment (EA) ([Part 1, Chapter 6, Environmental Assessment](#)). If an EA determines that there are significant impacts, an Environmental Impact Statement (EIS) would be the appropriate Class of Action. If there are no significant impacts, a FONSI is prepared. Since a FONSI is attached to the EA, the term "EA with FONSI" is used for the final Environmental Document throughout this Manual. The EA with FONSI should document compliance with **NEPA** and other applicable environmental laws, Executive Orders, and related requirements (**Technical Advisory T6640.8A**). The EA with FONSI establishes the decisions reached by FDOT regarding a project and details the rationale behind the alternative selection and the finding itself.

All projects subject to **23 U.S.C. § 139** and "covered projects" under **42 U.S.C. § 4370m** are required to be tracked on the Permitting Dashboard established under **42 U.S.C. § 4370m-2(b)**. Under **NEPA** Assignment, OEM enters project schedules for EAs and EISs into the Permitting Dashboard. The District is responsible for providing specific project schedule information to OEM as requested. The Permitting Dashboard is updated quarterly.

## 7.2 PROCEDURE

### 7.2.1 Preparation of the EA with FONSI

As part of the 30-day public inspection period for an EA, which includes a public hearing, the public as well as agencies can provide comments on the EA. Comments received during the public inspection (in writing or at public hearings/meetings) must be addressed by the District and added to the Comments and Coordination Section along with the responses. The District updates the EA to address any changes that have occurred since the document became publicly available. The FONSI process is shown in [Figure 7-1](#).

#### 7.2.1.1 Preparation of the Finding of No Significant Impact

The FONSI is a separate decision-making document that is attached to the updated EA. The FONSI identifies the preferred alternative and includes OEM's determination that no significant impacts will occur as a result of the project.

##### 7.2.1.1.1 Finding of No Significant Impact Cover Page

The EA cover page is removed and replaced with a FONSI cover page. FONSI cover pages are only prepared as electronic forms in the StateWide Environmental Project Tracker (SWEPT). Sample cover pages for FONSI, both with and without a **Section 4(f)** approval, are provided as a visual in [Figure 7-2](#) through [Figure 7-4](#).

##### 7.2.1.1.2 Contents of a Finding of No Significant Impact

The FONSI documents the decisions reached by OEM regarding the proposed project. It includes discussion of only those issues for which significance was in question and the determination that impacts were not significant. The FONSI briefly describes the preferred alternative and references the appropriate sections of the EA.

The FONSI determination is made by OEM and in its findings, OEM takes full responsibility for the accuracy, scope, and contents of the Environmental Document.

##### 7.2.1.2 Updating the Environmental Assessment

A divider page is placed between the FONSI and the EA, (in lieu of the EA cover page) which contains only the words "Environmental Assessment" in the center of the page. Include "and Individual Section 4(f) Evaluation" on this page if applicable.

Appropriate sections of the EA are modified to reflect changes in environmental impact(s), cost, design, or other changes since approval of the EA.

### **7.2.1.2.1 Updating the Project Description and Purpose and Need and the 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 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 Location and Design Concept Acceptance (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 EA.

### **7.2.1.2.2 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 should include documentation of subsequent coordination and consultation.

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

A new subsection should be added titled "Public Hearing". This new subsection should include the date, time, and place of the hearing; describe the format of the public hearing 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.

### **7.2.1.2.3 Updating the Commitments Section and the Appendix**

The Commitments section is updated to include any commitments made by FDOT since the EA was prepared. Any new commitments require internal coordination and once coordinated with the appropriate District offices are included in the EA with FONSI 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.

The Appendix should be updated and separated into pre-hearing and post-hearing sections and new materials should be added to the post-hearing section, as applicable.

## 7.2.2 FDOT Document Review Process

A diagram of the FDOT Document Review Process is available on the [OEM website](#). The timeframes identified in this process are calendar days. After preparing the EA with FONSI, the District conducts a quality control review and uses the SWEPT application to complete the **Environmental Document Submittal Form** for initial OEM review. The District uploads the EA with FONSI 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) receives email notification and acknowledges the document is complete and ready for review by confirming the **Environmental Document Submittal Form** 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 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 the comments have not been addressed, additional comment resolution time may be needed. 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 EA with FONSI 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** for approval in SWEPT. The PDC receives email notification and 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 EA with FONSI for approval. The Director of OEM, or designee, then has 5 days to approve the EA with FONSI, granting LDCA using SWEPT. When a project requires a legal sufficiency review for an Individual **Section 4(f)**, OGC will review the EA with FONSI after the Environmental Process Administrators recommend the document for approval prior to OEM Director approval.

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

## 7.2.3 Actions Taken After Approval of the EA with FONSI

Once the EA with FONSI is approved, the District must provide notification that LDCA has been granted concurrently with approval of the EA with FONSI.

## Distribution to Agencies and Stakeholders

The District shares the approved document with the recipients of the EA 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 EA. 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 the public hearing notification, informing the public that the project has received LDCA and is being advanced. The District ensures the EA with FONSI is available upon request by the public. It is recommended that project websites or other publicly accessible electronic means be used to make the EA with FONSI available. 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].

### 7.2.4 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 **Federal Register (FR)** of the agency action(s).

Upon submittal of an EA with FONSI to OEM for review, the District should discuss with OEM and OGC the need for publication of a **Limitations of Claims Notice** under **23 U.S.C. § 139(I)**.

The District provides the **Limitations of Claims Notice** and a draft cover letter to OEM. See the OEM [Guidance for Processing Limitations of Claims](#) for a sample draft cover letter. OEM then provides FHWA the project information needed to sign the cover letter and **Limitations of Claims Notice**. After obtaining FHWA signatures, OEM then submits the FHWA signed documents to 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**. OEM must submit the FHWA signed cover letter, three FHWA signed single sided hard copies of the

**Limitations of Claims Notice**, and an electronic copy of the document (in Word format) on a CD exactly as it appears on the hard copy to the **FR**.

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 limitations of claims would be published at that time for the subsequent approval.

### 7.3 REFERENCES

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

FHWA, 1987. Technical Advisor T6640.8A. Guidance for Preparing and Processing Environmental and Section 4(f) Documents.  
<http://environment.fhwa.dot.gov/projdev/impta6640.asp>

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

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>

NEPA of 1969, as amended (42 U.S.C. § 4321 et seq.).  
[http://energy.gov/sites/prod/files/nepapub/nepa\\_documents/RedDont/Req-NEPA.pdf](http://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/Req-NEPA.pdf)

Title 23 CFR Part 771, Environmental Impact and Related Procedures.  
<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=3f0e8ae65ee76fc13c0bc7a240e9fc59&mc=true&r=PART&n=pt23.1.771>

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%3AUS>



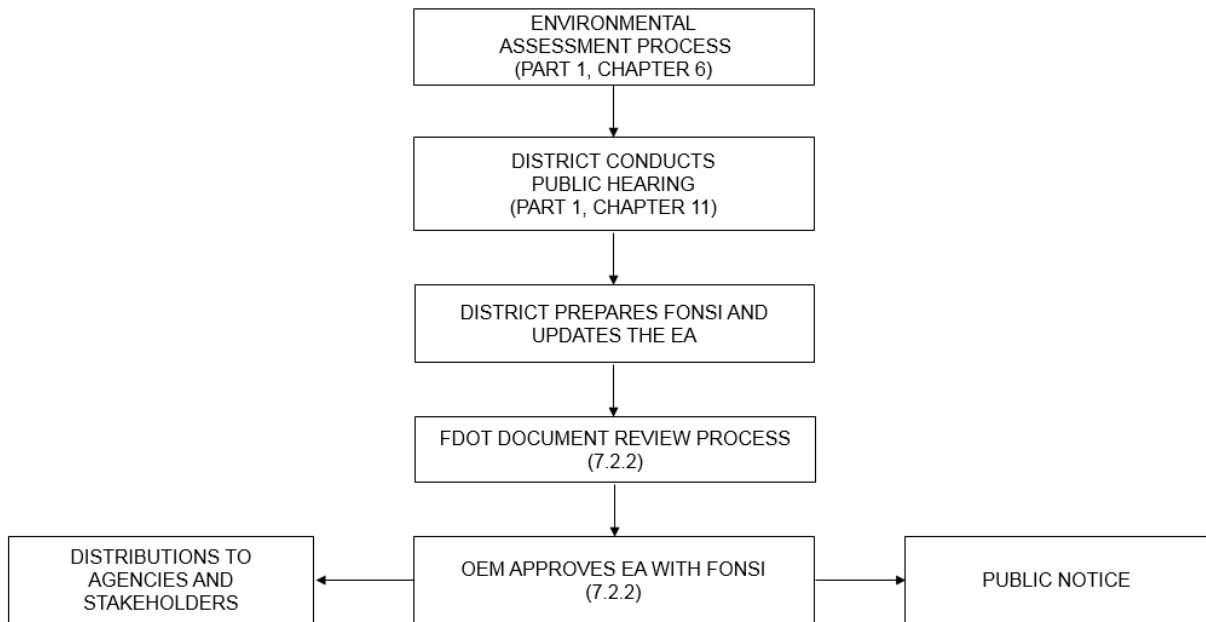
[C-prelim-title23-section139&num=0&saved=%7CKHRpdGxIOjlzIHNIY3Rpb246MTM3IGVkaXRpb246cHJlIGltKQ%3D%3D%7C%7C%7C0%7Cfalse%7Cprelim](#)

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)

## **7.4 HISTORY**

11/1/2002, 1/31/2007, 5/30/2014, 8/11/2016, 6/14/2017: NEPA Assignment, 1/14/2019



**Figure 7-1 Finding of No Significant Impact Process**

ADMINISTRATIVE ACTION  
FINDING OF NO SIGNIFICANT IMPACT

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

(Brief description 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.

The FDOT takes full responsibility for the accuracy, scope, and contents of the attached Environmental Assessment.

The FDOT Office of Environmental Management (OEM) has determined that this project will not have any significant impact on the human environment. The Finding of No Significant Impact is based on the attached Environmental Assessment which has been independently evaluated by FDOT OEM and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required.

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date

\_\_\_\_\_  
Director, Office of Environmental Management  
Florida Department of Transportation

(Abstract of EA)

XX

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 7-2 Finding of No Significant Impact Sample Cover Page**

ADMINISTRATIVE ACTION  
FINDING OF NO SIGNIFICANT IMPACT/FINAL 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

XXXXXXXXXXXXXXXXXXXXX(Brief description of the project)XXXXXXXXXXXXXXXXXXXXX

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.

The FDOT takes full responsibility for the accuracy, scope, and contents of the attached Environmental Assessment.

The FDOT Office of Environmental Management (OEM) has determined that this project will not have any significant impact on the human environment. The Finding of No Significant Impact is based on the attached Environmental Assessment which has been independently evaluated by FDOT OEM and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required.

Submitted pursuant to 49 U.S.C. § 303.

\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Date

\_\_\_\_\_  
Director, Office of Environmental Management  
Florida Department of Transportation

XXXXXXXXXXXXXXXXXXXXX(Abstract of EA)XXXXXXXXXXXXXXXXXXXXX

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.

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 7-3 Finding of No Significant Impact/Final Section 4(f) Approval Sample  
Cover Page**

ADMINISTRATIVE ACTION  
FINDING OF NO SIGNIFICANT IMPACT/FINAL 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

(Brief description 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.

The FDOT takes full responsibility for the accuracy, scope, and contents of the attached Environmental Assessment.

The FDOT Office of Environmental Management (OEM) has determined that this project will not have any significant impact on the human environment. The Finding of No Significant Impact is based on the attached Environmental Assessment which has been independently evaluated by FDOT OEM and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required.

Submitted pursuant to 49 U.S.C. § 303.

\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Date

\_\_\_\_\_  
Director, Office of Environmental Management  
Florida Department of Transportation

(Abstract of EA)

XX

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 7-4 Finding of No Significant Impact/Final Section 4(f) *de minimis* Approval  
Sample Cover Page**

## **PART 1, CHAPTER 8**

### **DRAFT ENVIRONMENTAL IMPACT STATEMENT**

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## PART 1, CHAPTER 8

# DRAFT ENVIRONMENTAL IMPACT STATEMENT

### 8.1 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).

This chapter provides guidance for the development of a Draft Environmental Impact Statement (DEIS). A DEIS is prepared when a proposed project is anticipated to have a significant impact on issues and/or resources. Council on Environmental Quality (CEQ) regulations [**40 Code of Federal Regulations (CFR) §§ 1500-1508**] require lead agencies to “rigorously explore and objectively evaluate all reasonable alternatives” for a transportation project. Each alternative should be considered in an unbiased manner so related benefits and impacts can be evaluated and compared across alternatives. When applicable, reasonable alternatives should be developed through the Alternative Corridor Evaluation (ACE) process ([Part 2, Chapter 3, Engineering Analysis](#)). For Environmental Impact Statements (EISs), the regulations dictate that the study “shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.”

**Executive Order (E.O.) 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects** establishes policy for EIS's including the goal of completing federal environmental reviews and authorization decisions within two years from the date of publication of a **Notice of Intent (NOI)** to the issuance of the Record of Decision (ROD).

**E.O. 13807** also requires federal agencies to conduct environmental reviews and make authorization decisions under **NEPA** in a coordinated, consistent, predictable, and timely manner and requires them to use the One Federal Decision (OFD) process for major infrastructure projects (MIPs), with exceptions. The OFD process only applies to MIPs for which the **NOI** was published after August 15, 2017. MIPs are defined in **E.O. 13807** as an infrastructure project for which:

1. Multiple authorizations by federal agencies will be required to proceed with construction,
2. The lead federal agency has determined that it will prepare an EIS under **NEPA, 42 U.S.C. 4321 et seq.**, and
3. The project sponsor has identified the reasonable availability of funds sufficient to complete the project.

Multiple authorizations mean that there are at least two federal agencies and two or more federal authorizations, such as consultations for **Section 7 of the Endangered Species Act (ESA)** and **Section 106 of the National Historic Preservation Act (NHPA)**. Public and private funds should be considered 'reasonably available' whether or not they are contingent on completion of environmental reviews and issuance of necessary authorizations for the project. This may be based on the listing of a project on a State Transportation Improvement Program (STIP), Transportation Improvement Program (TIP), or long-range plan. The Lead Federal Agency (FDOT under **NEPA** Assignment) is responsible for determining whether a project meets the definition of a MIP.

The U.S. Department of Transportation (USDOT) established an **Interim Policy on the Application of the OFD Process to DOT Projects** that provides the process and procedure to implement **E.O. 13807** and the **Memorandum of Understanding Implementing One Federal Decision Under EO 13807 (OFD MOU)**. This includes information on exceptions to the OFD process for MIPs, the scope of the **OFD MOU**, agency responsibilities, and concurrence points. FDOT's responsibilities are incorporated into the existing Efficient Transportation Decision Making (ETDM) and Project Development and Environment (PD&E) processes.

The **OFD MOU** identifies three Cooperating Agency concurrence points to help prevent delays in the project schedule:

1. Purpose and need, to occur early in the **NEPA** review process
2. Alternatives to be carried forward for evaluation, prior to performing the detailed analysis in the DEIS
3. Preferred alternative, which should be identified in the DEIS

The first two concurrence points take place during the ETDM screening and the third is obtained when the Cooperating Agency reviews the DEIS.

Per the **OFD MOU**, authorization decisions for MIPs should be issued within 90 days of the final ROD signature. This deadline may be extended in certain circumstances outlined in the **OFD MOU**. If the deadline is extended for a permit or authorization decision milestone, the Permitting Dashboard should be updated.

All projects subject to **23 U.S.C. § 139** and “covered projects” under **42 U.S.C. § 4370m** are required to be tracked on the Permitting Dashboard established under **42 U.S.C. § 4370m-2(b)**. Under **NEPA** Assignment, OEM enters project schedules for Environmental Assessments (EAs) and EISs into the Permitting Dashboard. For MIPs the project schedule is uploaded into the Permitting Dashboard no later than 30 days after the publication of the **NOI**. The District is responsible for providing specific project schedule information to OEM as requested. The Permitting Dashboard is updated quarterly.

## 8.2 PROCEDURE

The DEIS is prepared following the procedures in this chapter. After the Class of Action (COA) determination is approved by OEM, the District prepares a **NOI**. OEM will coordinate with FHWA Division Office for publication of the **NOI** in the **Federal Register (FR)**. A **Public Involvement Plan (PIP)** is developed and administered in accordance with procedures in [Part 1, Chapter 11, Public Involvement](#). [Figure 8-1](#) shows the DEIS process.

The following activities should be carried out for EIS projects by the District in consultation with the Cooperating and Participating agencies before the **NOI** is issued. (**E.O. 13807**).

1. During project screening through the ETDM Environmental Screening Tool (EST).
  - a. Identify Participating and Cooperating agencies.
  - b. Identify purpose and need.
  - c. Identify Range of Reasonable Alternatives.
  - d. Initiate the Programming Screen and/or prepare the Advance Notification (AN).
    1. Begins the coordination process and provides notification to agencies that the project is beginning.
    2. Provides status of project as it relates to inclusion in the Cost Feasible Plan of the Long Range Transportation Plan (LRTP), TIP, and STIP.
  - e. Provide opportunity for public and agency input.
  - f. Identify potentially significant environmental issues.
  - g. Identify potential mitigation strategies [Preliminary Environmental Discussions (PEDs) and Agency Comments]
  - h. Develop Coordination Plan.

1. Fulfilled through agency agreements, project screening, preparation of preliminary project schedule, and permitting timetable
  - i. Develop Project Schedule.
    1. Developed in consultation with OEM, Cooperating and Participating agencies with concurrence no later than 90 days after publication of the **NOI**.
2. After EST screening and before the initiation of the PD&E phase.
  - a. Develop the PD&E Scope of Services based on District Statewide Environmental Acceleration Transformation (SWAT) team meetings (as applicable), Environmental Technical Advisory Team (ETAT) commentary, and Environmental Scoping ([Section 8.2.1](#)). This determines the extent of analysis needed for each resource.
  - b. Prepare the **PIP** consistent with [Part 1, Chapter 11, Public Involvement](#).
  - c. Initiate applicable resource surveys/studies.
  - d. Initiate permit activities as soon as possible, such as pre-application processes.

### 8.2.1 Environmental Scoping Process

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

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

The results of the ETDM Programming Screen and Environmental Scoping Process should be used to identify the affected environment and to focus the environmental analysis in the EIS on the relevant issues. The information gathered is used to develop the Scope of Services for the PD&E Study. The Scope of Services is not the same as the Environmental Scoping Process. See [Part 1, Chapter 4, Project Development Process](#) for guidance on developing a project's Scope of Services.

The EIS must discuss the Environmental Scoping Process, including all meetings held, coordination with participating and cooperating agencies, issues raised, and the District's response and, as appropriate, any commitments. The Environmental Scoping Process is summarized in the Comments and Coordination section of the DEIS ([Section 8.2.4.6](#)).

### 8.2.1.1 Prior Concurrence

For selected projects, "prior concurrence" pursuant to **23 C.F.R. § 771.125(c)** is necessary before proceeding with key approvals under **NEPA**. This process is initiated when either a District or OEM identifies a particular project as being appropriate for prior concurrence to ensure that the project and Environmental Document in question are acceptable from a policy and program perspective. Prior concurrence may apply to FDOT approvals of a DEIS, Final Environmental Impact Statement (FEIS), or a FEIS/ROD. Projects that require prior concurrence will be decided on a case-by-case basis with the prior concurrence determination being made by the Assistant Secretary for Engineering and Operations or designee, after consulting with the Office of General Counsel (OGC), OEM and the District. Projects appropriate for prior concurrence consideration must meet one or more of the following criteria:

- Impacts of unusual magnitude
- High levels of controversy
- Emerging or national policy issues under development
- Issues for which the District seeks assistance

This identification should occur at the earliest possible time in the project development process, but always before OEM makes its final **NEPA** decision. When the need for prior concurrence is determined, it will be documented through an e-mail initiated by either the District or OEM. The e-mail should identify:

1. The key issues that are involved in the project
2. Any project-specific coordination needs that are to be addressed
3. OEM's role in the pending **NEPA**/project development approvals
4. General time frames for communications between and needed actions by the District and OEM

### 8.2.2 Preparation of the Notice of Intent

A **NOI** is published in the **FR** after OEM approves the COA and project schedule. FDOT should issue the **NOI** once it determines the project proposal is sufficiently developed to allow scoping and meaningful public input. The **NOI** informs stakeholders that an EIS is

being prepared for the proposed project (A sample **NOI** is shown in [Figure 8-2](#)). Based on federal guidelines, the **NEPA** process for an EIS begins with the **NOI** and ends with the FEIS/ROD or ROD.

After the District drafts the **NOI**, it is sent to OEM to obtain FHWA Division Office signature, then published in the **FR**. A copy of the published notice must be included in the project file and included in the Appendix of the DEIS. The **NOI** will not be published in the **FR** until the project schedule has been approved by OEM.

### 8.2.2.1 Notice of Intent Format

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

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

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

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

1. Issued on: (indent 5 spaces and enter the date the document is signed).
2. Signature line: [begin in the middle of the page; enter name and title of the Director of OEM, or designee, Tallahassee, Florida under the signature].

### 8.2.2.2 Notice of Intent Content

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

1. AGENCY: Federal Highway Administration (FHWA), DOT
2. ACTION: Notice of Intent
3. SUMMARY: Begin this section with the following statement:

*The FHWA, on behalf of the Florida Department of Transportation (FDOT) is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed project in \_\_\_\_\_ County, FL.*

4. FOR FURTHER INFORMATION CONTACT: This section should name the FDOT contacts who can answer questions about the proposed project and the EIS as it is being developed.

5. SUPPLEMENTARY PROJECT INFORMATION:

Begin this section with the following 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 December 14, 2016, and executed by FHWA and FDOT.*

This section should also contain the following project information:

- a. A brief description including location and termini, length, purpose and need;
- b. A brief description of the reasonable alternatives to accomplish the purpose and need. The no action alternative should always be listed;
- c. A statement disclosing that the agencies intend to prepare a single Environmental Document (FEIS/ROD) for the proposed project. The following statement must be included:

*The FDOT intends to issue a single Final Environmental Impact Statement and Record of Decision document pursuant to Title 23 U.S.C. Section 139(n)(2).*

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

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

OEM transmits a draft cover letter ([Figure 8-3](#)) and the **NOI** to FHWA for signature. After obtaining FHWA signatures, OEM then submits the FHWA signed documents to 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**. OEM must submit the FHWA signed cover letter, three FHWA signed single-sided hard copies of the

**NOI**, and an electronic copy of the document (in Word format) on a CD exactly as it appears on the hard copy to the **FR**. Publication of the **NOI** begins the **NEPA** process for an EIS.

### 8.2.3 Project Status Fact Sheet

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

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

The project status fact sheet is sent to the same recipients as the Programming Screen Notification and/or AN (whichever is most recent) and includes:

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

### 8.2.4 Draft Environmental Impact Statement Preparation

According to the **Interim Policy on Page Limits for NEPA Documents and Focused Analyses** memorandum, the text of a DEIS should generally be no more than 150 pages for projects with a **NOI** published after August 23, 2019. For proposed actions of unusual scope or complexity the text should be limited to no more than 300 pages. These limits do not include the pages of the executive summary, appendices or materials incorporated by reference. EISs that comply with the OFD policy may need to exceed these page limits to inform other agency decisions pursuant to their specific statutory authority and requirements. Before the page limit is exceeded, the District shall coordinate and receive authorization from OEM. The DEIS should be concise while meeting legal sufficiency.

Guidance on creating a concise and clear DEIS is available in the **Interim Policy on Page Limits for NEPA Documents and Focused Analyses**. The DEIS should include only enough data and technical detail necessary to allow for a reasoned decision to be



made, while referencing supplemental materials or placing other technical information in the appendices or project file. Technical reports should be briefly described in the DEIS and included as standalone documents that are incorporated by reference. When incorporating by reference, these materials must be available for the length of the public comment period and should be maintained in the project file.

#### 8.2.4.1 Cover Page and Table of Contents

DEIS cover pages are only prepared as electronic forms in the StateWide Environmental Project Tracker (SWEPT). Sample cover pages for DEISs, both with and without a Draft **Section 4(f)** Evaluation, are provided as a visual in [Figure 8-4](#) and [Figure 8-5](#). A sample cover page for a Supplemental DEIS is provided as a visual in [Figure 8-6](#).

An EIS number is assigned to the proposed project and included on the DEIS cover page. It is simply a combination of Agency-State-EIS-Year-Document Number-D (for Draft) for example: FHWA-FLA-EIS-17-01-D would be the first DEIS in Florida for the calendar year 2017. Contact OEM for assistance when assigning the document number. The document number is updated with the submittal of the FEIS document (see [Part 1, Chapter 9, Final Environmental Impact Statement](#)).

The layout for the Table of Contents is provided in [Figure 8-7](#).

#### 8.2.4.2 Executive Summary

The Executive Summary describes the proposed action and the conclusions of issue/resource analysis for a project and identifies avoidance, minimization, and/or mitigation measures. The Executive Summary normally should not exceed 15 pages, adequately and accurately summarize the DEIS, and highlight the major conclusions, areas of controversy, and the issues to be resolved. Charts, tables, and graphics are an effective and efficient way to summarize alternatives, impacts, and explain mitigation measures. The information in the summary needs to be verifiable and should not present conclusions, ideas, or information that are not included in the full DEIS. The sections of an Executive Summary for a DEIS include:

**Proposed Action:** This section describes the proposed project and includes, at a minimum, the 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 Major Government Actions:** This section addresses any major local, state, or federal actions proposed by other government entities in the same geographical area as the project. If such actions exist then the authorizing agency is identified, the project described, and the potential for coordination or conflict discussed. Any related correspondence or documentation is referenced.

**Alternatives Considered:** This section contains a brief discussion of the reasonable alternatives considered including the No-Build alternative. Each alternative is discussed including the number of lanes, project limits, and any special features.

**Major Environmental Impacts:** This section provides a brief overview of the major environmental issues addressed in the DEIS. This includes beneficial as well as adverse impacts. Appropriate sections of the DEIS are referenced where additional information is required.

**Areas of Controversy:** This section is included when agencies and/or the public raise issues that are considered controversial. Describe and disclose areas of controversy and the steps taken to resolve them to date. Major unresolved issues should also be discussed.

**List of Other Government Actions Required:** This section describes a list of federal actions required for the proposed project. This may include federal permits, land transfers, and **Section 106** agreements.

**Irretrievable and Irreversible Commitment of Resources:** This section briefly discusses the proposed action's irretrievable and irreversible commitment of resources. This general discussion should broadly describe that the build alternatives would require a similar commitment of natural, physical, human, and fiscal resources.

**Measures to Avoid or Minimize Potential Adverse Impact:** This section briefly discusses those measures taken to minimize or avoid adverse impacts to the environment. Appropriate sections of the DEIS 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 DEIS are referenced.

### 8.2.4.3 Project Description and Purpose and Need

This section of a DEIS should be developed in accordance with [Part 2, Chapter 1, Project Description and Purpose and Need](#). The DEIS must include information reflecting the status of planning consistency (LRTP, STIP, and TIP). Guidance on planning consistency is also in [FDOT/FHWA Consistency Guidance](#). Planning consistency should be met prior to requesting Location and Design Concept Acceptance (LDCA).

### 8.2.4.4 Alternatives

The DEIS must discuss impacts on the environment from the preferred alternative and other alternatives in a comparative form. The DEIS should identify the preferred alternative to the extent practicable. If the DEIS does not identify the preferred alternative, FDOT should provide agencies and the public with an opportunity after issuance of the

DEIS to review the impacts. The Alternatives section must meet the requirements of **40 CFR § 1502.14**, as discussed in [Part 2, Chapter 3, Engineering Analysis](#). The same chapter also provides guidance on preparing this section of the DEIS using the following subsections, as applicable:

1. Alternatives Development;
2. Alternatives Considered but Eliminated;
3. Alternatives Considered for Additional Study;
4. Comparative Alternatives Evaluation; and
5. Preferred Alternative.

The preferred alternative (or portion thereof) for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or compliance with requirements for permitting. The development of such higher level of detail must not prevent FDOT from making an impartial decision as to whether to accept another alternative that is being considered in the environmental review process. Coordinate with the State Environmental Engineer prior to developing a preferred alternative to a higher level of detail than other alternatives.

#### **8.2.4.5 Environmental Analysis**

The Environmental Analysis section discusses existing conditions of the project area and potential impacts and/or enhancements the project may have on applicable issues/resources. The Table of Contents in [Figure 8-7](#) provides a layout of subsections that should be included in the Environmental Analysis section. [Table 8-1](#) provides references to chapters in [Part 2 of this Manual](#) which provide guidance on addressing each issue/resource. If there are potential impacts, each subsection should include 1) a discussion on the affected environment and 2) a discussion on the environmental consequences for the issue/resource. If there is no involvement with, or impact to the issue/resource, the chapters listed in [Table 8-1](#) provide standard statements to include in these subsections.

The level of analysis for resources/issues should be sufficient to adequately identify the impacts and address comments provided by the ETAT, other agencies, interested parties, or the public during the Programming Screen and/or AN process. The analysis should also fulfill the resource agency consultative process, address opportunities and approaches to mitigation when needed, and aid in coordination with the public or other interested stakeholders.

##### **8.2.4.5.1 Affected Environment**

Each issue/resource subsection should provide a concise description of the existing social, economic, and environmental setting for the area affected by all reasonable alternatives for the project. It should contain a general description for the entire project

area rather than a separate description for each proposed alternative. Discussion in this section should be in proportion to the significance of the impacts.

Socially, economically, and environmentally sensitive locations or features in the proposed project impact area (e.g., neighborhoods, parks, hazardous material sites, historic resources, wetlands) should be identified on exhibits and briefly described in the text. Certain sensitive resource locations should be protected from being specifically identified (e.g., archeological sites, threatened or endangered species locations).

The discussion should be focused on issues, data, and values which will have a bearing on possible impacts, mitigation measures, and on the selection of an alternative. Photographs, illustrations, and other graphics should be used with text to provide a clear understanding of the area and the important issues. Information can come from various sources including but not limited to previous studies (planning, feasibility, or corridor studies), ETDM Programming Screen, AN, local knowledge, the Environmental Scoping Process, field reviews, technical documents, and public involvement. When possible, some of the information for this section can be collected and drafted before the PD&E Study begins.

#### **8.2.4.5.2 Environmental Consequences**

The Environmental Analysis section must include a discussion of potential impacts and/or enhancements to issues/resources for each reasonable alternative where a potential for impact exists (***FHWA Technical Advisory T6640.8A***). Guidance to address specific issues/resources is provided in [Part 2 of this Manual](#).

In general, the Environmental Analysis section should provide sufficient detail to support the conclusions and provide the scientific and analytic basis for the comparison of project alternatives. Each issue/resource subheading must describe the potential impacts of the proposed project and the alternatives evaluated. It should also include discussion of enhancements and identify any benefits to the issue/resource. The document should make full use of charts, tables, maps, and other graphics illustrating comparisons between the alternatives and their respective impacts (i.e., costs, residential displacements, noise impacts). Impacts that can be mitigated should be discussed.

It is recommended that this section of the DEIS ensures that:

1. The document provides sufficient information on the environmental studies and technical reports, major assumptions made, and supporting information on the validity of the methodology;
2. The document provides sufficient information (results of analysis) to establish the reasonableness of the conclusions reached regarding the preferred alternative and the project impacts;

3. The document provides a description of mitigation measures, where applicable. Associated commitments may be needed to address mitigation. This should be done for each reasonable alternative.

Pursuant to **40 CFR § 1502.16**, this section includes the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments or resources which would be involved in the proposal should it be implemented.

Pursuant to **40 CFR § 1502.16**, this section must include discussions of:

1. Direct effects and their significance;
2. Indirect effects and their significance;
3. Possible conflicts between the proposed action and the objectives of federal, regional, state, and local (and in the case of a reservation, Indian tribe) land use plans, policies, and controls for the area concerned;
4. The environmental effects of alternatives including the proposed action;
5. Energy requirements and conservation potential of various alternatives and mitigation measures;
6. Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures;
7. Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures;
8. Means to mitigate adverse environmental impacts.

Once the analysis is completed, a determination of significance is made for relevant issues/resources in coordination with OEM.

#### **8.2.4.5.3 Anticipated Permits**

The Environmental Analysis section should include a subsection on anticipated permits. Permits identified during the PD&E Study must be listed in this subsection. This list should include the name of the permit, the name of the permitting agency, and the permit status. Documentation of regulatory agency coordination should be added to the project file. Coordination with the District Permit Coordinator should occur during the preparation of this section of the document. See [Part 1, Chapter 12, Environmental Permits](#) for more information on documenting permits in the DEIS.

#### **8.2.4.5.4 Cumulative Impacts**

Because actions requiring a DEIS will have significant environmental impacts, a Cumulative Effects Evaluation (CEE) may be required for resources determined to be of concern based on coordination and context. The CEE should describe the context and intensity of the impacts. Guidance on preparing this evaluation is provided in the [Cumulative Effects Evaluation Handbook](#). This subsection should include a summary of the results of the CEE.

#### **8.2.4.6 Comments and Coordination**

A Comments and Coordination section is included in a DEIS in order to summarize the public and interagency comments and coordination involved in developing the project and the EIS. This includes documentation of meetings and coordination with government officials, government agencies, community groups and individual citizens. This also includes documentation of the Environmental Scoping Process for the EIS.

This section is divided up into four subsections:

1. Discussion of ETDM Programming Screen and Advance Notification
2. Discussion of the Environmental Scoping Process
3. Coordination and Consultation
4. Concluding Statement

##### **8.2.4.6.1 Discussion of Efficient Transportation Decision Making Programming Screen and Advance Notification**

The comments received by the District during the AN, or if combined, the ETDM Programming Screen should be referenced, or summarized in a subsection of the Comments and Coordination section of the DEIS. This subsection must include the following information:

1. The date of the AN distribution, or if combined with the ETDM Programming Screen, the screening date;
2. A list of federal, state, local agencies and other interested parties that provided comments;
3. A reference to relevant comments on the project and District responses. Reference the appropriate section where comments/District responses can be located.

##### **8.2.4.6.2 Discussion of the Environmental Scoping Process**

This subsection describes the Environmental Scoping Process for the EIS and includes the following information:

1. Dates and locations of EIS scoping meetings (if held);
2. Agencies participating in the Environmental Scoping Process;
3. A summary of meetings, discussions, and correspondence pertinent to the Environmental Scoping Process.

#### **8.2.4.6.3 Coordination and Consultation**

This subsection summarizes the coordination and consultation which occurred with agencies, the public, and other interested parties during preparation of the DEIS. This should include a chronology of meetings, events, attendees, comments received, and District responses. This information can be exhibited as a table.

The final statement should be that a public hearing will be taking place, include the date and location if known.

#### **8.2.4.6.4 Concluding Statement**

Since the draft document is subject to modification, place the following statement as the concluding statement for the Comments and Coordination section.

*FDOT will not make a final decision on the proposed action or any alternative until a public hearing has been held on this project and comments received have been taken into consideration.*

#### **8.2.4.7 Commitments**

This section should contain all commitments made during the PD&E process, including those identified in associated technical reports ([Part 2, Chapter 22, Commitments](#)). All commitments should be transmitted to the next phase of project development in accordance with [Procedure No. 650-000-003, Project Commitment Tracking](#).

#### **8.2.4.8 List of Preparers**

A list of preparers is required for EISs in accordance with **40 CFR § 1502.17**. The list includes federal, state, or local agency personnel, including consultants, who were primarily responsible for preparing the EIS or associated technical studies. To make it easy to locate a specific individual, the list should be organized in order of federal, state, consultant, or other participants and describe the educational and professional experience of each preparer. It is also suggested that individuals listed for each organization be listed in alphabetical order.

In preparing the list of preparers each person should be contacted to verify educational and professional experience and the number of years employed in their field. An example list of preparers is shown in [Figure 8-8](#).

### 8.2.4.9 Distribution List

DEISs are circulated for comment to resource and regulatory agencies, non-governmental organizations, elected officials, and other interested parties. Circulation is in accordance with **40 CFR § 1502.19** (see [Section 8.2.6](#)). The DEIS must include a section providing a list of entities which will receive the DEIS. The list of entities is typically based on those that were sent the AN, including those that participated in the Environmental Scoping Process. [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#), provides a transmittal list and contact information for ANs.

### 8.2.4.10 Index

An index is included in all EISs to provide a detailed listing of major subject areas for the convenience of the reader. It is an alphabetical listing focusing on areas which have a significant impact on the surrounding environment and areas of community concern. An illustration of the typical content of an index is provided in [Figure 8-9](#).

### 8.2.4.11 Appendix

The Appendix is the final section of a DEIS and its contents are prescribed by CEQ regulation, **40 CFR § 1502.18**, which provides:

If an agency prepares an Appendix to an EIS the Appendix shall:

- (a) Consist of material prepared in connection with an Environmental Impact Statement [as distinct from material which is not so prepared and which is incorporated by reference (**§1502.21**)].
- (b) Normally consist of material which substantiates any analysis fundamental to the impact statement.
- (c) Normally be analytic and relevant to the decision to be made.
- (d) Be circulated with the environmental impact statement or be readily available on request.

Further, consistent with CEQ's direction to reduce paperwork and the length of EISs, to focus the EIS on significant environmental issues and allow for incorporation by reference per **40 CFR § 1500.4**, the Appendix should be limited to materials necessary to support FDOT's analysis and decision-making (**40 CFR § 1502.21**).

#### 8.2.4.11.1 Appendix Divider Page

On the Appendix divider page, a listing should be provided of each document contained within. Material contained in the Appendix must be numbered for ease of reference. Document organization is at the discretion of the analyst. Examples include by



organizational (federal/state/county) or chronological order. A sample of the type of listing generally found on the divider page is provide in [Figure 8-10](#).

### **8.2.4.11.2 Correspondence Contained in the Appendix**

The following is a list of correspondence that is generally found in the Appendix:

1. Letters from state agencies
2. Letters from elected or appointed state officials
3. Letters from local agencies and officials
4. Letters from statewide and regional clearinghouses
5. Letters from federal agencies
6. Letters from elected or appointed federal officials
7. Letters from cooperating agencies
8. Letters from citizens or citizen groups
9. Letters from private interest groups

### **8.2.4.11.3 Types of Support Material Usually Found in the Appendix**

The following is a list of the types of support data usually incorporated into the Appendix of a DEIS. The preparer should note that this list is not all inclusive.

1. Lists (i.e., meetings)
2. Resolutions
3. Letters of Agreement
4. Memoranda of Agreement (i.e., **Section 106 - Historic Preservation Act**)
5. Special Reports
  - a. Material prepared in connection with the Environmental Document which substantiates an analysis and is not contained under separate cover;
  - b. Material which is analytical and is relevant to the decision to be made and is not contained under separate cover; and

- c. Material which, due to its nature, should be circulated with the DEIS.

Items 5a through 5c are rarely used since most, if not all, of the support data and analysis developed for a DEIS is contained under separate cover and incorporated in the document by reference.

Note, the Appendix should not contain materials such as internal FDOT memos or letters between FDOT and its consultant, comments on draft documents, or ETDM Planning or Programming Screen Summary Reports.

#### **8.2.4.11.4 Material Incorporated by Reference**

Material contained under separate cover should be referenced in the DEIS and included in the project file in SWEPT. This includes technical reports (e.g., ***Project Traffic Report Analysis, Conceptual Stage Relocation Plan, Natural Resource Evaluation***), technical memorandums, and studies. For a complete list of technical documents see [Part 1, Chapter 4, Project Development Process](#). The documents referred to in the DEIS must be readily available for public review at the District office. During the public availability period, the document and support documentation are also placed in other locations for public availability ([Part 1, Chapter 11, Public Involvement](#)).

#### **8.2.5 FDOT Document Review Process**

A diagram of the FDOT Document Review Process is available on the [OEM website](#). The timeframes identified in this process are calendar days. After preparing the DEIS, the District conducts a quality control review and uses the SWEPT application to complete the ***Environmental Document Submittal Form*** for initial OEM and OGC review. The District uploads the DEIS into FDOT's Electronic Review and Comment (ERC) application.

The Project Delivery Coordinator (PDC) receives email notification and acknowledges the document is complete and ready for review by confirming the ***Environmental Document Submittal Form*** in SWEPT. If necessary, the District schedules a project briefing for OEM and OGC reviewers. The OEM and OGC review team will have 30 days to review the draft documents. OEM submits 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 the comments have not been addressed, additional comment resolution time may be needed. 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 DEIS to the 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. If the project is a MIP, concurrence of the preferred alternative is obtained during the Cooperating Agency review.

Once comments have been addressed, the District submits the revised document along with the **Environmental Document Submittal Form** for approval in SWEPT. The PDC receives email notification and 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 DEIS for approval. The Director of OEM, or designee, then has 5 days to approve the DEIS.

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

### 8.2.6 Actions After Approval of the DEIS

When the DEIS is approved by OEM for public availability, OEM enters the deadline for formal comment submittal on the cover page established by calculating 45 calendar days after posting on the Environmental Protection Agency (EPA's) e-NEPA website indicating publication of the **Notice of Availability** in the **FR**.

Pursuant to **23 CFR 771.123(c)**, the range of alternatives considered for further study must be used for all federal environmental reviews and permit processes, to the maximum extent practicable and consistent with federal law, unless the lead and participating agencies agree to modify the alternatives in order to address significant new information and circumstances or to fulfil **NEPA** responsibilities in a timely manner. If the range of alternatives is modified after the DEIS is advanced, coordination with cooperating and participating agencies is required.

#### Distribution to Agencies and Stakeholders

Distribution of the DEIS must occur before OEM sends the e-NEPA request for publication of the **Notice of Availability** in the **FR** to EPA (**23 CFR § 771.123**). The approved document is sent electronically to the State Clearinghouse (SCH) and the ETAT, which includes Cooperating Agencies and Participating Agencies through the EST. The District should also send the document to other interested state and federal agencies and other stakeholders listed in [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#), including those who received the AN. 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. See [Figure 8-11](#) for a sample transmittal letter.

#### Public Notice of Availability and Public Hearing

The DEIS must be available to the public and transmitted to agencies for comment before OEM files the document with EPA (**23 CFR § 771.123**). The District places a notice in the local newspaper(s), which advertises the public hearing, announces that the approved document is available for public review, and provides the location(s) where the approved

document can be inspected by the public ([Part 1, Chapter 11, Public Involvement](#)). It is recommended that project websites or other publicly accessible electronic means be used to make the DEIS available.

The public hearing is held a minimum of 21 days after the notice is placed in the local newspaper(s), **40 CFR § 1506.6**. Notice should also be placed in the **Florida Administrative Register (FAR)**.

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

The PDF documents 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
6. All PDF documents must include the Title, Subject, Author, and Keywords in the Document Properties. The title of the document should be used for both the Title and Subject fields and “Florida Department of Transportation” should be included in the Author field.

More information on preparing the document for submittal to EPA is available on [OEM's website](#). After the District formats the document for e-NEPA, the District sends it to OEM. The District also provides the website link where readers can find the FEIS and supporting technical documents online (project website). OEM submits the document to EPA using the e-NEPA online tool. EPA then publishes the **Notice of Availability** of the FEIS in the **FR** for a 45-day comment period (**23 CFR § 771.123**). [Figure 8-12](#) is an example of a **Notice of Availability** in the **FR**. The District must monitor the **FR** for publication of the notice and upload it to the project file.

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

## 8.3 REFERENCES

- American Association of State Highway and Transportation Officials (AASHTO). May 2006. Improving the Quality of Environmental Documents: A Report of the Joint AASHTO/ACEC Committee in Cooperation with the Federal Highway Administration
- Council on Environmental Quality. 1978. Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act. 43 CFR 55978-56007 and 40 CFR 1500-1508
- Executive Order 13807, Establishing Discipline and Accountability in the Environmental Review and permitting Process for Infrastructure Projects. August 15, 2017. <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-establishing-discipline-accountability-environmental-review-permitting-process-infrastructure/>
- FHWA. Memorandum. INFORMATION Publication of documents in the Federal Register. June 1, 2017
- FHWA. 1987. 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](https://www.environment.fhwa.dot.gov/legislation/nepa/guidance_preparing_env_documents.aspx)
- FAST Act
- FDOT. 2003. Federal Highway Administration and Federal Transit Administration Agency Operating Agreement Florida Department of Transportation
- FDOT. Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002. <http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>
- 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>
- Memorandum of Understanding Implementing One Federal Decision Under EO 13807 (OFD MOU), April 9, 2018. [https://ceq.doe.gov/docs/ceq-regulations-and-guidance/One\\_Federal\\_Decision\\_MOU\\_\(M-18-13-Part-2\)\\_2018-04-09.pdf](https://ceq.doe.gov/docs/ceq-regulations-and-guidance/One_Federal_Decision_MOU_(M-18-13-Part-2)_2018-04-09.pdf)

Title 23 CFR Part 771. Environmental Impact and Related Procedures.

<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=3f0e8ae65ee76fc13c0bc7a240e9fc59&mc=true&r=PART&n=pt23.1.771>

Title 23 U.S.C. § 139. 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)

USDOT. Interim Policy on the Application of the OFD Process to DOT Projects. August 23, 2019.

<https://www.transportation.gov/sites/dot.gov/files/docs/mission/transportation-policy/permittingcenter/345211/interim-policy-one-federal-decision-implementation-081919.pdf>

USDOT. Interim Policy on the Page Limits for NEPA Documents and Focused Analysis. August 23, 2019.

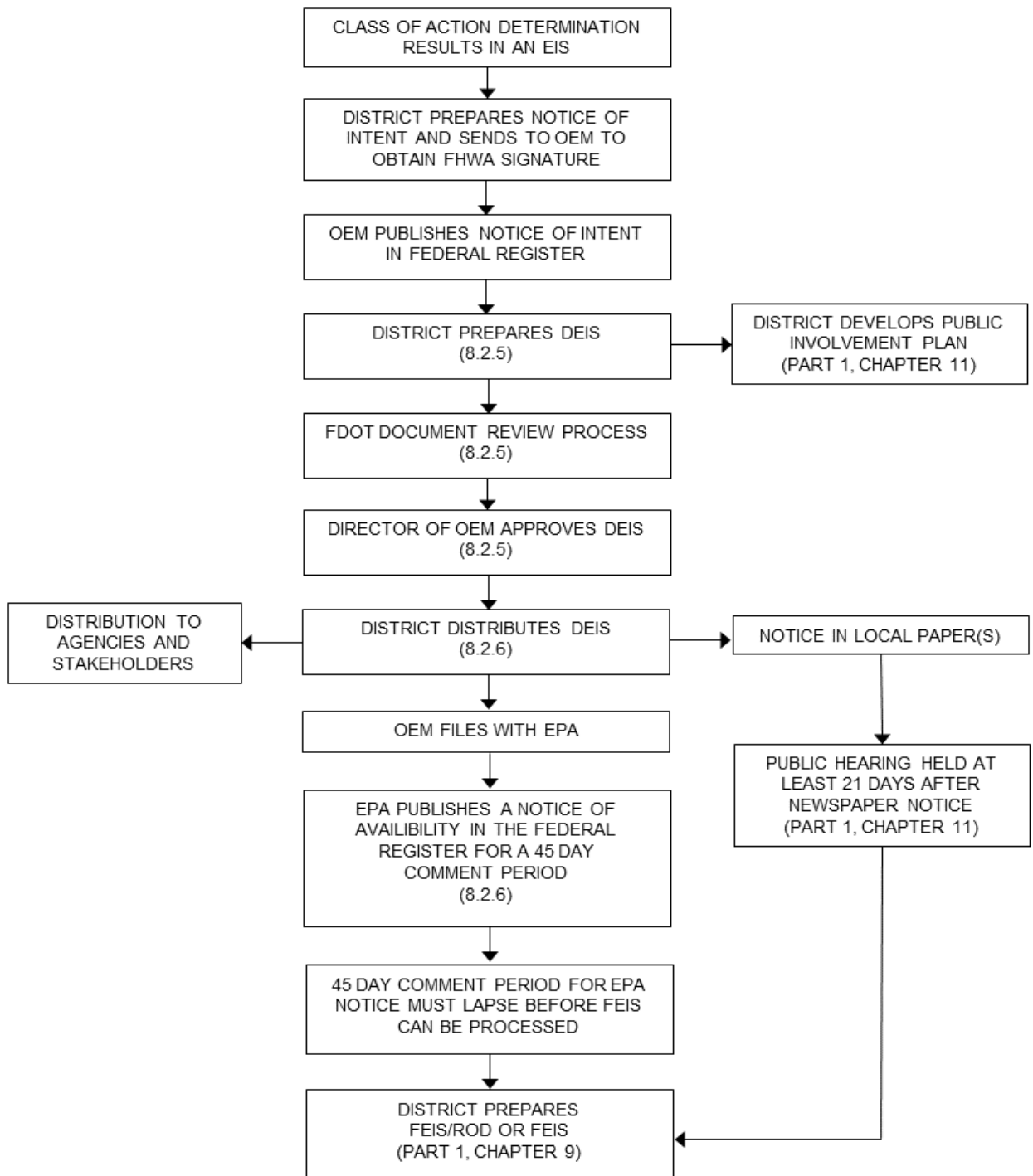
<https://www.transportation.gov/sites/dot.gov/files/docs/mission/transportation-policy/permittingcenter/345206/nepa-page-limits-policy-081919.pdf>

## 8.4 HISTORY

11/25/2002, 1/31/2007, 4/22/2011, 2/3/2014, 8/3/2016, 6/14/2017: NEPA Assignment, 1/14/2019

<b>Issue/Resource</b>	<b>Part</b>	<b>Chapter</b>
<b>Social and Economic</b>		
Social	2	4
Economic	2	4
Land Use Changes	2	4
Mobility	2	4
Aesthetic Effects	2	5
Relocation Potential	2	4
Farmland	2	6
<b>Cultural</b>		
Section 4(f)	2	7
Historic Sites/Districts	2	8
Archaeological Sites	2	8
Recreational Areas and Protected Lands	2	7 and 23
<b>Natural</b>		
Wetlands and Other Surface Waters	2	9
Aquatic Preserves and Outstanding Florida Waters	2	11
Water Resources	2	11
Wild and Scenic Rivers	2	12
Floodplains	2	13
Coastal Zone Consistency	2	14
Coastal Barrier Resources	2	15
Protected Species and Habitat	2	16
Essential Fish Habitat	2	17
<b>Physical</b>		
Highway Traffic Noise	2	18
Air Quality	2	19
Contamination	2	20
Utilities and Railroads	2	21
Construction	2	3
Bicycles and Pedestrians	2	3
Navigation	1	16
<b>Anticipated Permits</b>	1	12
<b>Cumulative Impacts</b>		Cumulative Effects Evaluation Handbook

**Table 8-1 Chapter References for Issue/Resources**



**Figure 8-1 Draft Environmental Impact Statement Process**



(4910-22)

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

ENVIRONMENTAL IMPACT STATEMENT; \_\_\_\_\_ COUNTY, FLORIDA

AGENCY: Federal Highway Administration (FHWA), DOT

ACTION: Notice of Intent

SUMMARY: The FHWA, on behalf of the Florida Department of Transportation (FDOT) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in \_\_\_\_\_ County, Florida.

FOR FURTHER INFORMATION CONTACT: (Name of District Contact), (Title), Florida Department of Transportation, (District Address), (City) Florida (Zip Code)

SUPPLEMENTARY PROJECT INFORMATION:

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.

The Florida Department of Transportation will prepare an EIS for a proposal to improve SR XX in \_\_\_\_\_ County, Florida. The FDOT intends to issue a single Final Environmental Impact Statement and Record of Decision document pursuant to Title 23 U.S.C. Section 139(n)(2). FDOT intends to recommend the preferred alternative in the DEIS.

(Sample information:)

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

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

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

**Figure 8-2 Sample Notice of Intent**

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

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

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

Issued On: (Month Date, Year)

\_\_\_\_\_  
Director of the Office of Environmental  
Management, or designee  
Tallahassee, Florida

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



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

**Florida Division**

*(Insert date)*

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

In Reply Refer To:  
HDA-FL

*(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 a Notice of Intent in Florida.

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

Please call *(insert contact name and title)*, at *(insert phone number)* to confirm the publication date and if you have any questions or concerns.

Sincerely yours,

*(Insert Division Administrator's Name)*  
Division Administrator

Enclosures

**Figure 8-3 Sample Notice of Intent Cover Letter**

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

ADMINISTRATIVE ACTION  
DRAFT 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 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.

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

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 8-4 Draft Environmental Impact Statement Sample Cover Page**

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

ADMINISTRATIVE ACTION  
DRAFT ENVIRONMENTAL IMPACT STATEMENT/DRAFT 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

(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.

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

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 8-5 Draft Environmental Impact Statement/Draft Section 4(f) Evaluation  
Sample Cover Page**

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

ADMINISTRATIVE ACTION  
SUPPLEMENTAL DRAFT 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 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.

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

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 8-6 Supplemental Draft Environmental Impact Statement Sample Cover Page**

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## SECTION 7. LIST OF PREPARERS

### FLORIDA DEPARTMENT OF TRANSPORTATION

Mr./Ms. (Name) Transportation Policy Analyst	B.S. degree in Geography and ____ years experience in environmental analysis and environmental document preparation.
Mr./Ms. (Name) Archaeologist	M.S. degree in Anthropology and ____ years experience in site surveys, analysis and documentation.
Mr./Ms. (Name) Historian	M.S. degree in History and ____ years experience in site surveys, analysis and documentation.
Mr./Ms. (Name) Air Quality	B.S. degree in Public Air Quality Health with _____ years experience in environmental and air quality analysis and environmental document preparation.
Mr./Ms. (Name) Noise	M.S. in Environmental Science with years experience in environmental analysis and environmental document preparation.
Mr./Ms. (Name) Natural Resources Administrator	M.S. degree in Systems Ecology with ____ years experience in environmental analysis and environmental document preparation.

### (CONSULTING FIRM)

Mr./Ms. (Name)	B.S. Degree in .....
----------------	----------------------

Figure 8-8 Sample List of Preparers

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(DATE)

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

Subject: Draft 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 Draft Environmental Impact Statement which has been approved for public availability. The review period for this document closes 45 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 8-11 Sample Transmittal Letter for DEIS Distribution**

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

---

**[ER-FRL-2659-1]**

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

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

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



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

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

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## **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. **Executive Order 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects** establishes policy for Environmental Impact Statements (EISs) including the goal of completing federal environmental reviews and authorization decisions within two years from the date of publication of a **Notice of Intent (NOI)** to the issuance of the Record of Decision (ROD).

**Title 23 U.S.C. § 139** and **23 Code of Federal Regulations (CFR) § 771.124** direct the use of a combined FEIS and ROD (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.

All projects subject to **23 U.S.C. § 139** and "covered projects" under **42 U.S.C. § 4370m** are required to be tracked on the Federal Permitting Dashboard established under **42 U.S.C. § 4370m-2(b)**. Under **NEPA** Assignment, OEM enters project schedules for Environmental Assessments (EAs) and EISs into the Federal Permitting Dashboard. The District is responsible for providing specific project schedule information to OEM as requested. The Permitting Dashboard is updated quarterly.



## 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 in lieu of rewriting 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 of why the comments 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 and explanation of factual corrections made to the DEIS with references to the relevant page numbers in the DEIS, citing the sources, authorities or reasons that support the position of FDOT; and
2. A list and explanation of the DEIS comments and the reasoning why the comments do not warrant additional response by FDOT, citing the sources, authorities, or reasons that support FDOT's position; and

3. If appropriate, an indication of the specific circumstances that would trigger a re-evaluation or a supplemental environmental impact statement; and
4. A web address or other indication of where a copy of the DEIS may be obtained.

In addition, the errata sheets should contain a separate section that includes the following, as referenced in **Section VI(C)** of the **FHWA Technical Advisory T6640.8A** and **U.S. Department of Transportation (USDOT) Guidance on the Use of Combined Final Environmental Impact Statements/Records of Decision and Errata Sheets in National Environmental Policy Act Reviews**:

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 any on 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](#). The errata sheets must be made publicly available to the same extent as the DEIS and the District must ensure continued availability of the DEIS.

### **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.

According to the **Interim Policy on Page Limits for NEPA Documents and Focused Analyses** memorandum, the text of a FEIS should generally be no more than 150 pages for projects with a **NOI** published after August 23, 2019. For proposed actions of unusual scope or complexity the text should be limited to no more than 300 pages. These limits do not include the pages of the executive summary, appendices or materials incorporated by reference. When a FEIS/ROD is prepared, the ROD is not considered part of the

document for page limits purposes. EISs that comply with the One Federal Decision policy may need to exceed these page limits. Before the page limit is exceeded, the District shall coordinate and receive authorization from OEM. The FEIS should be concise while meeting legal sufficiency and contain the information needed for Cooperating Agencies to utilize the document for their environmental review to support their authorization decisions.

### 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). 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”.

### 9.2.1.2.2 Executive Summary

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 should not exceed 15 pages. It should adequately and accurately summarize the FEIS, and highlight the major conclusions, areas of controversy, and the issues to be resolved. Charts, tables, and graphics are an effective and efficient way to summarize alternatives, impacts, and explain mitigation measures. The information in the summary needs to be verifiable and should not present conclusions, ideas, or information that are not included in the full FEIS. 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 **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.

### **9.2.1.2.3 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.

### **9.2.1.2.4 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.

### **9.2.1.2.5 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.

### **9.2.1.2.6 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.

### **9.2.1.2.7 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** 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.

More guidance on determining whether combining the FEIS and ROD is practicable is provided in **USDOT Guidance on the Use of Combined Final Environmental Impact Statements/Records of Decision and Errata Sheets in National Environmental Policy Act Reviews**. 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, thereby providing them the opportunity to express their views about the use of a combined FEIS/ROD for the specific proposed action. In situations where FHWA published a notice of availability for the DEIS prior to July 6, 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 intends to 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, information required in an FEIS, 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**

A diagram of the FDOT Document Review Process is available on the [OEM website](#). The timeframes identified in this process are calendar days. 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** 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) receives email notification and acknowledges the document is complete and ready for review by confirming the **Environmental Document Submittal Form** 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 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 the comments have not been addressed, additional comment resolution



time may be needed. 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** for approval in SWEPT. The PDC receives email notification and 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. OEM must electronically submit the FEIS/ROD 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. When submitting a FEIS/ROD in e-NEPA, 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

Distribution of the FEIS/ROD must occur before OEM sends the e-NEPA request for publication of the **Notice of Availability** in the **FR** to EPA (**23 CFR § 771.125**). 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 9-12](#). Distribution of the FEIS must occur before OEM sends the e-NEPA request for publication of the **Notice of Availability** in the *FR* to EPA (**23 CFR § 771.125**).

#### **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 as PDF documents to EPA using its e-NEPA online tool. Only the Environmental Document should be submitted, technical reports are included only by reference.

The PDF documents 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
6. All PDF documents must include the Title, Subject, Author, and Keywords in the Document Properties. The title of the document should be used for both the Title and Subject fields and “Florida Department of Transportation” should be included in the Author field.

More information on preparing the document for submittal to EPA is available on [OEM's website](#). After the District formats the document for e-NEPA, the District sends it to OEM. The District also provides the website link where readers can find the FEIS and supporting technical documents online (project website). OEM submits the document 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** 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 **Limitations of Claims Notice** and a draft cover letter to OEM. See the OEM [Guidance for Processing Limitations of Claims](#) for a sample draft cover letter. OEM then provides FHWA the project information needed to sign the cover letter and **Limitations of Claims Notice**. After obtaining FHWA signatures, OEM then submits the FHWA signed documents to 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**. OEM must submit the FHWA signed cover letter, three FHWA signed, single-sided hard copies of the **Limitations of Claims Notice**, and an electronic copy of the document (in Word format) on a CD exactly as it appears on the hard copy to the **FR**.

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

Executive Order 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects.  
<https://www.govinfo.gov/content/pkg/FR-2017-08-24/pdf/2017-18134.pdf>

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<https://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=650-000-003>

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<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

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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)

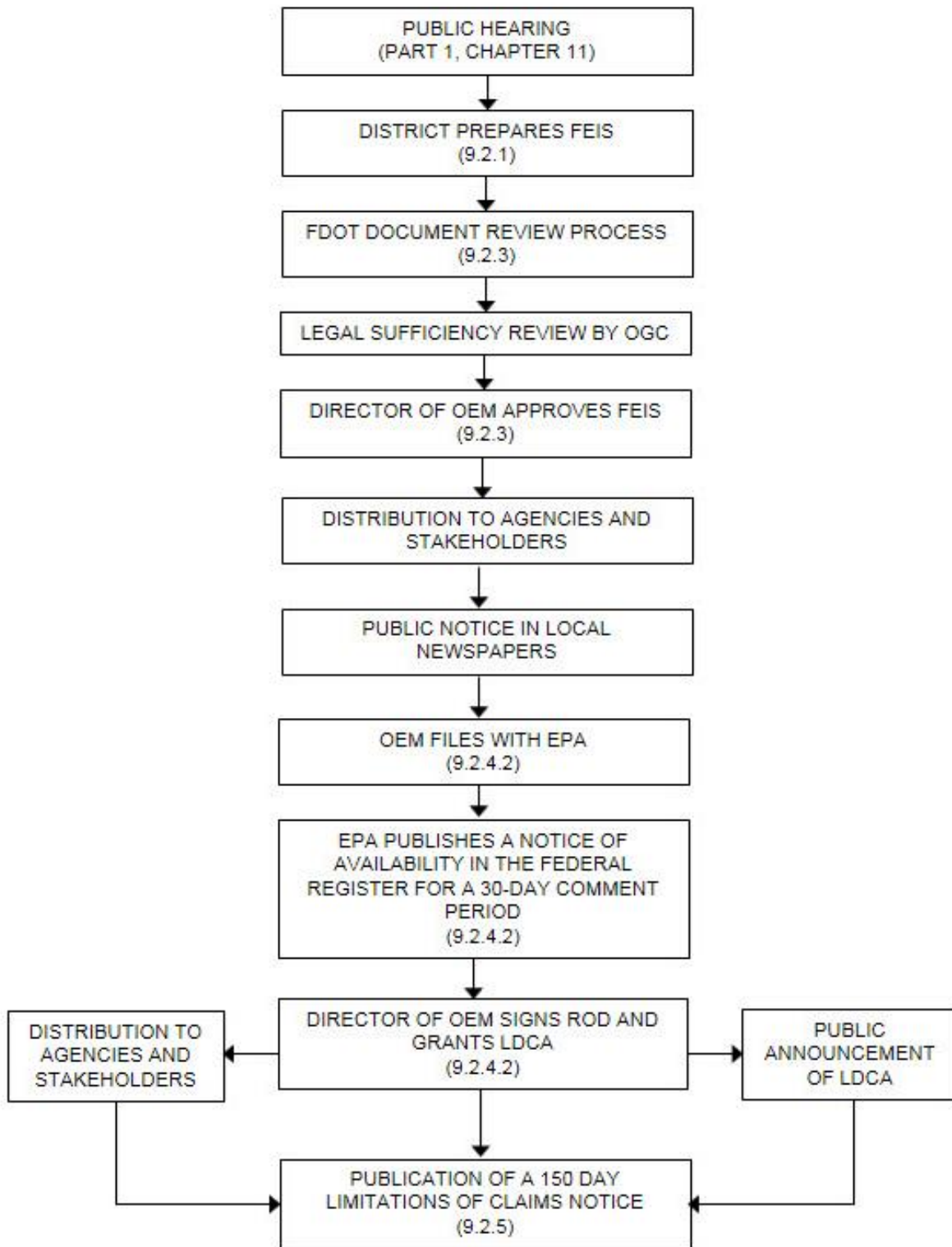
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August 23, 2019.

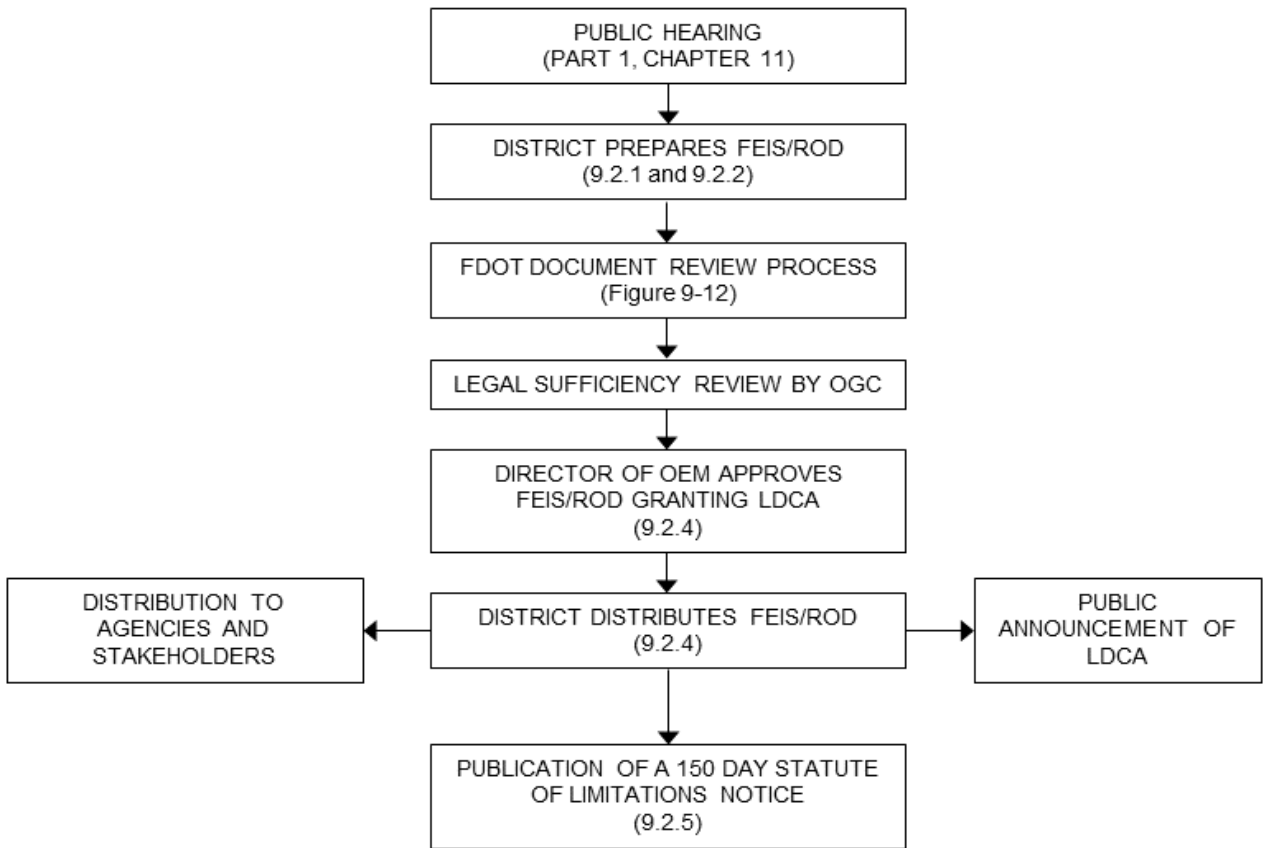
<https://www.transportation.gov/sites/dot.gov/files/docs/mission/transportation-policy/permittingcenter/345206/nepa-page-limits-policy-081919.pdf>

## **9.4 HISTORY**

11/25/2002, 1/31/2007, 1/5/2009, 7/12/2011, 2/3/2014, 7/15/2016, 6/14/2017: NEPA Assignment, 1/14/2019



**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

XXXXXXXXXXXXXXXX (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 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 upon the information presented in the FEIS and the supporting technical documents, and 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 (\_\_\_\_), is hereby the selected alternative. It is the decision of the FDOT to adopt the selected alternative for this project, and grant Location and Design Concept Acceptance.

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  
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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.

Based upon the information presented in the FEIS and the supporting technical documents, and 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 (\_\_\_\_), is hereby the selected alternative. It is the decision of the FDOT to adopt the selected alternative for this project, and grant Location and Design Concept Acceptance.

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  
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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.

Based upon the information presented in the FEIS and the supporting technical documents, and 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 (\_\_\_\_\_), is hereby the selected alternative. It is the decision of the FDOT to adopt the selected alternative for this project, and grant Location and Design Concept Acceptance.

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  
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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	Name
District Contact Title	OEM Contact Title
Florida Department of Transportation	Florida Department of Transportation
Street address	605 Suwannee Street, MS 37
city, Florida, zip code	Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx	Phone: (xxx) xxx-xxxx
Email address	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

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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  
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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 upon the information presented in the FEIS and the supporting technical documents, and 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 (\_\_\_\_), is hereby the selected alternative. It is the decision of the FDOT to adopt 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  
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Florida Department of Transportation  
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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 Sample 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

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

(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 9-12 Sample Transmittal Letter for FEIS Distribution**

## **PART 1, CHAPTER 10**

# **STATE, LOCAL, OR PRIVATELY FUNDED PROJECT DELIVERY**

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## PART 1 CHAPTER 10

# STATE, LOCAL, OR PRIVATELY FUNDED PROJECT DELIVERY

### 10.1 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 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).

This chapter describes the environmental evaluation process for the development of state, local, or privately funded projects. State funded projects are those advanced through the FDOT Work Program using only state transportation allocations, and for purposes of this chapter, do not require FHWA funding or OEM action pursuant to **23 U.S.C. § 327** described above. Proposed projects on the interstate, using interstate right of way (ROW) or using FHWA funds, as well as LAP projects, require preparation of a federal **NEPA** document as described in [Part 1, Chapter 4, Project Development Process](#) and other related chapters of this *Manual*. See [Part III - Chapter 24, Work Program Instructions](#), for additional information.

This chapter focuses on FDOT projects; however, projects on state facilities may also be conducted by a local agency (e.g., county, city), Expressway Authority, or private entity (e.g., developer). The term "lead agency" is used throughout this chapter to mean the agency that is responsible for the project and thus has signature authority on the Environmental Document. The lead agency is not necessarily the funding agency. When a local agency or private entity is the lead agency, FDOT involvement may be required under certain conditions (see [Section 10.2.2](#)).

Environmental evaluations are required for all state funded projects to comply with state and federal laws and FDOT policy. The level of assessment and documentation depends on the nature of the project, the potential for impacts, and the level of FDOT involvement. The type of environmental documentation for state funded projects depends upon the lead agency and the actions being taken.

This chapter directs the **State Environmental Impact Report Form, Form No. 650-050-43** for State Environmental Impact Reports (SEIRs) and the **Non-Major State Action Checklist** for Non-Major State Actions (NMSAs) serve as documentation for projects

when FDOT is the lead agency. For other entities, the preparation of a Project Environmental Impact Report (PEIR) may serve as the environmental documentation as described in [Section 10.2.2](#).

## 10.2 PROCEDURE

### 10.2.1 Florida Department of Transportation Projects

When FDOT is the lead agency on a project, the District has responsibility for the preparation, review, and approval. See [Figure 10-1](#) for a flowchart of the FDOT State, Local, or Privately Funded Project Delivery Process discussed throughout this chapter.

State funded Project Development and Environment (PD&E) studies for highway projects are documented in the form of a SEIR rather than a federal *NEPA* document. Identification of projects to advance as a SEIR rather than a *NEPA* document may be an outcome of the Statewide Acceleration Transformation (SWAT) process ([Section 10.2.1.2](#)). State funding should be used on projects whenever appropriate (*Part III- Chapter 24, Work Program Instructions*). If it is determined that the project will be state funded only, it is assigned a work program identifier of "State Funds Only (SFO)". The SWAT approach to project delivery is provided in [Part 1, Chapter 4, Project Development Process](#).

#### 10.2.1.1 Efficient Transportation Decision Making Screenings

The Efficient Transportation Decision Making (ETDM) Coordinator is provided a list of projects which should complete an ETDM Screening, generally as a result of the SWAT Planning meeting conducted during the annual five year Work Program development cycle. The District decides whether to initiate project screening with either an ETDM Planning Screen or Programming Screen event, based upon project complexity, timing, and whether or not an ETDM Planning Screen had already been completed. ETDM Planning Screen events may have been previously completed when considering projects during Long Range Transportation Plan updates. Minimally, the ETDM Programming Screen should be completed one year before the year in which PD&E phase funds are programmed. When entering information into the Environmental Screening Tool (EST), there is an option to select state or federal funding, see *Part III - Chapter 24, Work Program Instructions* and [Part 1, Chapter 4, Project Development Process](#).

The analysis and documentation completed for a state funded PD&E project is typically a SEIR. Information available from the ETDM Planning Screen may facilitate SWAT Planning Meetings during development of the Tentative Work Program. Information available from the ETDM Programming Screen may facilitate SWAT Kick-Off Meetings prior to the PD&E Study scope of services development. In this way, the ETDM Screening event results may be used to inform further project planning, project scoping and other SWAT activities prior to initiation of PD&E.

An Advance Notification is circulated for qualifying state funded projects prior to PD&E study initiation either with or subsequent to the ETDM Programming Screen event. The project does not require a Federal Consistency Review with the State Clearinghouse as

part of the Advance Notification ([Part 2, Chapter 14, Coastal Zone Consistency](#)). If a federal permit is needed for the project, Coastal Zone Consistency is typically provided as part of the Environmental Resource Permitting process.

### 10.2.1.2 Statewide Acceleration Transformation Team and State Funded Projects

The SWAT process is a project management approach that streamlines FDOT's project delivery process through early coordination and communication among the different functional disciplines within the District when identifying projects for funding and scoping in the planning process. All state and federally funded projects should be evaluated through the SWAT process to determine project parameters for funding, scope of work, programming, and scheduling. The SWAT process promotes and enhances communication and collaboration within District offices when projects are evaluated for inclusion in the Tentative Work Program. The Districts can adapt the SWAT process to their planning, programming and project scoping processes. See the [FDOT SWAT Training Workbook](#) and other SWAT materials on [OEM's website](#), as well as [Part 1, Chapter 4, Project Development Process](#) for more guidance.

### 10.2.1.3 Documentation of Non-Major State Actions

NMSAs are only required when FDOT is the lead agency and the project does not require a PD&E Study. Projects that are to proceed as NMSA's are typically identified during the SWAT Planning meeting. NMSAs require an environmental evaluation and completion of the **Non-Major State Action Checklist** through the StateWide Environmental Project Tracker (SWEPT). A sample form is provided as a visual in [Figure 10-2](#). See [Section 10.2.1.3.1](#) for instructions on preparing the **Non-Major State Action Checklist**. This checklist documents consideration of environmental impacts in the NMSA and the environmental evaluation is generally done concurrent with the Design phase.

Environmental evaluations are required for all state funded projects to comply with state and federal laws and FDOT procedure. If there is a state law that mirrors a federal law and if the NMSA project needs a federal permit/action from an agency such as the U.S. Army Corps of Engineers (USACE), U.S. Coast Guard (USCG), U.S. Fish and Wildlife Service (USFWS), or National Marine Fisheries Service (NMFS), follow the federal provisions ([Section 10.2.1.6](#)). For example, if the project affects any historic or archaeological resources, then the project has to comply with **Section 106** of the **National Historic Preservation Act (NHPA)**. However, if no federal permit/action is required, consultation with the Florida Division of Historical Resources (DHR) is required (see [Part 2, Chapter 8, Archaeological and Historical Resources](#)).

A NMSA does not generally require a public hearing, but may necessitate public involvement activities in accordance with [Part 1, Chapter 11, Public Involvement](#).

The District Environmental Manager or designee should sign and date the **Non-Major State Action Checklist**. The signed **Non-Major State Action Checklist** should be added to the project file.



If an **Non-Major State Action Checklist** was previously completed, at the conclusion of the Design phase the District will re-evaluate the NMSA by updating the **Non-Major State Action Checklist** and signing it. After signing it, the District Environmental Manager or designee must complete, sign and date the **Environmental Certification for State Funded Project, Form No. 650-050-14**, as provided in [Figure 10-3](#).

### 10.2.1.3.1 Completing the Non-Major State Action Checklist

The **Non-Major State Action Checklist** ([Figure 10-2](#)) should contain the following information:

1. GENERAL INFORMATION: identifies the name of the project, its limits, county, and financial management number(s).
2. PROJECT DESCRIPTION: includes a brief description of the existing conditions, purpose and need if known, and the proposed improvements (i.e., number of lanes, structure, median, and ROW).
3. EVALUATION: provides a checklist to evaluate the potential impacts of the project. If any item is marked "Yes", then it is discussed and determined by the District whether additional evaluation or a SEIR will be necessary. Consideration should be given to potential permitting requirements and needs. If all answers are "No" and the project type is not defined in **Section 339.155(5)(b), Florida Statutes (F.S.)**, as a major transportation improvement, the project is a NMSA.

A place is provided for the District Environmental Manager or designee to sign and date the form.

### 10.2.1.4 Documentation of a State Environmental Impact Report

The **State Environmental Impact Report Form, Form No. 650-050-43** ([Figure 10-4](#)) should be a concise, targeted document based on the results of engineering and environmental analysis and coordination.

The SEIR documents the social and economic, cultural, natural, and physical issues/resources evaluated as part of the project. Additional information for each category is included in attachments, as needed. Technical reports or memorandums should be summarized in each section with reference to the corresponding document for more details.

Other considerations for completing a SEIR are as follows:

1. If no federal permit/action is required, consultation with the DHR is required per **Chapter 267, F.S.**, to address historic or archaeological resources. However, if a federal permit will be required then the project must comply with **Section 106** of the **NHPA**. Additionally, if the project requires consultation with USFWS regarding federally listed species, consultation occurs under **Section 10** of the **Endangered Species Act (ESA)**. See [Part 2, Chapter 8, Historic and Archeological](#)

[Resources](#) and [Part 2, Chapter 16, Protected Species and Habitat](#) for guidance on these issues/resources. Also see [Section 10.2.1.6](#) for additional guidance.

2. Under the state funded project delivery process, **Section 4(f)** does not apply since there is no United States Department of Transportation (USDOT) action; however, coordination with the public entity of jurisdiction of the public recreation area should still occur ([Part 2, Chapter 7, Section 4\(f\) Resources](#)). For example, coordination with the Florida Department of Environmental Protection (FDEP) is necessary on projects affecting state owned parks or other program areas such as the Florida Forever land acquisition program [see [Part 2, Chapter 23, Acquisition and Restoration Council \(ARC\) Coordination](#)].
3. SEIRs are not subject to Environmental Protection Agency (EPA) review since they do not receive federal financial assistance ([Part 2, Chapter 11, Water Resources](#)).
4. Farmland and Coastal Barrier Resources are not analyzed for SEIR projects since analysis of these resources is only required for federal projects.
5. Planning consistency information is included in the SEIR, however; it is intended as an information tool and not required for the approval of the document. This information is used to inform planning and programming activities to assist in the timely advancement of project funds for the next phase of the project. A description of actions required for completion of the planning consistency information should be provided if not available at the time of document approval.
6. There is no requirement for multiple alternatives, although there may be multiple alternatives if warranted by specific project considerations. There can be just one build alternative in addition to the no-action alternative, if determined appropriate.

The public hearing process outlined in [Part 1, Chapter 11, Public Involvement](#) is followed when preparing a SEIR. Regardless of whether a project is state or federally funded, state law (**Section 339.155, F.S.**) requires a public hearing for the following types of projects: 1) increasing capacity through the addition of new lanes; 2) providing new access to a limited or controlled access facility (new interchanges); and 3) construction of a facility in a new location. It is FDOT's policy to promote public involvement opportunities and information exchange activities in all functional areas using various techniques adapted to local area condition and project requirements ([Public Involvement, Policy No. 000-525-050](#)). For a project which does not require a public hearing, an opportunity for a public hearing may still be provided.

In most cases, a public hearing will be held for a SEIR project. The SEIR should be made available to the public a minimum of 15 days prior to the public hearing. Before the public hearing, the **State Environmental Impact Report Form, Form No. 650-050-43** must be approved for public availability by the District Environmental Office Manager, Environmental Manager, or Project Development Manager. Notice of the public hearing will be published in the local newspaper of general circulation and posted on the agency's website and the **Florida Administrative Register**.

OEM may review the SEIR at the District's request. The District Secretary or designee signs and approves the SEIR and the District circulates it to relevant resource agencies and to offices responsible for the next phase of the project.

The District Environmental Office will also complete and provide the date of the approval on the ***Environmental Certification for State Funded Project, Form No. 650-050-14*** form, as shown in [Figure 10-3](#).

Project commitment coordination is accomplished for state funded projects prior to and during the PD&E phase consistent with [Part 2, Chapter 22, Commitments and Procedure No. 650-000-003, Project Commitment Tracking](#). Project commitments must be documented in the same way as federally funded projects. Commitments are coordinated and agreed upon by appropriate FDOT functional area representatives.

Project files will be maintained within FDOT's SWEPT application.

#### **10.2.1.4.1 Completing the State Environmental Impact Report Form**

The ***State Environmental Impact Report Form, Form No. 650-050-43*** is completed to produce the SEIR document. A sample form is provided as a visual in [Figure 10-4](#). Results are described in the ***State Environmental Impact Report Form, Form No. 650-050-43*** to create a document which completely and concisely describes anticipated environmental impacts, coordination and consultation with resource agencies, public involvement, engineering analysis, permit status, commitments and resulting decisions. SEIR public availability and public hearing requirements are to be followed as described in [Section 10.2.1.4](#).

1. PROJECT DESCRIPTION AND PURPOSE AND NEED: Complete project information as indicated on the form. Briefly describe proposed improvements and purpose and need. Planning consistency information is updated. This information is intended to inform planning and programming activities in order to assist in the timely advancement of project funds and the next phase of the project. Both completed and pending planning and programming activities should be identified in the table provided and described in the text of the document. Actions to be taken to complete pending items should also be described in this section.
2. ENVIRONMENTAL ANALYSIS: The results of the environmental evaluation, knowledge of the project area, and input received through agencies and the public, is used to complete the form. Using information provided through scoping efforts, the issues/resources are evaluated using the guidance from chapters in ***Part 2*** of the [PD&E Manual, Topic No. 650-000-001](#). This section must take into consideration and address, as appropriate, the issues/resources listed in ***Section 2. A-D*** of [Figure 10-4](#).

The items on the form that were checked during the SWAT project kickoff meeting should be revisited after analysis to ensure they are still appropriate.

- a. If the impact is substantial, mark the column "Yes" with an "X".

- b. If the impact is not substantial, mark the column “No” with an “X”. Not substantial means the issue/resource is present and considered as potentially involved with the project. The project impact may range from none to substantial. The form should include a reference to the attachment containing supporting information.
  - c. If the impact is enhanced, mark the column “Enhance” with an “X”. Enhance means the project has enhancements or benefits to the issue/resource. The form should include a reference to the attachment containing supporting information.
  - d. If the issue/resource is not involved, mark the column “NoInv” with an “X”. No involvement means the environmental issue/resource in question is not part of or in any way involved with the project. If an issue /resource is marked in the "NoInv" column, no supporting documentation is needed.
3. **ANTICIPATED PERMITS:** This section identifies permits that are anticipated for the project. Sufficient information for permitting agencies should be provided under the applicable issue/resource of **Section C**. For example, if a USACE permit is anticipated, supporting information should be included in **Section 2.C.1**. (Wetlands and Other Surface Waters), **Section 2.C.7**. (Protected Species and Habitat), and **Section 2.C.8** (Essential Fish Habitat), if applicable.
4. **ENGINEERING ANALYSIS:** This section should state that the engineering analysis is contained in the ***Preliminary Engineering Report (PER)***. Engineering analysis is prepared according to [Part 1, Chapter 4, Project Development Process](#) and [Part 2, Chapter 3, Engineering Analysis](#).
5. **COMMITMENTS:** This section discusses all commitments made on the project prior to and during the PD&E phase per [Part 2, Chapter 22, Commitments](#).
6. **FDOT SELECTED ALTERNATIVE:** A brief discussion of the FDOT Selected Alternative is included in this section. This is based upon the engineering and environmental analysis. When only one build alternative is evaluated, reference consideration of build and no-build alternatives with resulting recommendation.
7. **APPROVED FOR PUBLIC AVAILABILITY (Before public hearing when a public hearing is required):** This section contains a box to check to confirm the document has gone through a quality assurance/quality control (QA/QC) review and is approved for public availability, as well as a line for the signature of the Environmental Manager or Project Development Manager and date the project was accepted for public review.
8. **PUBLIC INVOLVEMENT:** The appropriate box regarding the status of public involvement is marked in this section.

9. APPROVAL OF FINAL DOCUMENT: The nondiscrimination standard statement and a signature block are provided for District approval of the SEIR. The SEIR is approved by the District Secretary or designee.
10. SUPPORTING INFORMATION: Documents referenced in the Supporting Information column of the form are included as attachments. Attachments may include coordination letters, memos, maps and summaries of the environmental analysis. The standard statements required for **NEPA** projects, provided in other chapters, may be used or modified as appropriate. Keep in mind, for state funded projects, regulatory and resource agencies and issues under their jurisdiction are the same as for federal projects, and using standard statements may save time. Environmental analysis material should be summarized and attached to the form in the order listed. Larger documents, such as technical reports, should be referenced and uploaded to the project file. The project file should contain the analytical documentation to support the project decisions. See [Part 1, Chapter 15, Project File and Records Management](#) for more guidance.

### 10.2.1.5 Re-evaluation

Re-evaluations should be conducted when a major design change occurs and prior to construction advertisement. Re-evaluations should also be conducted when there are changes in impacts that would require additional consultation with an agency or coordination with the public. Re-evaluation is used to update status of commitments, coordination, permits, and other relevant information. Re-evaluation of a SEIR is prepared by using the **State Environmental Impact Report Re-evaluation Form, Form No. 650-050-44**. This form may be prepared in SWEPT. If prepared in SWEPT, see instructions for preparing a **Re-evaluation Form** in [Part 1, Chapter 13, Re-evaluations](#). Approval will be granted by the District Environmental Manager or designee electronically.

Instructions on how to prepare the form outside of SWEPT are provided in [Section 10.2.1.5.1](#). A sample form is provided as a visual in [Figure 10-5](#).

The approved Re-evaluation is maintained in the project file and distributed to Design, ROW, and Construction Offices, or others as appropriate.

#### 10.2.1.5.1 State Environmental Impact Report Re-evaluation Form

The **State Environmental Impact Report Re-evaluation Form, Form No. 650-050-44** ([Figure 10-5](#)) includes the following sections:

##### Section 1 - GENERAL PROJECT INFORMATION

This section contains information about the originally approved SEIR and the segment(s) being advanced. Information provided includes:

1. The change in project phase(s) for which the project segment(s) is (are) being re-evaluated (i.e., Preliminary Engineering, ROW, and Construction Advertisement)

2. SEIR date of approval.
3. Project number(s): Financial Management and ETDM number(s) of the original approved document
4. Project name, location, and limits covered under the originally approved SEIR
5. Segment of highway being advanced: Financial Management number(s), location, and limits and identify as state-funded
6. Prior Re-evaluations: A list of Re-evaluations previously prepared for the project, the type, and the date they were approved by the District.
7. Planning consistency information is updated. This information is intended to inform planning and programming activities in order to assist in the timely advancement of project funds and the next phase of the project. Both completed and pending planning and programming activities should be identified in the table provided and described in the text of the document. Actions to be taken to complete pending items should also be described in this section.
8. Name and title of the FDOT District preparer.

## **Section 2 – EVALUATION OF CHANGES IN IMPACTS**

This section is used to document the evaluation of changes in impacts to affected issues/resources. This should also include an evaluation of impacts to new issues/resources, which may have been identified.

If a change has occurred for a given issue/resource, then the analyst marks an "X" in the YES box. An explanation is then referenced in the Supporting Information column and provided as an attachment to discuss the nature of the change or updated information. This column should also include the title of the attachment and the page number (e.g., Attachment A, Page 10). If any new issues/resources are identified, they should be added to the form and addressed accordingly. If no change has occurred, the analyst marks an "X" in the NO box.

## **Section 3 - EVALUATION OF MAJOR DESIGN CHANGES AND REVISED DESIGN CRITERIA**

This section includes design changes that have occurred since approval of the original SEIR or most recent Re-evaluation. The extent of the design change(s) and modification of impacts on the project area must be documented.

Examples of design changes include, but are not limited to:

1. Changes in typical section

2. Shifts in roadway alignment
3. Changes in ROW needs
4. Changes due to revised design control or criteria
5. New Design Variations or Design Exceptions
6. Changing a bridge to a box culvert
7. Changes in drainage design and/or requirements

If no major design changes have occurred, then it should be stated.

#### **Section 4 - COMMITMENT STATUS**

Section 4 includes a list of commitments and mitigation measures established in the approved SEIR along with their current status (completed, modified, added, or no longer applicable). Any changes in or to commitments require an explanation. New environmental commitments can arise from a variety of sources, such as subsequent agency negotiations or from public involvement. These commitments must be documented, i.e., listed, updated, and discussed. The Districts must review, verify, and update the **Project Commitment Record (PCR)** and attach the updated **PCR** to the Re-evaluation. Commitments must be tracked throughout the project, and satisfied at the appropriate phase of the project per [Procedure No. 650-000-003, Project Commitment Tracking](#) and [Part 2, Chapter 22, Commitments](#). It is important that commitments made by FDOT are documented.

#### **Section 5 - STATUS OF PERMITS**

This section identifies permits required for the project, provides a summary of their status, and documents any modifications since the SEIR approval or last Re-evaluation. The status of the permit(s) should be commensurate with the phase of the project and the type of Re-evaluation. For example, if the permit has been applied for, state the name of the permit, agency, date of application and number; if the permit has been issued, state the name of the permit, agency, date of issuance, and permit number. The preparer of the Re-evaluation coordinates with the District Permit Coordinator to ensure complete documentation and timely permit issuance. If the permit has not been issued, construction activities cannot begin.

#### **Section 6 - CONCLUSION**

This section contains a statement about the Re-evaluation of the project, the validity of the findings in the SEIR, new findings (if necessary), and a recommendation for project advancement.

If no changes affecting the original environmental determination have occurred, mark the box that states the following with an X:

The above SEIR has been re-evaluated. It has been determined that there have been no changes to the project that affect the original SEIR. Therefore, the SEIR determination remains valid. It is recommended that the project identified herein be advanced to the next phase.

## Section 7 – DISTRICT APPROVAL

The District Environmental Manager or designee will sign the signature line and upload any consultation documentation.

## Section 8 - ATTACHMENTS

Other supporting information such as summaries of reports and documentation of coordination may be attached.

### 10.2.1.6 State Funded Projects with Federal Actions

Federal permits, such as those from USCG or USACE, may be required for state funded projects and may require a **NEPA** document be prepared for one of those agencies. In such cases, consultation with the appropriate federal agency(ies) should be performed early. OEM can assist with this consultation.

Projects that are state funded, may still have to follow the federal **NEPA** process if a federal permit is required. Federal permits/actions may be required by the USACE, USCG, or the USFWS. The permitting agency may become the Lead Federal Agency. They may adopt or modify the FDOT Environmental Document to use as their **NEPA** document or may request that FDOT prepare their **NEPA** document, depending on the results of coordination.

If a federal permit/action is required, **Section 106** of the **NHPA** is followed to address historic or archaeological resources (see [Part 2, Chapter 8, Archaeological and Historical Resources](#)) and **Section 7** of the **ESA** is followed for federally listed species involvement (see [Part 2, Chapter 16, Protected Species and Habitat](#)).

### 10.2.2 Local or Privately Funded Projects

**Section 334.30(3), F.S.**, provides “[e]ach private transportation facility constructed pursuant to this section shall comply with all requirements of federal, state, and local laws; state, regional and local comprehensive plans; department rules, policies, procedures and standards for transportation facilities; and any other conditions which the department determines to be in the public’s best interest.” Unsolicited public-private transportation projects must also comply with **Chapter 14-107, Florida Administrative Code (F.A.C.)**.

Construction of permanent features in FDOT ROW, performed and funded by others, and without FHWA funds, requires execution of an **FDOT Construction Agreement, Form No. 850-040-89**. The local or private entity must apply for a **FDOT Construction Agreement, Form No. 850-040-89** through FDOT’s District Maintenance Office. The



Construction Agreement application package should include evidence of acquisition of all applicable federal and state environmental permits. For local agency or private entity projects, the role of the District's Environmental Office is to provide support in an advisory capacity as necessary to assist in advancing the project. Completion of environmental analysis and documentation, by the applicant, prior to environmental permit application, may follow the same process and format as a NMSA or SEIR; however, the local agency or private entity should recognize that these document types are reserved for FDOT funded projects. Instead, the supporting environmental documentation for local and privately funded projects constructed on FDOT ROW, necessary to acquire environmental permits and subsequently an **FDOT Construction Agreement, Form No. 850-040-89**, may be referred to as a PEIR. The PEIR project analysis includes, both environmental and engineering analyses as described in the [PD&E Manual, Topic No. 650-000-001](#), as applicable. Although the PEIR is not an FDOT document, it is prepared following the same procedures and requirements as the SEIR, [Section 10.2.1.4.1. Figure 10-6](#) provides a PEIR outline.

In cases where a privately or locally funded project is developed under **Chapter 14-107, F.A.C.** and, where jurisdiction will be transferred to FDOT at any time during project development, the District should work with the local agency or private entity to determine whether a PEIR or SEIR is required. If the project is to be transferred to the FDOT, a SEIR is likely the appropriate document. In such cases, the FDOT may coordinate, review and approve a document prepared by a local or private entity as a SEIR. The District should coordinate with the local agency or private entity to determine the level of analysis to satisfy documentation requirements. Prior to commencement of the study, the project sponsor should consult with the District to consider the following:

1. How the PEIR (or SEIR) will be processed
2. How it will be coordinated with FDOT
3. Project schedule
4. How public involvement and public hearing activities will be conducted
5. How the project Re-evaluation will be coordinated with FDOT (see [Section 10.2.1.5](#))

These decisions should be documented in the project file.

A local agency may advance a project through any one of several state funding programs described in **Chapter 339, F.S.**, and FDOT's Work Program Instructions; examples include: County Incentive Grant Program (CIGP), Small County Outreach Program (SCOP), Small County Outreach for Municipalities and Communities (SCOE Municipalities), Transportation Regional Incentive Program (TRIP), and Small County Road Assistance Program (SCRAP). For these projects, if state funds only are being used, the local agency may prepare a PEIR to support its acquisition of appropriate environmental permits and satisfy other agreements with the FDOT. The local agency should follow the procedures outlined in this chapter and [Figure 10-6](#) to prepare a PEIR.

There may be instances when a local agency seeks to advance a project with FHWA funds in addition to state program funds and/or local funds. In such cases a federal Environmental Document would generally be prepared by the local agency with FDOT support as deemed appropriate through early project coordination (per [FDOT Local Agency Program Manual, Topic No. 525-010-300](#)).

A thorough understanding of funding sources, system designation, proposed work activity and existing or proposed agreements, such as a Joint Participation Agreement (JPA) or Memorandum of Agreement (MOA), assists in determining if the project should advance as a PEIR, a SEIR or a federal Environmental Document. A private or local entity may not provide FDOT Environmental Certification to advance a project in the FDOT Work Program. At the option of the local agency or private entity, a PEIR project can be screened in the EST, if it satisfies qualifying project type ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)) and the conditions of the [ETDM Screening Matrix for Qualifying Projects](#) in [Chapter 2](#), of the [ETDM Manual, Topic No. 650-000-002](#). The requesting entity should contact the District Environmental Office if they anticipate screening it in the EST.

### 10.3 REFERENCES

Chapter 267, Florida Statutes (F.S.), Historical Resources.

<http://www.leg.state.fl.us/Statutes/>

FDOT, Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002. <http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

FDOT, Local Agency Program Manual, Topic No. 525-010-300

[http://www.fdot.gov/programmanagement/LAP/LAP\\_TOC.shtm](http://www.fdot.gov/programmanagement/LAP/LAP_TOC.shtm)

FDOT, Project Commitment Tracking, Procedure No. 650-000-003.

<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=650-000-003>

FDOT, 2015. Tentative Work Program- FY25/16-19-20, Chapter 24, Work Program Instructions

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>

Rule 14-107, F.A.C. Public-Private Transportation Facilities

Section 334.30, F.S., Public-private Transportation Facilities.

<http://www.leg.state.fl.us/Statutes/>

Section 338.223, F.S., Proposed Turnpike Projects. <http://www.leg.state.fl.us/Statutes/>

Section 339.125, F.S., Covenants to complete on revenue-producing projects.

<http://www.leg.state.fl.us/Statutes/>

Section 339.155(5), F.S., Procedures for Public Participation in Planning.

<http://www.leg.state.fl.us/Statutes/>

Section 339.61, F.S., Florida Strategic Intermodal System (SIS); legislative findings, declaration, and intent. <http://www.leg.state.fl.us/Statutes/>

## **10.4 FORMS**

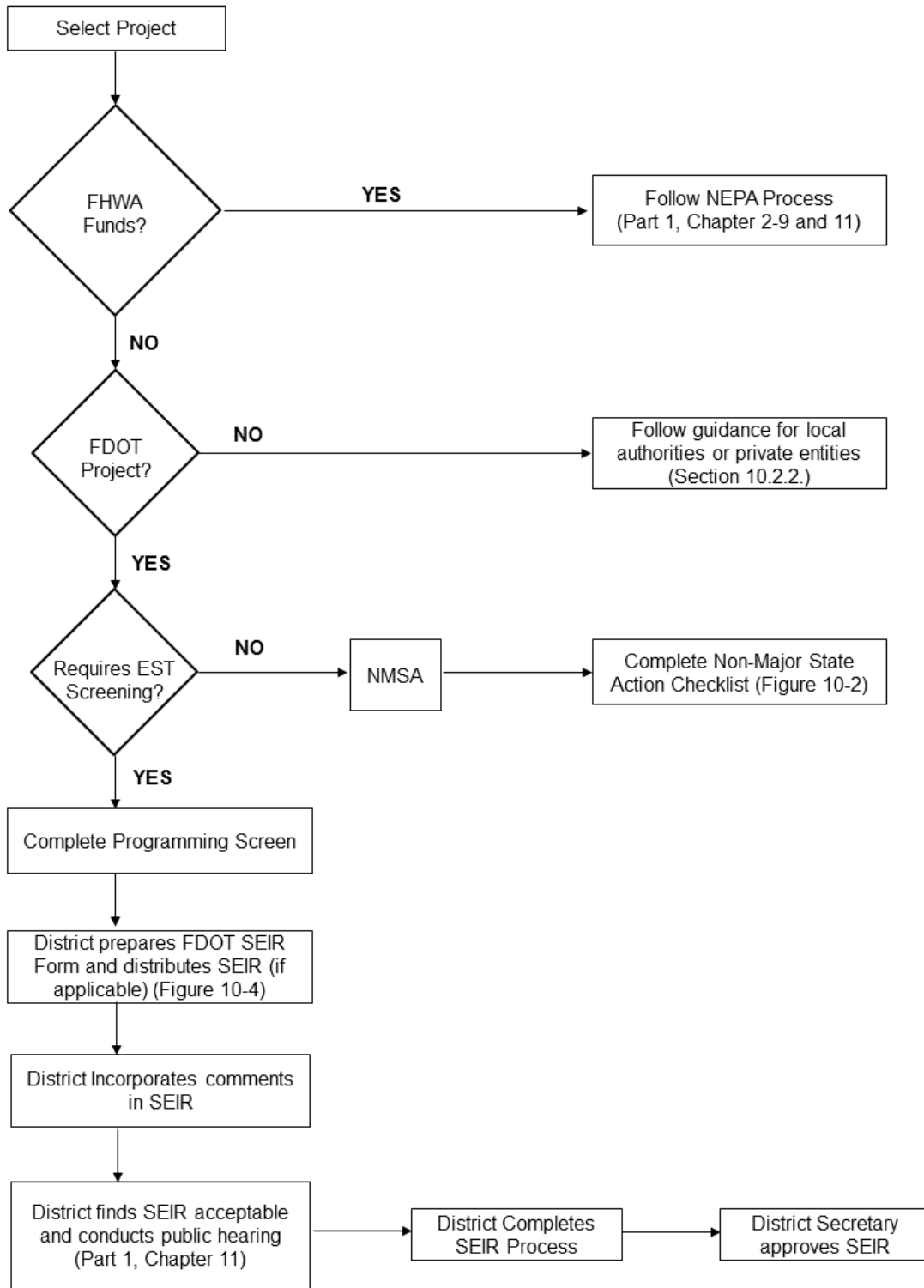
[FDOT Construction Agreement, Form No. 850-040-89](#)

[State Environmental Impact Report Form, Form No. 650-050-43](#)

[State Environmental Impact Report Re-evaluation Form, Form No. 650-050-44](#)

## **10.5 HISTORY**

1/10/2001, 5/26/2011, 8/4/2016, 6/14/2017: NEPA Assignment, 1/14/2019



**Figure 10-1 FDOT State, Local, or Privately Funded Project Delivery Process**

## NON-MAJOR STATE ACTION CHECKLIST

### 1. GENERAL INFORMATION:

Project Name: \_\_\_\_\_

Project Limits: \_\_\_\_\_

County: \_\_\_\_\_

Financial Management Number: \_\_\_\_\_

### 2. PROJECT DESCRIPTION:

### 3. EVALUATION:

YES NO

\_\_\_ \_\_\_ Is this a transportation project qualifying for ETDM EST screening? (See Part 1, Chapter 2, Class of Action Determination For Federal Projects, of the PD&E Manual)

\_\_\_ \_\_\_ Will the project cause adverse impacts to local traffic patterns, property access, community cohesiveness, or planned community growth or land use patterns?  
\_\_\_\_\_

\_\_\_ \_\_\_ Will the project cause adverse impacts to air, noise, or water?  
\_\_\_\_\_

\_\_\_ \_\_\_ Will the project cause adverse impacts to wetlands requiring a federal permit?  
\_\_\_\_\_

\_\_\_ \_\_\_ Will the project cause adverse impacts to navigation requiring a federal permit?  
\_\_\_\_\_

\_\_\_ \_\_\_ Will the project cause impacts to floodplains in accordance with Part 2, Chapter 13 of the PD&E Manual?  
\_\_\_\_\_

\_\_\_ \_\_\_ Will the project affect federally endangered or threatened species or their critical habitat?  
\_\_\_\_\_

\_\_\_ \_\_\_ Will the project require more than minor amounts of right of way and result in any residential or non-residential displacements?  
\_\_\_\_\_

**Figure 10-2 Non-Major State Action Checklist**

**YES NO**

\_\_\_\_ Are there state-owned conservation lands being acquired in the project area subject to review and approval by the Acquisition and Restoration Council?  
\_\_\_\_\_

\_\_\_\_ Are properties protected under Chapter 267, F.S., adversely affected as determined in consultation with the Florida Division of Historical Resources?  
\_\_\_\_\_

\_\_\_\_ Does the action have known contamination sites which would have more than a minimal impact to design, right of way, or construction activities once assessed as described in Part 2, Chapter 20, Contamination of the PD&E Manual, and can't be avoided or remediated?  
\_\_\_\_\_

\_\_\_\_ Will the project have substantial controversy on environmental grounds?  
\_\_\_\_\_

\_\_\_\_ Is a public hearing needed in accordance with Part 1, Chapter 11 of the PD&E Manual and Section 339.155(5)(b), F.S.?  
\_\_\_\_\_

**IF ALL ANSWERS ARE NO, THE PROJECT IS A NON-MAJOR STATE ACTION (SIGN BELOW)**

**IF ANY ITEM IS MARKED YES, EVALUATE WHETHER A STATE ENVIRONMENTAL IMPACT REPORT (SEIR) WILL BE NECESSARY.**

This Checklist is the Environmental Document for a Non-Major State Action. Supporting documents are included in the project file.

The project is not defined in Section 339.155(5)(b) of the Florida Statutes as a major transportation improvement (increasing the capacity of a facility through the addition of new lanes or providing new access to a limited or controlled access facility or construction of a facility in a new location) and based upon this project evaluation, it has been determined that the project is a Non-Major State Action.

District Environmental Manager or designee:

\_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**Figure 10-2 Non-Major State Action Checklist (Page 2 of 2)**

## ENVIRONMENTAL CERTIFICATION FOR STATE FUNDED PROJECT

FINANCIAL MANAGEMENT NUMBER: \_\_\_\_\_

ETDM NUMBER (If applicable): \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This project is a Non-Major State Action. It was verified on \_\_\_\_\_ and the action remains valid.

This project is a State Environmental Impact Report (SEIR). The SEIR was approved on \_\_\_\_\_.

A re-evaluation in accordance with the FDOT Project Development and Environment Manual Part 1, Chapter 10 was approved on \_\_\_\_\_.

SIGNATURE:

\_\_\_\_\_  
District Environmental Manager or designee

DATE: \_\_\_\_\_

**Figure 10-3 Environmental Certification for State Funded Project Form**

## STATE ENVIRONMENTAL IMPACT REPORT FORM

### 1. PROJECT DESCRIPTION AND PURPOSE AND NEED:

a. Project Information:

Project Name:

Project Limits:

County:

ETDM Number (If applicable):

Financial Management Number:

Project Manager:

b. Proposed Improvements

c. Purpose and Need:

d. Project Planning Consistency: disregard providing historical details, instead focus on future phases of segments being advanced. If more than one segment is being advanced additional tables should be added.

Currently Adopted CFP-LRTP	COMMENTS				
Y/N	(If N, then provide detail on how implementation and fiscal constraint will be achieved)				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
<b>PE</b> (Final Design)	Y/N	Y/N	\$		(If phase completed, note as such otherwise provide comments describing status and activities needed to achieve consistency)
<b>R/W</b>	Y/N	Y/N	\$		(If phase completed, note as such otherwise provide comments describing status and activities needed to achieve consistency)
<b>Construction</b>	Y/N	Y/N	\$		(provide comments as appropriate describing status and activities needed to achieve consistency)

***\*Include pages from current TIP/STIP/LRTP***

**Figure 10-4 State Environmental Impact Report Form**



## 2. ENVIRONMENTAL ANALYSIS

Issues/Resources	*Substantial Impacts?				**Supporting Information
	Yes	No	Enhance	NoInv	
<b>A. SOCIAL and ECONOMIC</b>					
1. Social	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Economic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Land Use Changes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Mobility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Aesthetic Effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Relocation Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<b>B. CULTURAL</b>					
1. Historic Sites/Districts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Archaeological Sites	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Recreational Areas and Protected Lands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<b>C. NATURAL</b>					
1. Wetlands and Other Surface Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Aquatic Preserves and Outstanding FL Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Water Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Wild and Scenic Rivers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Floodplains	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Coastal Barrier Resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>(unless federal funds sought in the future)</i>
7. Protected Species and Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Essential Fish Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<b>D. PHYSICAL</b>					
1. Highway Traffic Noise	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Air Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Contamination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Utilities and Railroads	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Construction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Bicycles and Pedestrians	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Navigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

\* Substantial Impacts?: Yes = Substantial Impact; No = No Substantial Impact; Enhance = Enhancement; NoInv = Issue absent, no involvement.

\*\*Supporting information is documented in the referenced attachment(s).

**Figure 10-4 State Environmental Impact Report Form (Page 2 of 3)**

### 3. ANTICIPATED PERMITS

- Individual Dredge and Fill Permit- USACE
- Nationwide Permit- USACE
- Bridge Permit- USCG
- Environmental Resource Permit \_\_\_\_\_ (FDEP or WMD)
- \_\_\_\_\_

For guidance on ensuring sufficient information for permitting agencies is included see Section 10.2.1.4.1 of Part 1, Chapter 10 of the PD&E Manual

### 4. ENGINEERING ANALYSIS

### 5. COMMITMENTS

### 6. FDOT SELECTED ALTERNATIVE

7.  **APPROVED FOR PUBLIC AVAILABILITY (Before public hearing when a public hearing is required)**

\_\_\_\_\_  
**Environmental or Project Development  
Manager or Administrator**

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
**Date**

### 8. PUBLIC INVOLVEMENT:

1.  A public hearing is not required.
2.  A public hearing will be held (insert date). This draft document is publicly available and comments can be submitted to FDOT until (insert date)  
District Contact Information: District Contact Name  
District Contact Title  
Florida Department of Transportation  
Street Address  
City, Florida, zip code  
Phone: (xxx) xxx-xxxx  
Email Address
3.  A public hearing was held on (insert date) and the transcript is available.
4.  An opportunity for a public hearing was afforded and was documented (insert date).

### 9. APPROVAL OF FINAL DOCUMENT

This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.

The final SEIR reflects consideration of the PD&E Study and the public hearing.

\_\_\_\_\_  
**District Secretary or Designee**

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
**Date**

### 10. SUPPORTING INFORMATION

**Figure 10-4 State Environmental Impact Report Form (Page 3 of 3)**

### State Environmental Impact Report Re-evaluation Form

**1. GENERAL INFORMATION** (originally approved SEIR)

a. Project Phase: \_\_\_\_\_

b. SEIR Date of Approval: \_\_\_\_\_

c. Project Numbers: \_\_\_\_\_  
Financial Management     ETDM

d. Project Name, Location and Limits (from original SEIR):  
 \_\_\_\_\_  
 \_\_\_\_\_

e. Segments of Highway Being Advanced:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

f. Prior Re-evaluations:  
 \_\_\_\_\_

g. Project Segment Planning Consistency. If more than one segment is being advanced additional tables should be added. Table does not need to include past/completed phases.

Currently Adopted CFP-LRTP	COMMENTS				
Y/N	(If N, then provide detail on how implementation and fiscal constraint will be achieved)				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
Identify phase(s) being authorized (e.g., PE, ROW, and/or Construction)	Y/N	Y/N	\$		(If phase completed, note as such otherwise provide comments describing status and activities needed to achieve consistency)

***\*Include pages from current TIP/STIP/LRTP***

h. Name and title of FDOT Preparer: \_\_\_\_\_

**Figure 10-5 State Environmental Impact Report Re-evaluation Form**

## 2. EVALUATION OF CHANGES IN IMPACTS

	YES / NO		SUPPORTING INFORMATION
<b>A. SOCIAL &amp; ECONOMIC</b>			
1. Social	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Economic	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Land Use Changes	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Mobility	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Aesthetic Effects	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Relocation Potential	<input type="checkbox"/>	<input type="checkbox"/>	_____
<b>B. CULTURAL</b>			
1. Historic Sites/Districts	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Archaeological Sites	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Recreational Areas and Protected Lands	<input type="checkbox"/>	<input type="checkbox"/>	_____
<b>C. NATURAL</b>			
1. Wetlands and Other Surface Waters	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Aquatic Preserves and Outstanding FL Waters	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Water Resources	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Wild and Scenic Rivers	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Floodplains	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Coastal Barrier Resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<i>(unless federal funds sought in the future)</i>
7. Protected Species and Habitat	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Essential Fish Habitat	<input type="checkbox"/>	<input type="checkbox"/>	_____
<b>D. PHYSICAL</b>			
1. Highway Traffic Noise	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Air Quality	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Contamination	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Utilities and Railroads	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Construction	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Bicycles and Pedestrians	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Navigation	<input type="checkbox"/>	<input type="checkbox"/>	_____

**Figure 10-5 State Environmental Impact Report Re-evaluation Form (Page 2 of 3)**

**3. EVALUATION OF MAJOR DESIGN CHANGES AND REVISED DESIGN CRITERIA** (e.g., Typical Section Changes, Alignment Shifts, Right of Way Changes, Bridge to Box Culvert, Drainage Requirements, Revised Design Standards)

**4. COMMITMENT STATUS**

**5. STATUS OF PERMITS**

**6. CONCLUSION**

If no changes affecting the original SEIR have occurred check the following:

[ ] The above SEIR has been re-evaluated. It has been determined that there have been no changes to the project that affect the original SEIR. Therefore, the SEIR determination remains valid. It is recommended that the project identified herein be advanced to the next phase.

**7. DISTRICT APPROVAL**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
District Environmental Manager or designee

\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Date

**8. ATTACHMENTS**

**Figure 10-5 State Environmental Impact Report Re-evaluation Form (Page 3 of 3)**

## PROJECT ENVIRONMENTAL IMPACT REPORT

### 1. PROJECT DESCRIPTION AND PURPOSE AND NEED:

a. Project Information:

Project Name: \_\_\_\_\_

Project Limits: \_\_\_\_\_

County: \_\_\_\_\_

ETDM Number (If applicable): \_\_\_\_\_

Financial Management Number: \_\_\_\_\_

Project Manager: \_\_\_\_\_

b. Proposed Improvements:

c. Purpose and Need:

### 2. ENVIRONMENTAL ANALYSIS

*Issues/Resources	*Substantial Impacts?				**Supporting Information
	Yes	No	Enhance	NoInv	
<b>A. SOCIAL and ECONOMIC</b>					
1. Social	[ ]	[ ]	[ ]	[ ]	_____
2. Economic	[ ]	[ ]	[ ]	[ ]	_____
3. Land Use Changes	[ ]	[ ]	[ ]	[ ]	_____
4. Mobility	[ ]	[ ]	[ ]	[ ]	_____
5. Aesthetic Effects	[ ]	[ ]	[ ]	[ ]	_____
6. Relocation Potential	[ ]	[ ]	[ ]	[ ]	_____
<b>B. CULTURAL</b>					
1. Historic Sites/Districts	[ ]	[ ]	[ ]	[ ]	_____
2. Archaeological Sites	[ ]	[ ]	[ ]	[ ]	_____
3. Recreational Areas and Protected Lands	[ ]	[ ]	[ ]	[ ]	_____
<b>C. NATURAL</b>					
1. Wetlands and Other Surface Waters	[ ]	[ ]	[ ]	[ ]	_____
2. Aquatic Preserves and Outstanding FL Waters	[ ]	[ ]	[ ]	[ ]	_____
3. Water Resources	[ ]	[ ]	[ ]	[ ]	_____
4. Wild and Scenic Rivers	[ ]	[ ]	[ ]	[ ]	_____
5. Floodplains	[ ]	[ ]	[ ]	[ ]	_____

**Figure 10-6 Project Environmental Impact Report**

	*Issues/Resources	Substantial Impacts?				**Supporting Information
		Yes	No	Enhance	NoInv	
6.	Coastal Barrier Resources	[ ]	[X]	[ ]	[ ]	<i>(unless federal funds sought in the future)</i>
7.	Protected Species and Habitat	[ ]	[ ]	[ ]	[ ]	_____
8.	Essential Fish Habitat	[ ]	[ ]	[ ]	[ ]	_____

**D. PHYSICAL**

1.	Highway Traffic Noise	[ ]	[ ]	[ ]	[ ]	_____
2.	Air Quality	[ ]	[ ]	[ ]	[ ]	_____
3.	Contamination	[ ]	[ ]	[ ]	[ ]	_____
4.	Utilities and Railroads	[ ]	[ ]	[ ]	[ ]	_____
5.	Construction	[ ]	[ ]	[ ]	[ ]	_____
6.	Bicycles and Pedestrians	[ ]	[ ]	[ ]	[ ]	_____
7.	Navigation	[ ]	[ ]	[ ]	[ ]	_____

\* Substantial Impacts?: Yes = Substantial Impact; No = No Substantial Impact; Enhance = Enhancement; NoInv = Issue absent, no involvement.

\*\*Supporting information is documented in the referenced attachment(s).

**3. ANTICIPATED PERMITS**

- Individual Dredge and Fill Permit- USACE
- Nationwide Permit- USACE
- Bridge Permit- USCG
- Environmental Resource Permit \_\_\_\_\_ (FDEP or WMD)
- \_\_\_\_\_

For guidance on ensuring sufficient information for permitting agencies is included see Section 10.2.1.4.1 of Part 1, Chapter 10 of FDOT's PD&E Manual

**4. ENGINEERING ANALYSIS**

**5. COMMITMENTS**

**6. SELECTED ALTERNATIVE**

7.  **APPROVED FOR PUBLIC AVAILABILITY (Before public hearing when a public hearing is required)**

Date      /      /     

**Figure 10-6 Project Environmental Impact Report (Page 2 of 3)**

## 8. PUBLIC INVOLVEMENT:

1.  A public hearing is not required.
2.  A public hearing will be held (insert date). This draft document is publicly available and comments can be submitted to (insert entity) until (insert date)

Contact Information:    Contact Name  
                                  Contact Title  
                                  Entity  
                                  Street Address  
                                  City, Florida, zip code  
                                  Phone: (xxx) xxx-xxxx  
                                  Email Address

3.  A public hearing was held on (insert date) and the transcript is available.
4.  An opportunity for a public hearing was afforded and was documented (insert date).

## 9. APPROVAL OF FINAL DOCUMENT

This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.

The final PEIR reflects consideration of the PD&E Study and the Public Hearing.

\_\_\_\_\_  
**Signing Authority**

— / / —  
**Date**



## **PART 1, CHAPTER 11**

### **PUBLIC INVOLVEMENT**

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## PART 1 CHAPTER 11

### PUBLIC INVOLVEMENT

#### 11.1 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).

This chapter contains FDOT's procedure for public involvement during the Project Development and Environment (PD&E) phase of a transportation project. The intent of public involvement is to engage the public, including property owners, tenants, business owners and operators, public officials and agencies, facility users, interested individuals, and special interest groups, during the development of transportation projects. Early and continuous public involvement provides FDOT an opportunity to understand potential issues/impacts early in the project development process so they can be considered and solutions can be found prior to the final Design phase.

FDOT has established a plan for coordinating public and agency participation in and comment on the environmental review process for transportation projects consistent with **23 U.S.C. § 139(g)**. This plan consists of: the [PD&E Manual, Topic No. 650-000-001](#); [Efficient Transportation Decision Making \(ETDM\) Manual, Topic No. 650-000-002](#); ETDM interagency agreements; project screening; preliminary project schedule; and the **Public Involvement Plan (PIP)**.

Public involvement should:

1. Be inclusive of decision-makers and stakeholders, especially those who will be most affected.
2. Emphasize partnering and consensus.
3. Begin early in the project process, be proactive and ongoing.
4. Be defined, structured, transparent, and clearly delineated at the beginning of the project. Use the most appropriate tools for each audience, by identifying

the audience and needs for each project and any potential barriers to communication.

While public involvement is an on-going process, activities are most prevalent during the PD&E phase. This coordination allows the public to provide input in transportation decisions resulting in the development of transportation systems that meet community needs and desires. Through public involvement, FDOT can gain insight into an affected community and use this knowledge to evaluate the sociocultural effects of the project alternatives. Another important objective of this outreach is to engage other agencies and public entities to facilitate in identifying, evaluating, and addressing the potential project effects on the surrounding community. Public involvement, in conjunction with other sources of data, plays an essential role in the assessment of the social, economic, environmental, and relocation effects of transportation projects.

[\*\*FDOT's Public Involvement Policy, Topic No. 000-525-050\*\*](#), effective January 18, 2017, states:

The Department recognizes the importance of involving the public in information exchange when providing transportation facilities and services to best meet the state's transportation needs. Therefore, it is the policy of the Florida Department of Transportation to promote public involvement opportunities and information exchange activities in all functional areas using various techniques adapted to local area conditions and project requirements.

[\*\*FDOT's Environmental Policy, Topic No. 000-625-001\*\*](#), effective November 18, 2015, includes the following:

...the Department will develop and implement environmental processes and procedures consistent with environmental laws and regulations, and will coordinate and provide the opportunity for input by federal, state and local environmental resource and regulatory agencies, non-governmental organizations and the public to assist the Department in achieving its mission.

Note that links to references in this chapter are provided in [\*\*Section 11.3\*\*](#). An additional resource for public involvement is the [\*\*Public Involvement Handbook\*\*](#), published by FDOT's OEM.

### **11.1.1 Public Participation and Public Input**

Public involvement is the active and meaningful solicitation of public participation in the development of transportation plans, programs and projects. The process offers the public a chance not only to be informed, but to inform agency decision-making to address public needs and preferences. Various federal and state regulations require that state departments of transportation and Metropolitan Planning Organizations

(MPOs)/Transportation Planning Organizations (TPOs) proactively seek the involvement of all interested parties, including those traditionally underserved by the current transportation system.

Public input can be a statement, fact, or opinion, received via various forms of media or through participation in a public forum. Comments may also be received in conjunction with public hearings, which are required for major transportation improvements. **Section 339.155(5)(b), Florida Statutes (F.S.)**, describes major transportation improvements as those increasing the capacity of a facility through the addition of new lanes, providing new access to a limited or controlled access facility, or construction of a facility in a new location.

Comments received from the public serve several purposes. In addition to providing documentation for public involvement activities, they help inform the agency of community issues and needs that should be considered in designing transportation solutions that fit community needs. Information gleaned from public comments may also serve to inform future project phases. The public comment process includes the following:

1. Collection
2. Analysis
3. Acknowledgement
4. Distribution and Tracking
5. Consideration
6. Response
7. Sharing
8. Documentation

The types of comments received help evaluate the individual public involvement activities, as well as the overall **PIP**, further explained in [Section 11.2.1](#).

## 11.1.2 Compliance with Federal and State, Requirements

All public involvement guidelines and recommendations in this chapter are in compliance with federal and state requirements. This chapter was reviewed and approved by FHWA for compliance with **23 Code of Federal Regulations (CFR) § 771.111** on April 1, 2020.

### 11.1.2.1 Title VI / Nondiscrimination

All FDOT project activities must comply with **Title VI of the 1964 Civil Rights Act** and related statutes, as referenced in FDOT's [Non-Discrimination Policy, Topic Number](#)



[001-275-006](#) and implementing procedure [Topic Number 275-010-010](#). This includes all federal and non-federal programs administered by FDOT and its sub-recipients.

### 11.1.2.2 Limited English Proficiency (Executive Order 13166)

Presidential **Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency (LEP)**, ensures people with LEP will have meaningful access to programs and activities of agencies receiving federal financial assistance.

Guidance implementing **Executive Order 13166** identifies four factors to be balanced in assessing whether LEP services are needed on a case by case basis. These factors are:

Factor 1: The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee;

Factor 2: The frequency with which LEP persons come in contact with the program;

Factor 3: The nature and importance of the program, activity, or service provided by the recipient to people's lives; and

Factor 4: The resources available to the recipient and costs.

When applying the Four Factors, the **PIP** accommodations for LEP may include translations of brochures, meeting invitations, and newsletters in the appropriate language(s). Notice of availability of workshops or public meetings should also be provided in appropriate languages. In addition, interpreters may be provided at workshops and public meetings. While recipients must take reasonable steps to address needs of LEP populations, FDOT has flexibility to assess language needs and decide steps to ensure meaningful access for LEP persons.

### 11.1.2.3 Plain Language Initiative

All notices to the public should comply with the State's Plain Language Initiative. This applies to presentations on websites, letters, advertisements, notices, applications, reports, pamphlets, and any other communication meant for public use. The initiative requires clear language, using the active voice and containing only necessary information presented in a logical sequence. For help in complying with this initiative, contact your District's Public Information Office.

Beginning in 2003, FHWA, American Association of State Highway and Transportation Officials (AASHTO), and American Council of Engineering Companies (ACEC) cooperated in an effort to improve the readability of **NEPA** documents prepared for transportation projects. Their recommendations for quality **NEPA** documents were:

1. Tell the story of the project so that the reader can easily understand the purpose and need of the project and the strengths and weaknesses of alternatives.

2. Keep the document as brief as possible by using clear, concise writing; an easy-to-use format; effective graphic and visual elements; and discussion of issues and impacts in proportion to their relative importance.
3. Ensure that the document meets all legal requirements in a way that is easy to follow for regulators and technical reviewers.

State of Florida requirements are included in the ***Governor's Executive Order 07-01, Section 2 - Plain Language Initiative***. Additional information is provided in the FHWA/AASHTO/ACEC report ***Improving the Quality of Environmental Documents***. A link to this document is provided in [Section 11.3](#).

### 11.1.3 Public Involvement During the Efficient Transportation Decision Making Process

Florida's ETDM process was developed to streamline and incorporate information from the transportation planning process into the PD&E process. Information collected as part of the ETDM Planning and Programming screening events can assist in identifying project stakeholders and affected communities.

Qualifying transportation projects are screened through the Environmental Screening Tool (EST). See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) and the [ETDM Manual, Topic No. 650-000-002](#) for a list of qualifying project types.

PD&E Project Managers (PMs) can use information from the EST to plan and implement **PIPs** and activities. PMs should meet with the District ETDM Coordinator and Community Liaison Coordinator (CLC) for an understanding of the project's background, issues that were identified during the Planning and Programming screening events, and suggestions on proceeding with development of the **PIP**. The CLC can assist with identifying audiences for PD&E outreach activities.

The PM should review the **Programming Screen Summary Report** developed during the Programming Screen. The EST also provides access to a **Sociocultural Data Report**, which includes United States Census Bureau demographic data and current land use data for the project area. The EST can also be used to generate mailing labels for property owners within the project boundary, as well as provide a list of community desired features.

Information about transportation projects reviewed in the EST is available on the [ETDM Public Access Site](#). The website provides contact information, general information, a project diary, project effects, maps, and a project search feature. The Project Effects menu provides comments received from the Environmental Technical Advisory Team (ETAT) and a data query feature for identifying natural, cultural, physical, and sociocultural resources in the project vicinity. The Project Diary menu provides various reports that describe a selected project and its alternatives. The public is not able to comment through

the EST. However, contact information is provided and comments can be given to the ETDM Coordinator or through traditional public involvement activities.

Additional information regarding the ETDM process and access to the [ETDM Public Access Site](#) is available at FDOT's OEM website (see [Section 11.3](#) for link to website) and in the [ETDM Manual, Topic No. 650-000-002](#).

#### 11.1.4 Public Involvement Based on Environmental Document Type

A Class of Action (COA) Determination is required for all federal actions and establishes the level of Environmental Documentation required to comply with *NEPA*, and the regulations of the Council on Environmental Quality (CEQ), *40 CFR, Parts 1500 - 1508*. The Environmental Documentation for state funded actions are Non-Major State Actions (NMSA) and State Environmental Impact Reports (SEIRs).

The procedures for the COA Determination are described in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#). The following sections illustrate the public involvement requirements and activities for each COA.

##### 11.1.4.1 Categorical Exclusions

Categorical Exclusions (CEs) are the lowest level COA requiring the least amount of documentation and analysis described in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) and [Part 1, Chapter 5, Type 2 Categorical Exclusion](#). FDOT prepares two types of CEs. Type 1 CE actions are listed in *23 CFR § 771.117(c)* or identified in *23 CFR § 771.117(d)*. Type 2 CEs are prepared for actions that are not listed, but will not have significant impacts.

For Type 1 CEs, a **Community Awareness Memorandum (CAM)** is prepared if the District determines that a sensitive community issue exists on or near the proposed improvement. This can reduce the potential for conflict as the project advances through future project phases (design, construction, and maintenance). The **CAM** is sent to the District Public Information Office (PIO) and other offices in the District that will be involved in the development of the improvement or that interact with the community. If a **CAM** is prepared, it should recommend public involvement activities that are appropriate to address community concerns and identify phases of project development at which they might occur. The format and content of the **CAM** are at the District's discretion.

##### 11.1.4.1.1 Type 2 Categorical Exclusion

Public involvement activities for Type 2 CEs (see [Figure 11-1](#)) include the following:

1. The District initiates a **PIP** in compliance with state and federal rules, regulations, and policies.

2. The District may conduct an elected officials/agency kick-off meeting and/or public kickoff meeting. In some cases, a formal letter may be used in place of a meeting. See [Figure 11-10](#) for a sample Officials/ Agencies Kick-off Meeting Invitation.
3. A public information meeting/workshop may be held to inform the public of alternative designs and potential impacts, and to receive input.
4. A public hearing is required pursuant to **Section 339.155(5), F.S.**, for a “Major Transportation Improvement”.
5. For projects that are not a Major Transportation Improvement pursuant to **Section 339.155(5), F.S.**, see [Section 11.2.5.10](#).
6. The District uploads the public hearing transcript to the StateWide Environmental Project Tracker (SWEPT) and sends the **Type 2 Categorical Exclusion Determination Form** to OEM.
7. A Location and Design Concept Acceptance (LDCA) announcement is published in the local newspaper.

#### 11.1.4.2 Environmental Assessment

Environmental Assessments (EAs) are used for projects where there is a question of significance. Public involvement activities for EAs (see [Figure 11-2](#)) include the following:

1. The District initiates a **PIP** in compliance with state and federal rules, regulations, and policies.

A Citizens Public Advisory Committee (CPAC) **may** be established (optional).

2. The District may conduct an elected officials/agency kick-off meeting and/or public kickoff meeting. In some cases, a formal letter may be used in place of a meeting. See [Figure 11-10](#) for a sample Officials/ Agencies Kick-off Meeting Invitation.
3. A public information meeting/workshop may be held to inform the public of alternative designs and potential impacts, and to receive input.

After approval of the EA, the District places a notice in the local newspaper stating the EA has been approved and where it is available for review. The same ad should include the notice of a public hearing. Notice of public hearings should also be placed on the agency website and in the **Florida Administrative Register (FAR)**.

4. A public hearing is conducted to comply with **Section 339.155(5), F.S.**, for a “Major Transportation Improvement”.

5. For projects that are not a Major Transportation Improvement pursuant to **Section 339.155(5), F.S.**, see [Section 11.2.5.10](#).
6. After the public hearing, the District uploads the public hearing transcript to SWEPT, and electronically submits it to OEM, and if significant impacts have not been found, the District submits the EA with Finding of No Significant Impact (FONSI) to OEM for approval. If the project impacts are determined to be significant, then the Environmental Impact Statement (EIS) process is followed (see [Section 11.1.4.3](#)).
7. After the EA with FONSI is approved, the District publishes an announcement in the local newspaper to let the public know that LDCA has been received.

### 11.1.4.3 Environmental Impact Statement

An EIS is prepared for an action with significant impacts. Public involvement activities for Draft and Final Environmental Impact Statements (DEIS and FEIS) (see [Figure 11-3](#)) include the following:

1. Once a COA is approved and the decision is made to prepare an EIS, the District prepares a **Notice of Intent (NOI)** for publication in the **Federal Register (FR)** to inform the general public and stakeholders that an EIS is being prepared for the proposed project. The District submits the **NOI** to OEM, who sends it to FHWA to publish the notice in the **FR**. Refer to [Part 1, Chapter 8, Draft Environmental Impact Statement](#) for additional information concerning the **NOI**.
2. The District may hold a formal scoping meeting with OEM, government agencies, and other parties with an interest in or jurisdiction over the project area. This meeting is optional but the scoping process is required ([Part 1, Chapter 8, Draft Environmental Impact Statement](#)).
3. The District initiates a **PIP** in compliance with state and federal rules, regulations, and policies.
4. A Citizens Public Advisory Committee (CPAC) may be established (optional).
5. The District may conduct an elected officials/agency kick-off meeting and/or public kickoff meeting. In some cases, a formal letter may be used in place of a meeting. See [Figure 11-10](#) for a sample Officials/ Agencies Kick-off Meeting Invitation.
6. Public information meetings/workshops may be held to inform the public of alternative designs and potential impacts, and receive input.

After approval of the DEIS, the District places a notice in a local newspaper(s) stating that the DEIS has been approved and where it is available for review. The notice should also include the public hearing notice. Notice of the public hearing should also be placed on the agency website and in the **FAR**.

7. The District provides OEM with a specifically formatted (see [Part 1, Chapter 8, Draft Environmental Impact Statement](#)) PDF copy of the DEIS for upload into the U.S. Environmental Protection Agency's (USEPA) e-NEPA site for publication in the **FR**. The EPA then publishes the **Notice of Availability (NOA)** of the DEIS in the **FR** for a 45-day comment period.
8. A public hearing is conducted to comply with **Section 339.155(5), F.S.** for a "Major Transportation Improvement".
9. The District may prepare the combined FEIS/Record of Decision (ROD) or FEIS after the 45-day public comment period for the DEIS closes ([Part 1, Chapter 9, Final Environmental Impact Statement](#)). The District uploads the public hearing transcript to SWEPT and submits the FEIS/ROD or FEIS to OEM for review.
10. If a combined FEIS/ROD is prepared then LDCA is granted upon approval. 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 provides OEM with a PDF copy of the FEIS for upload into USEPA's e-NEPA site for publication in the **FR**.
11. If the FEIS is prepared separately from the ROD, the District places a notice in a local newspaper(s) stating that the FEIS has been approved and where it is available for review (see [Figure 11-21](#) for a sample notice). The District provides OEM with a PDF copy of the FEIS for upload into USEPA's e-NEPA site for publication in the **FR**. EPA publishes the **NOA** of the FEIS for a 30-day comment period and OEM signs the ROD when the comment period closes. A signed ROD constitutes OEM approval (LDCA).
12. After receiving approval of the ROD, 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. For noticing of a ROD and LDCA, see [Section 11.2.6](#).
13. The District provides OEM the project information to prepare a **Limitations of Claims Notice**. OEM will provide FHWA this information for publication in the **FR** ([Part 1, Chapter 9, Final Environmental Impact Statement](#)).

#### 11.1.4.4 State Environmental Impact Report

The preparation of a SEIR is required for state-funded transportation projects that qualify for screening through the EST (See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for a list of qualifying projects). If a SEIR is prepared, the District Secretary signs the SEIR for public availability prior to the public hearing.

Public Involvement activities for SEIRs are similar to the activities outlined for a Type 2 CE or EA. State law (**Section 339.155, F.S.**) requires a public hearing for the following types of projects:

1. Increasing capacity through the addition of new lanes;
2. Providing new access to a limited or controlled access facility (new interchanges); and
3. Construction of a facility in a new location.

Public Involvement activities for SEIRs include the following:

1. The District initiates a **PIP** in compliance with state and FDOT policies
2. A CPAC may be established (optional).
3. The District may conduct an elected officials/agency kick-off meeting and/or public kickoff meeting. In some cases, a formal letter may be used in place of a meeting. See [Figure 11-10](#) for a sample Officials/ Agencies Kick-off Meeting Invitation.
4. A public information meeting/workshop may be held to inform the public of alternative designs and potential impacts, and receive input.
5. After approval of the SEIR by the District Secretary, the District places a notice in the local newspaper stating that the SEIR is available for review and noting the location where the document can be reviewed. The same ad includes the notice of a public hearing.

A public hearing is conducted to comply with **Section 339.155(5), F.S.**, and [Section 11.2.5](#). In addition to publication in a newspaper of general circulation, public hearing notice should also be placed on the agency website and in the **FAR**.

#### 11.1.4.5 Non-Major State Action

A NMSA does not require a public hearing, but may necessitate public involvement activities as determined by the District. See [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#) for more information about NMSAs.

## 11.2 PROCEDURES

### 11.2.1 Developing a Public Involvement Plan

A **PIP** is developed for transportation projects for which a Type 2 CE, EA, EIS, or SEIR is prepared. The District begins the development of a **PIP** immediately following the approval of the COA Determination ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)). The development of a **PIP** depends on the COA determined, as well as the complexity of the project.

The purpose of a **PIP** is to identify potentially affected people in a community and define the outreach methods and schedule to involve and gain their input. The information provided within the **PIP** includes a discussion of the project background and goals, identification of the affected public, and proposed outreach methods.

As the PD&E phase continues, periodic updating of the **PIP** may be needed to keep it current with public involvement activities. The plan, its update (if prepared), a schedule of events, and all accumulated information exhibiting compliance with these procedures are incorporated into the project file and summarized in the Environmental Document.

#### 11.2.1.1 Project Background

The first step in developing a **PIP** is to research the project background by answering the following questions:

1. What is the project history?
2. Has the community previously heard of the project? If so, how long ago?
3. Has the project situation (either the proposed improvement or the project environment) changed since the last public involvement activity?
4. Have any commitments (either real or implied) been made or broken?
5. What are the major concerns and issues on the project?
6. Are there any known controversial issues on the project?

Include in this section of the **PIP** a description of the project, its location, alternatives under consideration, and any information obtained by answering the questions listed above.

#### 11.2.1.2 Project Goals

In order to have an effective **PIP**, it is important to understand the project goals. Answering the following questions can aid in that understanding.



1. What decisions will be made during the current project phase?
2. Is public input needed to help make those decisions?
3. How will the project information be shared?

Include in this section of the **PIP** a discussion of what the project is trying to achieve and/or any problems that need to be solved and how public input will factor into the decision-making process.

### 11.2.1.3 Identification of Elected Officials and Agencies

This section of the **PIP** involves identification of elected officials and agency representatives. The **PIP** should include a contact list of all the appropriate elected officials, including city, county, state, and federal representatives, whose jurisdictional/political boundary intersects the project area. Native American Tribes must also be included. A contact list for Native American tribes is provided within [FDOT's Native American Coordination website](#).

Agency representatives include local, state, regional, and federal agencies who may have an interest in the project or may be involved in the jurisdictional review process. The [ETDM Public Access Site](#) provides a list of the ETAT agency representatives. Additional agencies can be added, as necessary. The sample **PIP** shown in [Figure 11-4](#) provides a general list of the elected officials and agencies that should be included. Elected official information should be updated after every election cycle, and the agency representatives list should be updated as appropriate.

### 11.2.1.4 Identification of Affected Communities and Stakeholders

This section of the **PIP** involves identification of affected communities, property owners/tenants, business owners, community leaders, elected officials, agency representatives, and other parties that may have an interest in the project. The community that will be affected by the decisions made on a transportation project is defined by geographic and political boundaries, physical features, and socioeconomic conditions. Developing an efficient transportation system, where projects move forward smoothly, starts with the identification of affected persons and other stakeholders in the earliest planning stages and encourages their participation throughout the life of the project. The identified community, based on behavior patterns of individuals or groups, can provide the most significant and meaningful input.

Projects processed through the ETDM EST have undergone a Sociocultural Effects (SCE) evaluation as part of the screening process prior to the PD&E phase. Information regarding affected communities may be found under the project name on the [ETDM Public Access Site](#) (see [Section 11.3](#) for link to website). The information compiled through the ETDM screening process can be used as a starting point and updated, as necessary, when incorporating into the **PIP**.

The **PIP** contact list should include names, addresses, telephone, and email information for local elected officials, key community leaders, adjacent landowners, business owners, chamber of commerce leaders, neighborhood association presidents, religious leaders, senior citizen center coordinators, day care center administrators, school principals.

Under the provisions of **23 U.S.C. 135(f)(3)** pertaining to the transportation planning process interested parties are broadly characterized as including the following:

1. Citizens (Residents/Tenants)
2. Affected Public Agencies
3. Representatives of Public Transportation Employees
4. Freight Shippers
5. Private Providers of Transportation
6. Representatives of Users of Public Transportation
7. Representatives of Users of Pedestrian Walkways and Bicycle Transportation Facilities
8. Representatives of the Disabled
9. Providers of Freight Transportation Services
10. Other Interested Parties

One quick resource for identifying a project area's demographics is the **Sociocultural Data Report (SDR)** provided through the EST. The **SDR** provides a snapshot of a study area's population, race, age, income, educational attainment, housing types, and language over the last three censuses and most recent American Community Survey. The output from the **SDR** is summarized in the **PIP** and added as an appendix and summarized in the Environmental Document. More information about the **SDR** can be found on [FDOT's SCE Evaluation Process website](#).

The demographics of the surrounding community should be identified to help tailor the **PIP**. A review of this information could help the project team determine the need for future translation services and if meeting notifications and advertisements may need to be provided in other languages. To reach people who may not read or speak English well, public involvement opportunities to develop relationships with community leaders within local health clinics, community centers, places of worship, advocacy groups, and schools should be included. The use of this network is an efficient method to reach those who monitor the pulse of the community as the plans and project move forward. Additional information regarding how to identify affected audiences can be found in [Part 2, Chapter](#)

[4, Sociocultural Effects Evaluation](#); FDOT's [Public Involvement Handbook](#); and the [ETDM Manual, Topic No. 650-000-002](#).

### 11.2.1.5 Outreach Activities

This section of the *PIP* defines the type and frequency of meetings that occur during the PD&E Study [for example, kickoff meeting(s), public information meeting/workshop(s), public hearing, small group meetings, presentations to county/city commissioners and MPO]; how the public will be notified; whether newsletters will be distributed and when; and the overall public outreach schedule. Outreach activities are designed to offer everyone in a community the opportunity to participate in the PD&E effort. Public outreach activities take careful preparation and coordination. To determine the best activity format, ask the following questions:

1. What is the purpose of the activity?
2. With whom do you need to meet to accomplish your purpose?
3. What format will be most appropriate for your purpose and audience?
4. Where is the appropriate meeting location, based on the purpose, audience, and format?
5. What type(s) of notification will you use?
6. What materials and distribution methods are the most appropriate?
7. Will it be necessary to use more than one type of material and/or distribution method to reach audiences due to dissimilar cultures?
8. How will input be collected?

A variety of public involvement methods are available. Methods should be chosen after the audience is identified and the nature of the message is identified. Nontraditional approaches should be considered to ensure the involvement of all parties, including the traditionally underserved (for example, elderly, disabled, low-income, minority, Native American, limited English proficiency, limited literacy). All public involvement activities and facilities must comply with the ***Americans with Disabilities Act (ADA) of 1990***.

### 11.2.1.6 Analysis of Public Comments

The public is the consumer of the transportation services provided by FDOT. The primary objective of any public involvement activity is to inform the public and solicit input as it relates to the proposed transportation improvements. The most common ways for the public in general to relate ideas, concerns, and input is through written or verbally submitted comments. All comments and concerns identified during public involvement

activities should be analyzed in relationship to the project, its goals, and the overall impact to the community.

The public comments serve several purposes. Public comments help build an understanding of community issues and needs that should be considered while designing transportation solutions that fit community needs. Comments help provide documentation for public involvement activities. See FDOT's [Public Involvement Handbook](#) for more detailed information on documenting public involvement activities.

### **11.2.2 Formation of a Local Advisory Group**

A local advisory group (or CPAC) is an optional technique to involve local participants through the establishment of a committee or core group for advisory purposes, especially on highly controversial or sensitive projects. An advisory group can be formed for either a limited or an extended period of time, depending on the issues at hand. They usually meet regularly and are sometimes assigned the task of reaching out and informing others who may want to participate. An advisory group can help establish a working relationship with the community and take its pulse as a plan or project moves forward. They can aid in the transportation decision-making process to help select criteria or narrow a set of potential alternatives.

A local advisory group is established early in the project to serve as a special resource to the project team. It is selected with the assistance of local governments, and is usually composed of local persons having an active role in the community, as well as representatives from affected/interested cities, counties, regional agencies, MPOs and committees, and neighborhood associations within the project area. The group meets at key milestones during the PD&E phase to assist in the evaluation of proposed transportation alternatives and to ensure that these alternatives are developed in the best interest of the local community, as well as all roadway users.

It is important to note that the local advisory group is not a decision-making body and carries no authority. Care must be taken to solicit representatives from all interested groups. It is the District's responsibility to outline the group's role so that all members understand their function. The District must keep the group apprised of the project's status; bring them together regularly; and at the conclusion of the project, thank and disband the group. Information regarding the establishment of an advisory group can be obtained through the FHWA's Public Involvement website (see [Section 11.3](#) for link to website).

### **11.2.3 Small Group Meetings**

Small group meetings may be held with groups of people who may have specific issues or concerns that may not involve the general public in the project area. This may include neighborhood associations, environmental groups or agencies, public interest groups, county or city staff, affected businesses, committees, or other concerned people who may be impacted by the proposed transportation improvements. Meetings organized by

outside groups or individuals do not have to follow the notification or advertisement requirements typically associated with a public meeting or hearing.

## 11.2.4 Procedures for Holding a Public Meeting

A public meeting is an effective tool to provide and receive information, create an exchange of ideas, consider transportation alternatives, and build consensus.

These meetings provide an opportunity for public engagement at regular intervals or project milestones prior to the public hearing, if applicable. An effective **PIP** will include several meetings and opportunities for participation so that no surprises are encountered by the public or project team during the public hearing. This section describes various types of meetings that may be considered, advertisement requirements, and logistical considerations.

### 11.2.4.1 Types of Public Meetings

#### 11.2.4.1.1 Scoping Meeting for Environmental Impact Statement Projects

The Environmental Scoping Process is a formal process for projects requiring an EIS. Scoping is required by and described in **40 CFR Section 1501.7**. Guidance on this process is provided in [Part 1, Chapter 8, Draft Environmental Impact Statement](#). A formal scoping meeting (which is optional) may be held early in the development process as a part of the Environmental Scoping Process. To determine whether a scoping meeting should be held, information from the ETDM screening process and input/comments from the agencies, as well as coordination with OEM, should be considered. Scoping meetings, like other public meetings, are subject to the **Sunshine Law**. Notification to the public must be provided in the **FAR** and on the FDOT's Public Notices website (see [Sections 11.2.4.5.4](#) and [11.2.4.5.5](#)), and the public is permitted to attend and listen to the proceedings. The objectives of scoping are listed below. If a scoping meeting is held, these objectives should be discussed at the meeting.

1. Invite the early participation of affected federal, state, and local agencies, any affected Native American tribe, and other interested persons (including those who might not be in accord with the action on environmental grounds).
2. Determine the scope and significance of issues and the degree of analysis required in the EIS. This includes identification of the range of alternatives and impacts to be evaluated.
3. Identify and eliminate from detailed study those issues that are not significant or have been covered by prior environmental studies, thereby narrowing discussion in the EIS to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

4. Allocate assignments for preparation of the EIS among FDOT and cooperating agencies, with FDOT retaining responsibility for the EIS.
5. Indicate any public EAs or impact statements that are being prepared and are related to, but are not part of, the scope of the EIS under consideration.
6. Identify other environmental review and consultation requirements so that FDOT and cooperating agencies may prepare, if possible, other required analyses and studies concurrently with, and integrated with, the EIS. This includes related surveys and studies required by the ***Fish and Wildlife Coordination Act of 1934 as amended***, the ***National Historic Preservation Act (NHPA) of 1966***, the ***Endangered Species Act of 1973***, and other environmental review laws and executive orders.
7. Identify whether any permits, licenses, or entitlements are necessary. Determine whether a joint public hearing can be held and outline the coordination required.
8. Determine the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decision-making schedule.

A scoping meeting is initiated by an invitation letter sent by the District to relevant government agencies, public interest groups, and others with an interest in or knowledge about the project. The letter is formatted as in [Figure 11-8](#) and as described below.

1. Describe the project in the SUBJECT
2. Give notice that a scoping meeting is being held and why
3. Describe what FDOT expects as an outcome of the scoping meeting and the roles of the participants
4. Provide an information package about the project and potential alternatives
5. Provide a project location map
6. Provide a meeting agenda
7. Provide information on the date, time, and site of the scoping meeting, along with directions on how to get to the meeting
8. Provide the name, telephone number, mailing address, and email address of a contact person.

The format of a scoping meeting entails a formal presentation to fully acquaint all parties with the project. While a formal agenda should be followed, the setting and tone of the meeting should be relaxed and conducive to good interaction among attendees.

To provide a first-hand look at the project location, a field review may be scheduled. After the field review, participants reconvene and further discuss potential project issues. Before adjourning, each agency is asked to state its position on the identified issues. The cooperating agencies should be finalized and a determination made as to whether these agencies will contribute to the EIS or participate in its development, based on jurisdiction or expertise. Each agency's position is included in a meeting summary (minutes) for use by FDOT.

A copy of the meeting summary is forwarded to agencies that are interested in participating, but could not attend the scoping meeting. Circulation of the meeting minutes to all attendees, and those the invitation mailing list, is essential. The minutes of all events are included in the project files, and coordination is carried forth as the project progresses.

#### **11.2.4.1.2 Kick-off Meeting**

At the beginning of the PD&E phase, a meeting may be scheduled to acquaint the public and local officials with the proposed project and the study team. Items usually covered at the meeting include project justification, project priority in local and regional plans, corridor and alternative design concepts presently under review, potential environmental and/or engineering issues, project schedule, and a request for comments and concerns. This meeting is usually held either during a regularly scheduled meeting of the MPO/TPO, the County and/or City Commission/Council, or at a special meeting scheduled by the District, in which case, elected officials are invited to attend. Some Districts may prefer to combine the local officials' kick-off meeting with a public kick-off meeting. Other Districts may have both types of kick-off meetings, depending on the project.

The format of this meeting is generally informal, with a brief presentation followed by a question and answer period. Statements and suggestions made are documented in the project file. Minutes are kept in the project files.

#### **11.2.4.1.3 Public Information Meetings and Workshops**

Public information or public alternatives meetings/workshops may be held to acquaint the public with the proposed improvement and give interested persons an opportunity to review and comment on the alternative concepts being analyzed. The meeting is held in close proximity to the project to aid in public attendance.

The format for an information meeting or workshop is at the discretion of the District; however, the format should facilitate good interaction and communication. The format is generally informal. A brief live or recorded presentation may be given and/or an open-house format can be used for attendees to review project maps, alternative concepts, and other information, and discuss issues or concerns with District staff and other project team

members. Tables should be provided for people to sit and write down their comments on a comment card or form. A sample comment form is provided within [Figure 11-17](#). A summary of the meeting and comments received are placed in the project file. Reference material on holding effective meetings is available in FDOT's [Public Involvement Handbook](#).

#### **11.2.4.2 Public Meeting Format and Layout**

Public meetings are typically held as an informal open house, where the public can review project materials and have one-on-one conversations with the study team. In some cases, such as a kick-off or scoping meeting, or a project with a lot of interest, a presentation may be given.

For meetings that do not include a presentation, the layout of the meeting is generally divided into two areas. The first area includes registration and sign-in tables. All attendees are invited to sign-in at a registration table upon entering the room and names and addresses are taken as part of the public record. The second area includes maps and exhibits to convey project alternatives, typical sections, and project information. Comment tables should be provided to allow participants an opportunity to sit down and write their comments.

If a presentation is provided, then a third area should be arranged with seating where the public can sit and watch the presentation. If a live presentation is made, attendees may expect the opportunity to ask questions. Decide ahead of time if questions or statements will be taken.

A board with the standard nondiscrimination statement, along with the contact information for the District Title VI Coordinator and State Title VI Coordinator, must be displayed at the meeting. The standard nondiscrimination statement is as follows:

*Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status.*

#### **11.2.4.3 Public Meeting Dates and Times**

All public meetings are typically held during the work week, Tuesday through Thursday, to facilitate maximum opportunity for the public to participate in the project development process. Public meetings usually begin at 5:30 or 6:00 in the evening and last one and one-half to two hours; however, consider the ages of the anticipated audience, transportation availability, location, access, and distance, when determining the day/time of the meeting.

#### **11.2.4.4 Selecting a Meeting Location**

Public meeting facilities are selected based on the anticipated size of attendance, proximity to the project, easy accessibility, safety, and public transportation availability.



All public meetings must be held at a site that is **ADA** compliant and provides “reasonable accommodation” and access for disabled persons wishing to attend. FDOT has interpreted “reasonable accommodation” to mean that a site location and facility must be **ADA** compatible in design so that reasonable access is provided for disabled persons to attend. FDOT does not provide transportation for disabled persons or pay for transportation of disabled persons to attend public meetings.

When determining the size of the room needed for the public meeting, consider how project information will be communicated and feedback received. If a variety of information is to be communicated for the purpose of receiving feedback, then the room must have ample open space to accommodate multiple workstations, display boards, mingling, and some seating. If a large crowd is anticipated, the meeting location should have a room large enough to accommodate two or more identical sets of workstations and/or displays, allowing people to move about freely. Additional space may be required to accommodate seating if a live or recorded presentation will be given.

The following questions should be considered when selecting a facility:

1. If a sound system is needed, does the facility provide such equipment?
2. Will the facility allow entry into the space early enough for time to set up?
3. Is there a closing time that restricts time to remove meeting materials?
4. Is there plenty of parking?
5. Is the parking lot easily accessible from the meeting room?
6. Is the parking lot well lit for a night meeting?
7. Is there space for signage to direct people to the correct room?
8. Is there a custodian or property manager on duty at the time of the meeting for emergency purposes?
9. Should the local law enforcement office be contacted to request their staff be on hand at the meeting?

The **Jessica Lunsford Act** was passed by the Florida Legislature and signed into law by Governor Bush in 2005. To assist Florida’s public schools in complying with the **Jessica Lunsford Act**, school facilities, grades K-12, should not be used for public meetings while students are present. However, in rare circumstances, public K-12 schools may be used when no students are present, as confirmed by an appropriate school principal. In cases where this exception is being considered, approval from FDOT’s Assistant Secretary of Engineering and Operations is required. Public schools include district public schools,

charter schools, and alternative schools. Alternate facilities that may be used include colleges, universities, and private schools.

All potential meeting sites should be physically investigated for suitability as a meeting location. A meeting facility should be approved by the District Project Manager and reserved prior to advertising for a public meeting. [Figure 11-7](#) is an example of a sample public meeting facility checklist that can be used as a guide when reviewing potential meeting sites.

#### 11.2.4.5 Meeting Notification and Advertisement Requirements

There are a variety of methods for notifying the affected community about an upcoming public meeting. Each method and corresponding requirement is discussed in the following sections. It is important to note that the following nondiscrimination standard statements must be included for all notification methods:

*Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status.*

*Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact \_\_\_\_\_ at \_\_\_\_\_ at least seven days prior to the meeting.*

Similarly, the following standard statement related to project development must be included for all agency outreach and public involvement notification methods:

*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.*

##### 11.2.4.5.1 Notification to Elected Officials and Agencies

Before holding a public meeting, a letter of invitation is sent to the local governments and agencies at least 25 but **no more than 30 calendar days prior to the public meeting date**. The letter of invitation should be received by the local governments and agencies before the public is notified by letter or advertisement. See [Figure 11-15](#) for a sample letter of invitation to officials and agencies which, at a minimum, should include the following, either in the body of the letter or in an attachment:

1. The purpose of the notification
2. A description of the project

3. The date, time, and location of the public meeting
4. A statement requesting public participation
5. Notice of non-discrimination and information about **ADA** requests as provided in [Section 11.2.4.5](#)
6. Notice of standard statement regarding FDOT assumption of FHWA **NEPA** responsibilities. Meeting notice and map
7. A copy of the newspaper advertisement

It is important to use the correct salutations and titles when addressing elected and appointed officials and agency contacts. See [Figure 11-9](#) for a listing of salutations and titles.

#### **11.2.4.5.2 Notification to Property Owners and Tenants**

Real property owners, tenants, and leaseholders in whole or in part, within at least 300 feet of the centerline [or Right of Way (ROW) line for interstates] of each proposed project alternative must be notified of an upcoming meeting. The names and addresses of property owners are obtained from the county property tax appraiser's office. Notification must be received by property owners and tenants **at least 14 to 21 calendar days prior to the date of the meeting**. They are notified through the use of invitational letters sent by mail. It is also acceptable to include the invitation as part of a newsletter. [Figure 11-16](#) is an example of an invitational letter to property owners, which at a minimum should include the same elements as described in [Section 11.2.4.5.1](#).

#### **11.2.4.5.3 Newspaper Advertisement**

Advertisement of a public meeting is not required, but should be published in the local newspaper(s) with general circulation in the vicinity of the project. The newspaper ad should include:

1. The purpose of the public meeting
2. Project description (the use of a project location map is suggested)
3. Date, time, and location of the meeting
4. Name, telephone number, and email address of a contact person for information on the meeting
5. An address where written comments can be directed
6. Standard statement on nondiscrimination compliance

7. Notice of standard statement regarding FDOT assumption of FHWA **NEPA** responsibilities.
8. A contact person and information for accommodation of disabilities under **ADA**

It is suggested that the **newspaper ad be published a minimum of one time, 10 to 14 days prior to the meeting**. [Figure 11-6](#) is an example of an ad for a public information meeting. An affidavit or proof of publication should be obtained from the newspaper.

#### 11.2.4.5.4 Florida Administrative Register Notice

**Section 120.525, F.S.**, requires that **notices for all public meetings, workshops and hearings must be published in the FAR at least 7 calendar days prior to the event**. All notices to be published in the **FAR** must be submitted electronically through the Florida Department of State's e-rulemaking website at [www.flrules.org](http://www.flrules.org). Each District should have one or more agency administrator to manage the agency's submissions on the e-rulemaking website. Some Districts allow consultants to make the submission.

The **FAR** is published each weekday except on those days observed as official state holidays designated by **Section 110.117, F.S.** All materials to be published must be uploaded to the **FAR** website by 3:00 p.m. on the day prior to publication. For publication on Mondays, the ad must be uploaded to the website by 3:00 p.m. on the previous Friday. See [Figure 11-13](#) for an example of a **FAR** notice.

#### 11.2.4.5.5 Florida Department of Transportation Public Notice Website

To comply with **Section 120.525, F.S.**, **notice of all public meetings, workshops, and hearings must be published on** FDOT's Public Meeting Notices Website **at least 7 days before the meeting**. Meeting notices are typically added to the website by District PIO. The information to be provided to the PIO includes the meeting title, the District number, meeting type, Financial Management (FM) Number, meeting date and time, location name and address, project website, and contact names and contact information. Include the standard nondiscrimination statement, **NEPA** Assignment statement and information about **ADA** requests.

#### 11.2.4.5.6 Press Release

Press releases should only be used in appropriate circumstances and must be coordinated with the District PIO. On some projects, the press releases are prepared by the consultant and then submitted through the PIO. Writing a press release can result in positive media coverage by following a few simple rules. [Figure 11-5](#) is an example of a press release.

1. Submit press releases on FDOT letterhead.

2. Type the press release, single-spaced, in an easy-to-read font.
3. Include a contact name and phone number, listed in a prominent place (most commonly on the right side of the page immediately above the headline on the press release).
4. Summarize the press release with a headline that captures the essence of the entire release. Try to incorporate the five “Ws” - who, what, when, where, and why. Also incorporate the five “Ws” in the body of the message: Who is the contact person? What is happening? When is the activity or meeting taking place? Where will the activity be held? Why is the activity taking place?
5. Format the press release properly, starting with a dateline and the city and state from which the information is being released.
6. Keep the press release at one page if possible, but if it is necessary to have more than one page, write “more” at the bottom of each page until the end.
7. Include 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 December 14, 2016, and executed by FHWA and FDOT.*
8. End the press release with one of the three universally accepted symbols: “-30-,” “-End-,” or “\*\*\*.”
9. Have the press release approved by the District PIO. This approval is required.

#### **11.2.4.5.7 Websites and Social Media**

Project websites are cost effective means of reaching a broad cross section of the public. Website addresses should be included on all printed materials, including letters to property owners, newspaper ads, newsletters. Project websites may contain information such as announcements, publications, project information, and study updates.

Information for creating a project website compatible with FDOT standards is found on [FDOT's Consultant Managed Website](#) page.

The content of the website should contain the following information, as applicable:

1. Contact information (project manager's name, mailing address, phone, fax, and e-mail address)
2. The project schedule

3. Meeting calendars and agendas (notice of public meetings, workshops, hearings)
4. A brief project description; include 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 December 14, 2016, and executed by FHWA and FDOT.*
5. A public involvement section (brief synopsis of the **PIP**)
6. Links to related agencies (District, MPOs)
7. A comment/question/survey form

In order to track responses, when a comment opportunity is given to the public on a project-specific website, the commenter's email address and/or mailing address should be requested. This will allow the comment to be recorded in the public record and will provide a mechanism for the project manager to respond appropriately.

FDOT has its own Twitter, Facebook, and YouTube accounts, and the District PIO can place notifications about project events and activities on these outlets. Stakeholders and team members can spread project information through their personal and professional online links. Special interest groups may be willing to share updates and notifications about the project on their social media sites. Many people may appreciate a diversified public engagement strategy, one that includes digital material, print material, and ability to speak with someone in person; however, it is important to keep in mind there may be people who feel most comfortable with in-person interaction or tangible media that does not require a power source or internet connectivity.

#### **11.2.4.5.8 Alternative Notification Methods**

With a targeted audience in mind, there are many creative ways to approach meeting notifications. Alternative notification methods include the following:

1. Distribute flyers to post on bulletin boards or include in newsletters of major employers, apartment complexes, or home-owners' associations.
2. Provide meeting information to places of worship for inclusion in church bulletins and/or newsletters.
3. Provide informational flyers to local schools to be sent home with school children.
4. Post flyers at commonly frequented retail establishments, laundromats, banks, grocery stores, post offices.

5. Include meeting information on the community calendar in local media.
6. Prepare brochures, newsletters, and postcards for a mailing.
7. Use transit vehicles and stations to post advertisements, information, and notices.
8. Post signs along the project corridor (first check local regulations and ordinances).
9. Hand-deliver brochures, newsletters, flyers to business owners/operators and property owners/tenants along the project corridor.
10. Submit public service announcements to radio and television stations.

Involving affected and/or interested populations in public outreach is an important part of the transportation decision-making process. In order to effectively reach traditionally underserved populations, innovative notification efforts may be necessary. Community leaders may help identify the best methods to reach particular populations.

#### **11.2.4.6 Visualization Techniques**

To strengthen public participation in the planning and project delivery process, and aid the public in understanding proposed plans, the ***Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)***, called for states and MPOs to use visualization techniques. Through visual imagery, the complex character of proposed transportation plans, policies, and programs can be portrayed at appropriate scales - state, regional, local area, project architecture and from different points of view. “The effective presentation of project impacts to the public has become an increasingly essential part of the planning and design of the transportation system”.

Examples of visualization techniques include sketches, drawings, artist renderings, physical models and maps, simulated photos, videos, computer modeled images, interactive Geographic Information System (GIS) systems, GIS-based scenario planning tools, photo manipulation and computer simulation. Districts should use various visualization techniques as applicable (See [Section 11.3](#) for a link to the FHWA Visualization in Planning website).

#### **11.2.5 Procedures for Holding a Public Hearing**

While public involvement and participation is encouraged for all projects, public hearings are not required for all projects. Rather, public hearings are generally reserved for higher COA or for those projects which constitute major transportation improvements. The public involvement provisions in **23 CFR § 771.111** generally provide that reasonable notice of either a public hearing or an opportunity for a public hearing be provided.

State law contemplates that a public hearing will occur when planning for major transportation improvements (regardless of the funding source or COA) when increasing the capacity of a facility through the addition of new lanes, providing new access to a limited or controlled access facility, or construction of a facility in a new location. **Section 339.155, F.S.**, further states that the public hearing must be held “prior to the selection of the facility to be provided, prior to the selection of the site or corridor of the proposed facility, and prior to the selection of and commitment to a specific design proposal for the proposed facility.”

The primary difference between a public meeting and a public hearing is that a public hearing has specific time frames associated with advertising, hearing notice, and when written comments must be received. A public hearing must also meet formal requirements for the way it is conducted. Typically, project information is presented and then members of the public, elected officials, and other interested persons can provide oral or written comments which become part of the project record. Public hearings are usually held at the end of the PD&E process and prior to the submittal of the Environmental Document to OEM.

In preparation for a public hearing, a **Public Hearing Planning Checklist** is provided in [Figure 11-11](#). Also see [Figure 11-12](#) for requirements related to **Public Hearing Notices**.

### 11.2.5.1 Public Hearing Format

Public hearings are traditionally held in the evenings, in auditorium style rooms. The format of a public hearing typically begins as an informal open house, where the public can review project materials and have one-on-one conversations with the study team. The open-house portion is then followed by a formal presentation and opportunity for public comment.

The layout of the public hearing venue is generally divided into three areas. The first area includes registration and sign-in tables. All attendees are invited to sign in at a registration table upon entering the room. Their names and addresses are taken as part of the public record.

The second area includes maps, exhibits, and project documents for review. Tables or areas for special interests or concerns (such as ROW acquisition, noise, access management) may be set up at specific locations depending upon the type of project issues and/or potential impacts involved. Tables should be staffed by appropriate District and or consultant technical staff. ROW personnel should be present to answer questions regarding FDOT’s ROW Acquisition and Relocation Programs if ROW acquisitions and/or relocations are anticipated. The Title VI Coordinator should also be available to address questions on **Title VI Compliance** under the **Civil Rights Act of 1964** and related statutes.

The third area includes seating for the formal presentation where the public can sit and watch a live or voiced-over presentation. For those participants interested in providing



oral comments, an opportunity to speak into a microphone is provided for comment purposes. The length of time for the public comment period is at the District's discretion, but is usually two to three minutes per speaker depending on the number of people who wish to speak. The public also has the opportunity to provide their comments in writing or directly to a court reporter. It should be mentioned that all comments carry equal weight.

The public hearing generally includes the following elements:

1. All staff attending the hearing should be knowledgeable about the project. Generally, approximately one week prior to the hearing, a briefing or hearing rehearsal takes place at the District office to fully acquaint staff members with the project and the hearing process. The rehearsal must include a thorough discussion of the room arrangement, the content of the presentation, all brochures and handouts, roles and responsibilities, and the type and format of project and general information to be displayed at the public hearing.
2. The moderator is generally an FDOT employee whose principal concern is to coordinate the hearing and ensure that everything runs smoothly.
3. A specific "script" is used to present the project, explain the ROW acquisition process to the public, and describe some of the compensation requirements at public hearings. A copy of the script can be found in [Section 11.2.5.6](#).
4. Wall displays are used to show base/aerial maps, project alternatives, comparative evaluation matrices, schedules, charts, renderings, and other project-related information. These should use plain language as much as possible.
5. Informational posters may be used to provide information to the attendees to help them participate in the hearing or provide instructions regarding how to comment on the project.
6. Laws and regulations applicable to the public hearing process may be placed on a display board or presentation slide. A list of these laws is provided below. If you display them on a board, then include the following statement within the script: "This public hearing was advertised consistent with federal and state requirements." A sample script is provided within [Section 11.2.5.6](#).
  - a. **Section 120.525, F.S.** – Meetings, hearings, and workshops
  - b. **Section 286.011, F.S.** – Government in the Sunshine Law
  - c. **Section 335.199, F.S.** – Transportation projects modifying access to adjacent property (use only if there are proposed access changes)
  - d. **Section 339.155, F.S.** – Transportation planning
  - e. **Americans with Disabilities Act of 1990 (ADA)**

- f. **Title VI of the Civil Rights Act of 1964** and Other Nondiscrimination Laws
  - g. **49 CFR Part 24**, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs
  - h. **40 CFR Part 1506**, Other Requirements of **NEPA**
7. Project handouts or brochures may be used at hearings. Handouts are used to convey the same material that is usually found in a formal presentation. Handouts may include:
- a. A project location map
  - b. Federal, ETDM, and FM Numbers
  - c. A description of the project and its logical termini
  - d. The purpose of the public hearing
  - e. An explanation of the information hearing process
  - f. An explanation of how the public can comment on the project
  - g. A statement of the date when the final written comments are due
  - h. The date, time, and place of the hearing
  - i. A discussion of the Federal-State Partnership
  - j. Information regarding the project development process
  - k. A summary of the project: justification/need, alternatives considered, typical sections, potential environmental impacts, potential ROW relocation, **Title VI** programs, the role of a public hearing, and the project status and schedule.
  - l. Notice of standard statement regarding FDOT assumption of FHWA **NEPA** responsibilities

A “**Letter of Welcome**” may be attached to or made part of the project brochure/handout. This letter should be signed by the District Secretary or designee, welcoming attendees to the public hearing and expressing the District’s thanks to each person for taking the time to come and be part of FDOT’s decision-making process. It should also provide assurance that all comments will be considered prior to the District making a final project decision.

8. Staff members will be assigned as greeters to welcome attendees and explain the hearing process. All attendees should be asked to sign-in upon entering the hearing room. Greeters will also orient each attendee to the layout of the room and provide them with handout material, comment forms, and speaker cards, and explain how verbal and written comments may become part of the official public record. Those wishing to speak during the public testimony portion of the hearing are asked to provide their name and address on a speaker card. The speaker card is then given to a staff member and attendees will be invited to speak in the order which their speaker cards are received. [Figure 11-18](#) provides an example speaker card.
9. The record of the public hearing, or transcript, is accomplished by using one or more court reporters hired to attend the hearing; or the District may choose to tape-record the proceedings and transcribe the tape at a later date. In either case, a verbatim transcript is made to document the proceedings. Attendees may speak directly to the court reporter to express views concerning the project or fill out a speaker card and speak into a microphone during the public testimony portion of the hearing. Written comment forms are also provided for those not wishing to make a verbal statement. Written comment forms are generally deposited in a comment box available at the hearing or may be mailed, postmarked no more than 10 days following the date of the hearing, to be included as part of the public record. A sample comment form is provided in [Figure 11-17](#).
10. A live or voiced-over presentation is used to inform the attendees about the project and reiterate how to comment on the project. The general content of the hearing presentation is discussed in [Section 11.2.5.6](#).

Complete documentation of all activities must be made in the project file and in the public hearing transcript.

### **11.2.5.2 Public Hearing Dates and Times**

Public hearings are typically held during the work week, Tuesday through Thursday, to maximize the opportunity for public participation in the project development process. Public hearings usually begin at 5:30 or 6:00 in the evening and last two hours. However, consider the ages of the anticipated audience, transportation availability, location access, distance, when determining the time of the hearing. Consideration should be given to selecting and securing an alternate date during the hurricane season. District representatives are present before the hearing to answer questions.

### **11.2.5.3 Selecting a Hearing Location**

Refer to [Section 11.2.4.4](#), for guidance on selecting a public hearing location. Public hearings involve a formal presentation; therefore, the room should be able to accommodate multiple workstations, display boards, mingling, and seating for viewing the

presentation. If a large crowd is anticipated, the meeting location should have a room large enough to accommodate two or more identical sets of workstations and/or displays.

#### **11.2.5.4 Public Hearing Notification and Advertisement Requirements**

Provisions for public involvement, including public hearings, are contained in **Chapters 120 and 339, F.S.; 23 CFR 771**, and **23 U.S.C. § 128**.

**Section 339.155(5)(b), F.S.**, directs that public hearing shall be conducted so as to provide an opportunity for effective participation by persons interested in the process of transportation planning and site and route selection and in the specific location and design of transportation facilities. As part of that process, FDOT is required to present the factors involved in its decisions and alternative proposals such that persons attending may present their views.

##### **11.2.5.4.1 Notification to Elected Officials and Agencies**

Before holding a public hearing, a letter of invitation is sent to the local governments and agencies at least 25 but **no more than 30 calendar days prior to the public hearing date**. The letter of invitation should be received by the elected officials and agency representatives before the public is notified by letter or advertisement.

See [Figure 11-15](#) for a sample letter of invitation to officials and agencies, which at a minimum should include the following, either in the body of the letter or in an attachment:

1. The purpose of the notification
2. A description of the project
3. A list of the places, dates, and times where the Environmental Document and other materials will be available for public inspection
4. The date, time, and location of the public hearing
5. A statement requesting public participation
6. Standard statement of non-discrimination compliance and information about **ADA** requests as provided in [Section 11.2.4.5](#)
7. Notice of standard statement regarding FDOT assumption of FHWA **NEPA** responsibilities
8. Hearing notice and map.

It is important to use the correct salutations and titles when addressing elected and appointed officials and agency contacts. See [Figure 11-9](#) for a listing of salutations and titles.

#### 11.2.5.4.2 Notification to Property Owners

**Section 339.155(5), F.S.**, directs FDOT to notify certain affected property owners when holding a design hearing. Specifically, all real property owners of record, in whole or in part, within 300 feet of the centerline of the proposed facility must be notified of the upcoming hearing. The names and addresses of property owners are obtained from the county property appraiser's office or its website. Notification must be made by mail **at least 20 calendar days prior to the date of the hearing**. Invitational letters are sent using the same elements as described in [Section 11.2.5.4.1](#) (See [Figure 11-16](#)).

Reasonable efforts should also be made to notify and inform tenants and leaseholders within 300 feet of the centerline of the public hearing.

#### 11.2.5.4.3 Public Hearing Newspaper Ads

Collectively, the authorities for public involvement dictate that *reasonable notice* be provided for public hearings. Publication in a local newspaper(s) of general circulation within the project area is one method that meets that objective. **Section 339.155, F.S.**, generally directs FDOT to publish notice in a newspaper of general circulation to allow comment on transportation plans or improvements. This notice must be published in a manner that is sufficient to give the public reasonable notice of and opportunity to attend the public hearing.

In addition to these general notice requirements, **Section 339.155(5)(c)(2), F.S.**, more specifically directs that in regard to design hearings, **subsequent** to the initial hearing where individual notice is mailed to real property owners within 300 feet of the project centerline, FDOT must publish the public hearing notice according to a specified schedule; i.e., a minimum of two times with the first ad appearing **at least 15 days but no more than 30 days prior to the hearing**. The second ad should run 7-12 days prior to the hearing.

The content of advertisements should be written in plain English (see plain language initiative under [Section 11.1.2.3](#)) and must include at a minimum the following (see [Figure 11-14](#) for a sample public hearing newspaper ad):

1. The reason for the public hearing
2. An explanation of the format of the public hearing
3. The project description (the use of a project location map is suggested)
4. The date, time, and location of the hearing

5. A list of places, dates, and times where the Environmental Document and other materials are available for public inspection per citation of **23 CFR 771.111**

Standard statement of non-discrimination compliance and information about **ADA** requests, as provided in [Section 11.2.4.5](#)

6. Notice of standard statement regarding FDOT assumption of FHWA **NEPA** responsibilities
7. An address where written comments are to be sent

An affidavit or proof of publication should be obtained from the newspaper and maintained in the project file.

#### **11.2.5.4.4 Florida Administrative Register Notice**

A public **notice must be placed in the FAR at least 7 calendar days prior to the hearing**. Refer to [Section 11.2.4.5.4](#), for additional information.

#### **11.2.5.4.5 Florida Department of Transportation Website**

To comply with **Section 120.525, F.S.**, notice of all public hearings should be published on [FDOT's Public Meeting Notices Website](#) at least 7 days before the hearing. Meeting notices are typically added to the website by District PIO staff through the FDOT INFONET. The information to be provided to the PIO includes the hearing date and time, location name and address, project description, project website, and contact names and contact information. Include the standard nondiscrimination statement and information about **ADA** requests. Additionally, the standard statement regarding FDOT assumption of FHWA **NEPA** responsibilities should be included when appropriate.

#### **11.2.5.5 Documents for Public Review**

The Environmental Documents for a Type 2 CE, approved EA, approved DEIS, and SEIR must be available for public review at **least 21 calendar days prior to the public hearing date**. Locations where the documents are displayed should be in proximity to the project, easily accessed, and with public transportation availability, if possible. All locations must be **ADA** compliant and provide reasonable accommodation and access to physically handicapped and disabled persons wishing to review the documents. Suggested locations may include public libraries, local MPO offices, local agency offices, and District offices.

#### **11.2.5.6 Public Hearing Presentation and Script**

The public hearing is officiated by a moderator and includes a live or voiced-over presentation followed by the public comment portion of the hearing. The moderator is

generally an FDOT employee. The following information is included in the presentation. The information shown in *italics*, and modified as applicable, **must** be contained in the public hearing presentation, either as a specific citation or as a content item tailored to the specific topic within the script and/or supplemental handout.

## **1. Introduction**

*Good evening. The Florida Department of Transportation would like to welcome you to the public hearing for the (name of project). My name is \_\_\_\_\_. I am the District \_\_\_\_ Project Development Engineer (or insert other title) for the Florida Department of Transportation. This public hearing is for Financial Management Project Number \_\_\_\_\_ and Federal Aid Project Number (if a federal project) \_\_\_\_\_. This environmental study has been conducted by FDOT (District x) in compliance with all applicable federal environmental laws and pursuant to 23 U.S.C. § 327 and the implementing MOU between FDOT and FHWA signed on December 14, 2016; the FDOT Office of Environmental Management in Tallahassee is the approving authority. The proposed improvement involves (describe the project action including the location and limits). This hearing is being held to provide you with the opportunity to comment on this project.*

*Here with me tonight are:*

- *(Name and position of persons(s) sitting next to moderator)*
- *And other representatives of the FDOT and consultant project team.*

*At this time, we would like to recognize any federal, state, county, or city officials who may be present tonight. Are there any officials who would like to be recognized?*

*We now will begin the presentation.*

After the live introduction by the moderator, the rest of the presentation may be live or recorded, but the content generally follows the outline and standard statements provided below. This portion of the presentation can be conducted by the moderator, other FDOT staff, consultant representative, or pre-recording.

## **2. Purpose of the public hearing and nondiscrimination compliance**

*The purpose of this public hearing is to share information with the general public about the proposed improvement; its conceptual design; all alternatives under study; and the potential beneficial and adverse social, economic, and environmental impacts upon the community. The public hearing also serves as an official forum providing an opportunity for members of the public to express their opinions regarding the project. Public participation at this hearing is encouraged and solicited without regard to race, color, national origin, age, sex, religion, disability, or family status.*

*There are three primary components to tonight's hearing:*

- *First, the open house, which occurred prior to this presentation where you were invited to view the project displays and to speak directly with the project team and provide your comments in writing or to the court reporter;*
- *Second, this presentation, which will explain the project purpose and need, study alternatives, potential impacts, both beneficial and adverse, and proposed methods to mitigate adverse project impacts; and*
- *Third, a formal comment period following this presentation, where you will have the opportunity to provide oral statements at the microphone or you may provide your comments directly to the court reporter or in writing.*

*This public hearing was advertised consistent with federal and state requirements (If you are displaying the laws on a slide, then the script could be changed as follows: “This public hearing was advertised consistent with the federal and state requirements shown on the slide.” (A list of the laws is provided within [Section 11.2.5.1.](#)) Persons wishing to express their concerns about Title VI may do so by contacting either the Florida Department of Transportation, District \_\_\_\_ office, or the Tallahassee office of the Florida Department of Transportation. This contact information is also provided in the project brochure and on a sign displayed at this hearing.*

### **3. Purpose and need and project’s consistency with local and regional plans**

Provide a brief summary of the project’s purpose and need and consistency with the Long Range Transportation Plan (LRTP), Transportation Improvement Program (TIP), State TIP (STIP), and other regional plans.

### **4. Discussion of alternatives**

All alternatives studied, including the No-Build option, must be briefly discussed; with additional information provided on the recommended alternatives that have been studied in further detail and documented in the Environmental Document. The advantages and disadvantages of each alternative must be provided, including major design features and estimated costs.

### **5. Discussion of social, economic, and environmental impact**

The potential social, economic, and environmental impacts of the project must be briefly outlined. Key factors to be discussed include impacts on air quality, noise, floodplain impacts, wetlands, endangered and threatened species, archaeological or historical resources, residential and business displacements or relocations, ROW requirements, and any other pertinent issues. Information regarding these specific issues can be found in [Part 2 of the PD&E Manual, Topic No. 650-000-001.](#)



## 6. Explanation of FDOT's right of way acquisition and relocation process

During a public hearing, the following information must be provided to explain the ROW acquisition process and describe the compensation requirements to be followed by the Department.

If both ROW acquisition and relocation will take place, the following script will be used:

*One of the unavoidable consequences on a project such as this is the necessary relocation of families or businesses. On this project, we anticipate the relocation of \_\_\_ families and \_\_\_ businesses. All right-of-way acquisition will be conducted in accordance with Florida Statute 339.09 and the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly known as the Uniform Act.*

*If you are required to make any type of move as a result of a Department of Transportation project, you can expect to be treated in a fair and helpful manner and in compliance with the Uniform Relocation Assistance Act. If a move is required, you will be contacted by an appraiser who will inspect your property. We encourage you to be present during the inspection and provide information about the value of your property.*

*You may also be eligible for relocation advisory services and payment benefits. If you are being moved and you are unsatisfied with the Department's determination of your eligibility for payment or the amount of that payment, you may appeal that determination.*

*You will be promptly furnished necessary forms and notified of the procedures to be followed in making that appeal.*

*A special word of caution – if you move before you receive notification of the relocation benefits that you might be entitled to, your benefits may be jeopardized.*

*The relocation specialists who are supervising this program are (NAME) and (NAME). They will be happy to answer your questions and will also furnish you with copies of relocation assistance brochures.*

*(NAME) and (NAME), please stand (pause) so that anyone who is involved in relocation on this project will know that they need to see you regarding their property.*

If the project requires only right of way, the following script will be used:

*This project will not cause any relocation of families or businesses. All right of way acquisition will be conducted in accordance with Florida Statute 339.09 and the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly known as the Uniform Act. The right of way specialist who are supervising this program are here tonight and will be happy to answer your questions.*

## **7. Explanation of how the public can provide their comments**

*There have been various opportunities for the public to provide input on this project. Several public meetings have been held, dating from \_\_\_\_\_ until tonight. We welcome your oral or written comments that will help us make this important decision. At the conclusion of this presentation our personnel will distribute speaker cards to those in the audience who have not received one and would like to make a statement. A court reporter will record your statement and a verbatim transcript will be made of all oral proceedings at this hearing. If you do not wish to speak at the microphone, you may provide your comments in writing or directly to the court reporter at the comment table. Every comment method carries equal weight.*

*Written comments received or postmarked no later than 10 days following the date of this public hearing will become a part of the public record for this hearing. All written comments should be mailed to the address shown on the slide or in your handout.*

## **8. Next steps and concluding statement**

*The next step is to incorporate your input on this public hearing into our decision-making process. After the comment period closes and your input has been considered, a decision will be made and the Final PD&E document will be sent to the FDOT Office of Environmental Management which based on the MOU signed with FHWA on December 14, 2016 has approval authority on this project granting location and design concept acceptance.*

*This project has and will continue to comply with all applicable state and federal rules and regulations.*

*This concludes our presentation. We now offer you the opportunity to make a statement.*

At the conclusion of the live or voiced-over presentation, attendees who completed a speaker's card upon registering at the door will be given an opportunity to speak into a microphone. Project staff will also distribute speaker's cards to additional attendees who wish to make a verbal statement.

*Anyone desiring to make a statement or present written views regarding the location; conceptual design, or social, economic, and environmental effects of the improvements will now have an opportunity to do so. If you are holding a speaker's card, please give it to a member of the project team. If you have not received a speaker's card and wish to speak, please raise your hand so you can receive a card to fill out.*

*Written statements may be presented in lieu of or in addition to oral statements. All written material received at this public hearing and at the Florida Department of Transportation District office located at \_\_\_\_\_ (street address) \_\_\_\_\_.*

*postmarked no later than \_\_\_\_\_ (10 days following the date of this public hearing) will become a part of the public record for this hearing. All written comments should be addressed to \_\_\_\_\_ (contact person's name). Comments may also be emailed to \_\_\_\_\_ (e-mail address).*

*We will now call upon those who have turned in speaker's cards. When you come forward, please state your name and address. If you represent an organization, municipality, or other public body, please provide that information as well. We ask that you limit your input to \_\_\_ minutes. If you have additional comments, you may continue after other people have had an opportunity to comment (optional). Please come to the microphone so the court reporter will be able to get a complete record of your comments.*

After everyone has been given the opportunity to speak, the moderator may close the public hearing with the following statement:

*Does anyone else desire to speak? If so, state your name and address and complete a speaker's card after you've given your statement for the public record.*

*The verbatim transcript of this hearing's oral proceedings, together with all written material received as part of the hearing record and all studies, displays, and informational material provided at the hearing will be made a part of the project decision-making process and will be available at the District Office for public review upon request.*

*Thank you for attending this public hearing and for providing your input into this project. It is now \_\_\_\_\_ (state the time). I hereby officially close the public hearing for \_\_\_\_\_ (project name). Thank you again and have a good evening.*

### **11.2.5.7 Public Hearing Documentation**

The hearing proceedings are recorded by a court reporter and transcribed into a written transcript. This transcript must be signed by FDOT's PM or Project Development Engineer. Oral and written comments are a formal part of the public record. The transcript of all hearing proceedings includes FDOT's presentation (including portions that are voiced-over or pre-recorded), all public comment/testimony received at the hearing itself, and all handouts and informational brochures used. Display materials should be retained in the project file as part of the hearing record and be provided to OEM, if requested.

Whenever a public hearing is held, the public record remains open for **a minimum of 10 calendar days after the date of the hearing** to allow for additional written input from attendees or others who were not able to attend the hearing. All written comments received during that period become part of the public record and are included in the hearing transcript package. After the comment period, the public hearing is officially closed. The **Public Hearing Certification Form, Form No. 650-050-56** is completed in SWEPT by the FDOT representative, as shown in [Figure 11-19](#). The official transcript is

then uploaded to SWEPT, linked to the **Public Hearing Certification Form No. 650-050-56**, and attached to the Environmental Document.

### 11.2.5.8 Specific Public Hearing Concerns

Specific projects may include particular concerns that should be addressed during the public hearing. These concerns may include noise abatement and outdoor advertising, access management, and toll rates. The following paragraphs describe ways these concerns should be addressed when applicable to the project.

#### 11.2.5.8.1 Noise Abatement and Outdoor Advertising

The identification and design of noise abatement measures during the project design phase may require additional public involvement efforts and will be especially important in the establishment of noise barrier design features. Public coordination is often necessary to finalize barrier locations, heights, and aesthetic features, especially if there are substantial changes to prior commitments. These changes may be the result of the considerations noted in [Part 2, Chapter 18, Highway Traffic Noise](#). Coordination with the District Noise Specialist in obtaining input during the final design of the noise barrier is suggested.

**Section 479.25, F.S.**, allows permitted, conforming, lawfully erected outdoor advertising signs to be increased in height if visibility is blocked due to construction of “noise attenuation” barriers. In addition, the statute requires FDOT to notify a local government or local jurisdiction before erecting a noise barrier that will block a lawfully permitted sign.

The amended statute also requires that FDOT hold a public hearing within the boundaries of the affected local government or local jurisdiction to receive input on proposed noise barriers that may conflict with local ordinances or land development regulations. The public hearing allows suggestions, consideration of alternatives, and modification to the proposed noise barriers to be heard in order to alleviate or minimize conflict with local ordinances and minimize any costs associated with relocating, reconstructing, or paying for the affected outdoor advertising sign (see [FDOT Design Manual, Topic No. 625-000-002, Part 2, Section 264.4](#)).

#### 11.2.5.8.2 Access Management

Access Management is the process used to plan the location, design, and operation of driveways, median openings, interchanges, and street connections. Median decisions can be particularly controversial. Sound public involvement strategies can facilitate open communication with affected parties. In 1995, FDOT adopted **Deviations from Median Opening Standards: A Procedure for Engineering Decisions**, which calls for initiating public involvement on median design during PD&E and carrying this through production. In 2010, **Section 335.199, F.S.**, was passed requiring FDOT to notify all affected property owners, municipalities, and counties of a proposed project that will divide a state highway, erect median barriers, or close/modify an existing access to an abutting property owner

at least 180 days before the design is finalized. The law requires that FDOT hold at least one public hearing in the jurisdiction where the project is located and receive public input to determine how the project will affect access to businesses and the potential economic impact of the project on the local business community. Proposed access management changes that are included in the PD&E public hearing do not require a separate hearing during the design phase. Additional information is available in [Median Openings and Access Management, Topic No. 625-010-021](#).

### **11.2.5.8.3 Toll-Rate Workshops and Hearings**

Toll rate rulemaking is required in accordance with **Chapter 120, F.S.** Florida's Turnpike Enterprise (FTE) conducts the toll rate rule development and rulemaking for the Turnpike System and other FDOT toll facilities. Toll rate rule development and rulemaking is required before new toll projects are opened, new tolled access on existing toll facilities is opened, and to also notify the public of proposed toll rate changes resulting from toll rate changes.

A toll rate rule development workshop may be conducted as part of the PD&E phase. A toll rate rulemaking hearing may be conducted following the 60 percent design phase of project development. However, the scheduling of any rule-related workshop or hearing is at the discretion of FDOT executive management.

### **11.2.5.9 Public Comment Opportunities after the Public Hearing for Environmental Impact Statements**

For a minimum period of 10 days following the public hearing, comments can be made on the project. Such comments are appended to, and become part of, the official hearing transcript record. All comments and issues raised at the hearing; the transcript record; and design, cost, environmental, and other changes occurring since the approval of the DEIS must be considered and documented by the District in the FEIS. A detailed discussion of these procedures is provided in [Part 1, Chapter 9, Final Environmental Impact Statement](#).

### **11.2.5.10 Notice of Opportunity to Request a Public Hearing**

A public hearing will typically be required for either a Type 2 CE or an EA pursuant to **Section 339.155(5), F.S.** Under limited circumstances, when a Type 2 CE or an EA does not constitute a Major Transportation Improvement pursuant to **Section 339.155(5)**, the District must obtain OEM approval in order to offer the public an opportunity to request a public hearing in lieu of holding it without a public request.

A notice to request a public hearing is published in a local newspaper having general circulation in the project area. **An ad should be published at least 15 calendar days prior to the deadline** established by the District for receipt of requests. After the notice period has lapsed, the District requests an **Affidavit of Certification** from the newspaper

that the publication was made and uploads the affidavit to SWEPT. This affidavit must accompany the Type 2 CE or EA, when applicable.

A notice of opportunity to request a public hearing must also be placed in the **FAR** (see [Section 11.2.4.5.4](#)) and [FDOT's Public Meeting Notices Website](#). A sample notice of opportunity is shown in [Figure 11-20](#).

The content of the notice of opportunity for the **FAR** and FDOT's Public Meeting Notices Website must include, as a minimum, the following information.

1. An explanation of the opportunity notice
2. A project description
3. A statement on the type of studies accomplished and a list of places where study documents are available for public inspection
4. A statement that the request for a public meeting must be submitted in writing, and the date by which the request must be received
5. The name of the District contact person
6. The address where the request for a public hearing is to be sent

If a request to hold a public hearing is received prior to the established deadline, then all notification and hearing procedures described in [Sections 11.2.5.1](#) through [11.2.5.8](#) must be followed. If only one or two persons request a hearing, a meeting should be held with them to discuss their concerns.

### **11.2.5.11 Joint Public Hearings**

Joint public hearings can be held with other agencies if appropriate and if the project meets the public hearing criteria of both agencies. If an agency agrees to hold a public hearing jointly with FDOT, the District should establish in writing the guidelines by which the public hearing is to be held. Preparation of acceptable joint procedures ensures that the requirements of both agencies will be satisfied. This includes the format of the hearing, presentations, and all elements of the public hearing process. If the newspaper advertisement notification period of the agency is different from FDOT's, then the longer period for hearing notification should be used.

### **11.2.6 Notice of Location and Design Concept Acceptance**

The District publishes an announcement in the same local newspaper in which the public hearing notification was published to let the public know that LDCA has been received from OEM. For an example of an LDCA notice, see [Figure 11-22](#).

## 11.2.7 Public Involvement Documentation

The final documents for EAs, EISs, and Type 2 CEs require a summary of the public involvement activities held. Within the Type 2 CE document, if a public hearing was held, substantive comments are addressed within the supporting information for each issue/resource. Within EAs or EISs, a Comments and Coordination section is included in accordance with [Part 1, Chapter 6, Environmental Assessment](#) and [Part 1, Chapter 8, Draft Environmental Impact Statement](#).

Proper documentation includes compiling all materials related to public involvement activities and summarizing and analyzing the public comments. The following documentation should be included, as a minimum, as part of the public involvement record and maintained as part of the project file.

1. The **PIP**.
2. The notification process, including the master contact list(s) for officials, agencies, property owners, and interested persons, as well as details of all methods of notification used to invite the public to activities (letters, newsletters, ads, press releases, news media).
3. A summary of all public involvement outreach activities, including the date, time, and location of public involvement activities. Activity summaries should include photographs, mailing lists, sign-in sheets, maps, graphs, display boards and/or exhibits, comment forms, comment summaries, meeting notifications, evaluation forms, requests, surveys, slide presentations, and meeting minutes, as applicable. The number of people invited and the number of attendees should be documented, as well as specific issues and/or concerns that were expressed as part of each activity.

A verbatim transcript of the public hearing, along with written comments received at the public hearing and written comments received within the established comment period following the hearing (a minimum of 10 days), is electronically submitted through SWEPT to OEM with the Environmental Document at the end of the PD&E phase.

Additional information is provided in FDOT's [Public Involvement Handbook](#).

## 11.2.8 Public Involvement Evaluation

Periodic evaluation of the **PIP** is needed to determine the effectiveness of public involvement activities. The following (or similar) questions should be asked during in-house debriefings and/or presented to the community in a survey format. The answers will provide information on whether new outreach strategies should be developed to improve public involvement for the project.

1. **Is the entire project community represented in the public involvement activities?**  
If there are representatives or segments of the affected community who are missing from the project activities, it may indicate that the timing and/or location of these activities are inconvenient. Or, it may indicate that the project notices are not reaching the intended audience.
2. **Is there continuity among participants' attendance?**  
If people drop out of the process after one or two activities, it may indicate frustration with the process.
3. **Are the appropriate communication techniques being employed?**  
If input is limited, it may indicate that the audience does not understand the project information. Or, it may indicate that they do not believe their comments are important.
4. **Are the comments received from the community relevant to the project? Are they realistic and appropriate to the project phase?**  
If the comments are not relevant to the project, it may indicate that people do not understand the project scope or the kind of information/input that is being sought. If people have unrealistic expectations about how they can influence the project, it may indicate that they do not understand the decision-making process or the type of decisions that will be made during the current phase of project development.
5. **Are there significant unresolved issues concerning the project?**  
If there is significant opposition to the project, it may indicate that all relevant issues have not been identified and resolved. Continued dialogue with the audience is needed to identify concerns and develop acceptable solutions.

FDOT's [Public Involvement Handbook](#) provides detailed information on how to evaluate public involvement activities.

### 11.2.9 Subsequent Public Hearings

Public hearings held in the design phase should follow the same procedures and requirements as provided within [Section 11.2.5](#).

### 11.2.10 Public Involvement During Re-evaluations

OEM and the District will determine in consultation whether changes in the project or new information warrant additional public involvement consistent with **23 CFR § 771.111(h)(3)** and **23 CFR § 7771.129**. For information on preparing a Re-evaluation see [Part 1, Chapter 13, Re-evaluations](#).



## 11.2.11 Community Awareness Plans

Typically, when a project reaches the design phase, many of the project commitments and community issues have been identified. However, this is not always the case. Design alternatives still need to be re-evaluated to determine implications for community impacts. Commitments made in previous project phases (see [Part 2, Chapter 22, Commitments](#)) are communicated to designers who are then responsible for their incorporation. A **Project Commitments Record** is used to track commitments throughout the project life-cycle according to [Project Commitment Tracking, Procedure No. 650-000-003](#). If constraints arise that require design changes that may affect FDOT's ability to meet commitments, the process requires follow-up with the affected community. In such cases, additional public involvement and community impact assessment may be necessary to address public concerns.

A **CAP** is developed during the Design phase. The objective of the **CAP** is to identify the means of notifying local governments, affected property owners, tenants, and the public of the District's proposed construction and the anticipated impact of that construction. In addition to the benefits of advance notification, the process should allow the District to resolve controversial issues during the design phase. Areas of specific concern are:

1. Potential access impacts to business and residential communities
2. Drainage
3. Maintenance of traffic during construction

Each District within FDOT has developed **CAP** guidelines for continued efforts in public involvement to be implemented on all design projects, depending on the level of impact to the community. For additional information, see the [FDOT Design Manual, Part 1, Section 104, Topic No. 625-000-002](#).

## 11.3 REFERENCES

Americans with Disabilities Act (ADA) of 1990

AASHTO/ACEC and FHWA, Improving the Quality of Environmental Documents, May 2006: [http://environment.transportation.org/pdf/IQED-1\\_for\\_CEE.pdf](http://environment.transportation.org/pdf/IQED-1_for_CEE.pdf)

Chapter 120, F.S., Administrative Procedures Act

Civil Rights Act of 1964, Title VI, and Related Statutes

Endangered Species Act of 1973

EO 07-01, State of Florida, Governor's Plain Language Initiative

EO 11988, Floodplain Management as amended by Executive Order 13690,  
Establishing a Federal Flood Risk Management Standard and a Process for  
Further Soliciting and Considering Stakeholder Input, 80 FR 6425 (Jan. 30, 2015)

EO 11990, Protection of Wetlands

EO 12898, Environmental Justice - Avoidance of actions that can cause  
disproportionately high impacts on minority and low income populations

EO 13166, Improving access to services for persons with limited English proficiency

FDOT, FDOT Design Manual, Topic No. 625-000-002

FDOT, Efficient Transportation Decision Making Manual, Topic No. 650-000-002

FDOT, Environmental Policy, Topic No. 000-625-001

FDOT, ETDM Public Access Site: <http://etdmpub.fla-etat.org/est/>

FDOT, Median Openings and Access Management, Procedure No. 625-010-021

FDOT's OEM Website: <http://www.fdot.gov/environment/>

FDOT, Project Commitment Tracking, Procedure No. 650-000-003

FDOT, Public Involvement Handbook, April 2018.  
<https://www.fdot.gov/environment/pubinvolvement.shtm>

FDOT, Public Involvement Policy, Topic No. 000-525-050

FDOT's Public Notices Website:  
<http://www2.dot.state.fl.us/publicsyndication/PublicMeetings.aspx>

FDOT Website: <http://www.fdot.gov/>

FHWA's Public Involvement Website:  
[http://www.fhwa.dot.gov/planning/public\\_involvement/index.cfm](http://www.fhwa.dot.gov/planning/public_involvement/index.cfm)

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

FHWA Visualization in Planning Website:  
[http://www.fhwa.dot.gov/planning/scenario\\_and\\_visualization/visualization\\_in\\_planning/index.cfm](http://www.fhwa.dot.gov/planning/scenario_and_visualization/visualization_in_planning/index.cfm)

Florida Administrative Register, Bureau of Administrative Code 1S-1.003(1)

Florida Administrative Register website: [www.flrules.org](http://www.flrules.org)

Florida Department of State's e-rulemaking website: [www.flrules.org](http://www.flrules.org)

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>

NEPA of 1969

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), August 25, 2005

Section 110.117, F.S., Paid Holidays

Section 120.525, F.S., Meetings, Hearings, and Workshops

Section 163.3181(2), F.S., Public Participation in the Comprehensive Planning Process; Intent, Alternative Dispute Resolution

Section 286.26, F.S., Government-in-the-Sunshine Law

Section 335.02, F.S., State Highway System

Section 335.199, F.S., Transportation projects modifying access to adjacent property

Section 339, F.S., Transportation Finance and Planning

Section 339.135, F.S., Public Hearings during the development of the Florida Transportation Plan

Section 339.155, F.S., Transportation Planning

Section 339.175, F.S., Metropolitan Planning Organization

Section 479.25, F.S., Outdoor Advertising Signs – Noise Attenuation Barrier, as Amended by House Bill 273

Title 23 CFR Part 771, Environmental Impact and Related Procedures

Title 40 CFR §§ 1500-1508

Title 40 CFR § 1501.7 (CEQ Regulations)

Title 40 CFR Part 93.105

Title 23 U.S.C. § 109(h) Highways – Economic, Social, and Environmental Effects

Title 23 U.S.C. § 128, Public Hearings

Title 23 U.S.C. § 135(f)(3), Participation by Interested Parties

Title 23 U.S.C. § Part 135, Statewide and nonmetropolitan transportation planning

Title 42, Chapter 126, Section 12101: Equal Opportunity for Individuals with Disabilities

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

U.S. Department of Transportation, Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Persons, Federal Register Volume 70, Number 239, Pages 74087-74100, December 2005

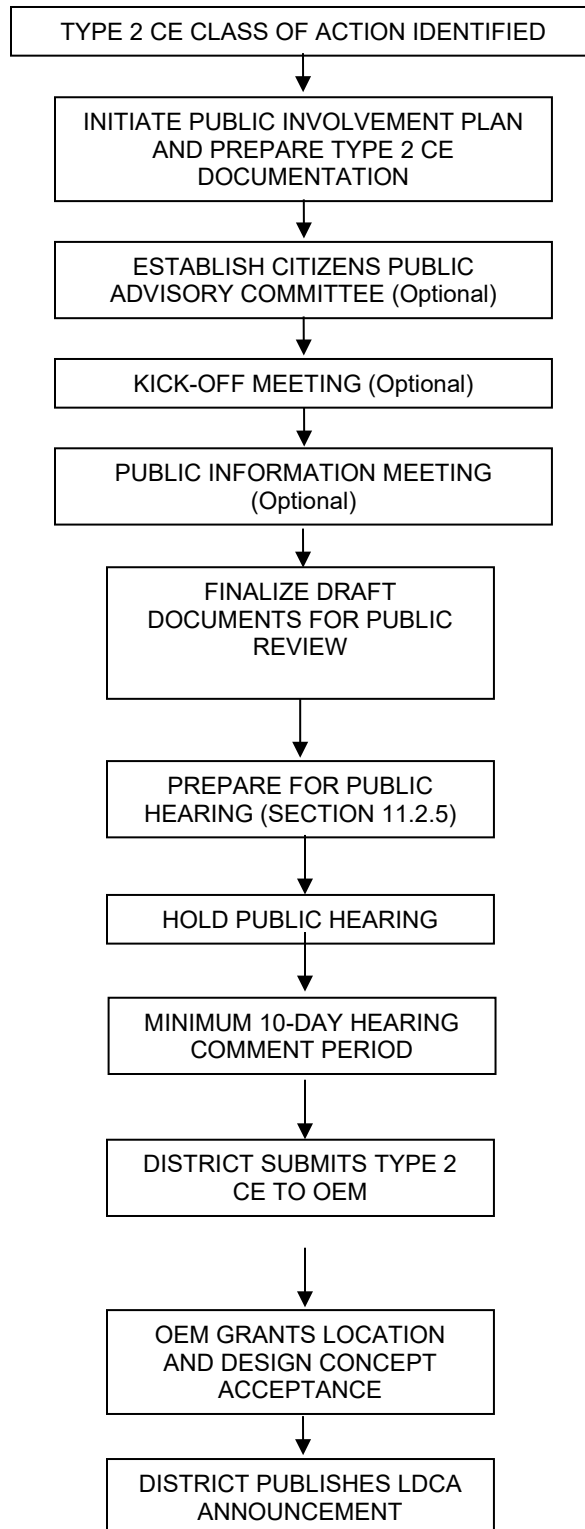
U.S. Department of Transportation, Federal Highway Administration, Public Involvement Techniques for Transportation Decision-Making, September 1996

## **11.4 FORMS**

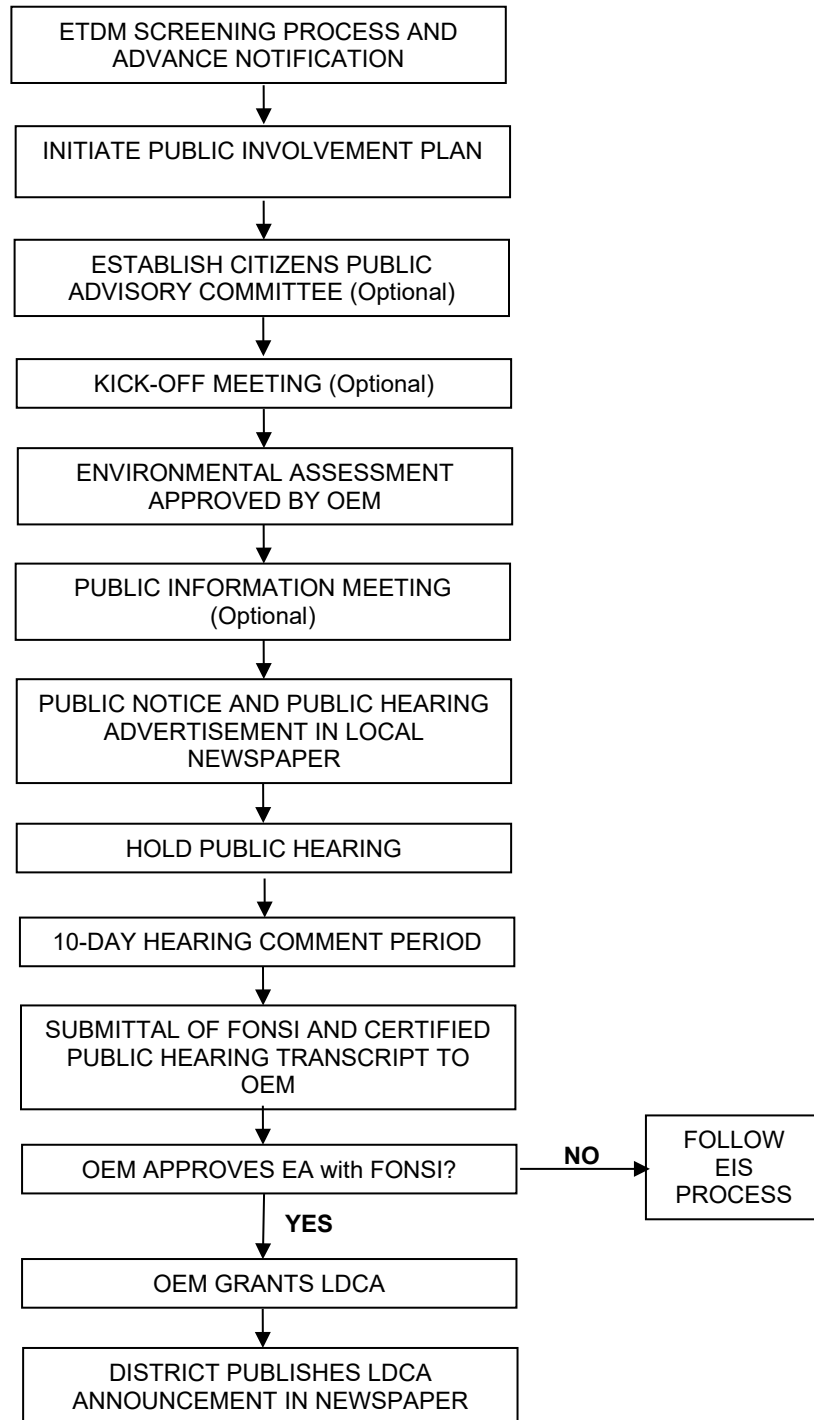
Public Hearing Certification Form, Form No. 650-050-56\*

## **11.5 HISTORY**

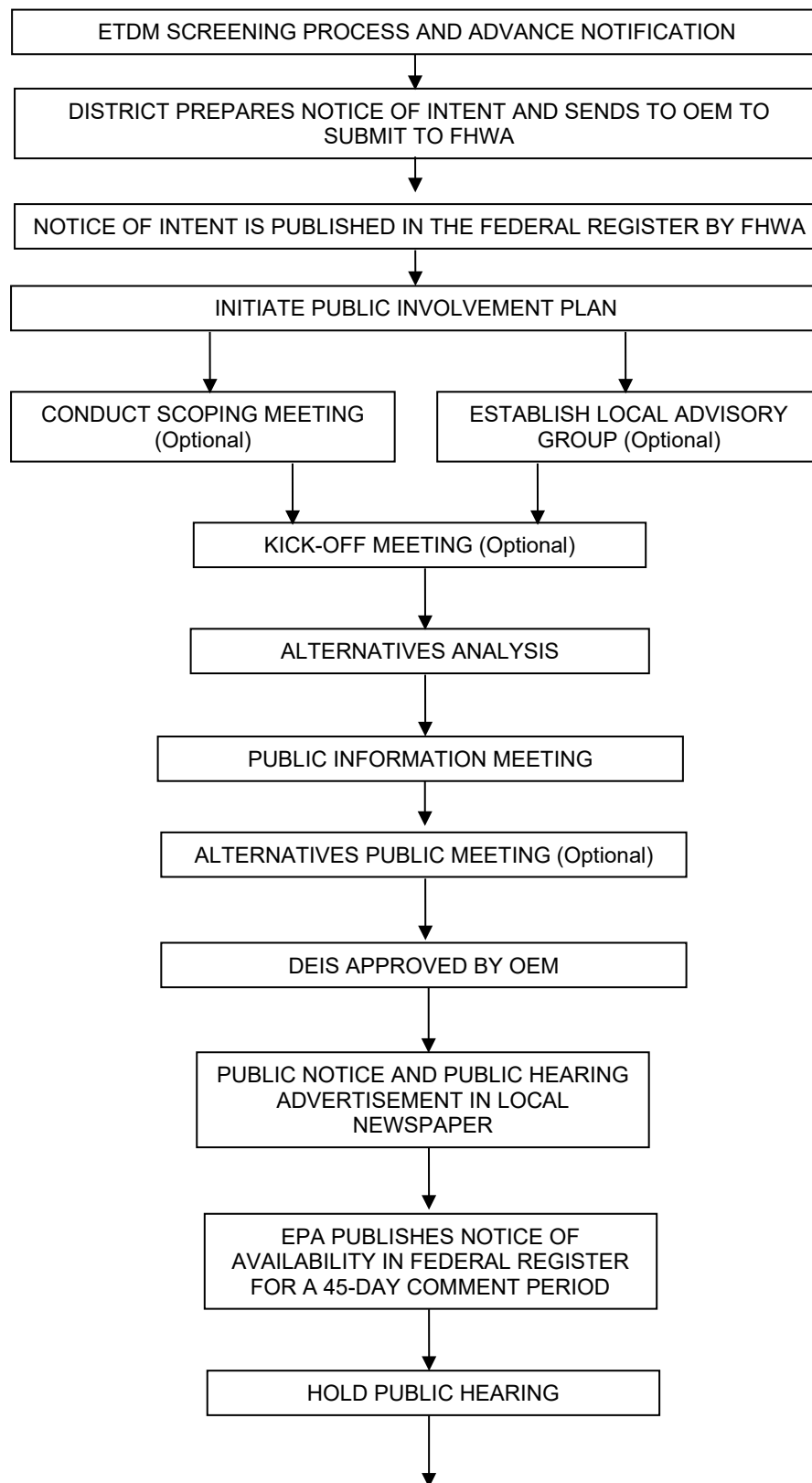
5/27/2003, 5/18/2009, 3/18/2010, 6/24/2010, 6/15/2012, 12/29/2015, 6/14/2017: NEPA Assignment, 1/14/2019



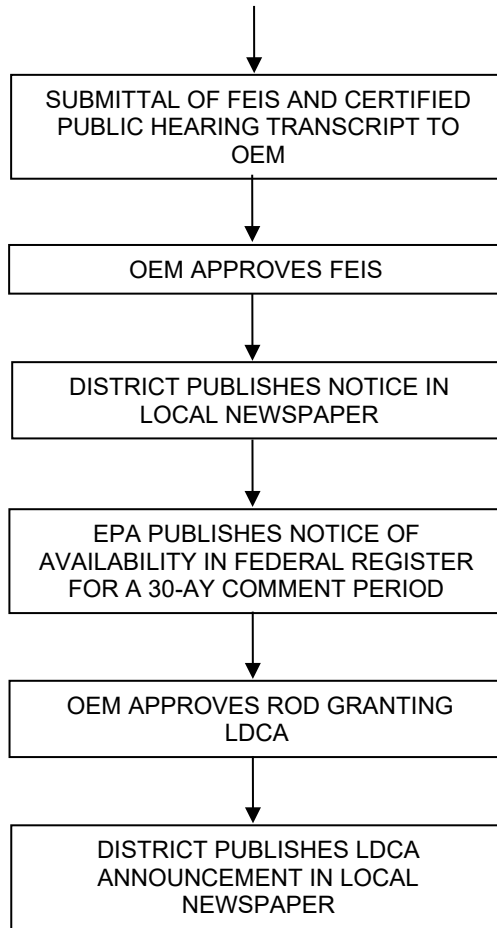
**Figure 11-1 Public Involvement Process for Type 2 Categorical Exclusions**



**Figure 11-2 Public Involvement Process for Environmental Assessments**



**Figure 11-3 Public Involvement Process for Environmental Impact Statements**



**Figure 11-3 Public Involvement Process for Environmental Impact Statements  
(Page 2 of 2)**



## SAMPLE PUBLIC INVOLVEMENT PLAN

Project Name: \_\_\_\_\_  
Project Limits: \_\_\_\_\_  
County/State: \_\_\_\_\_  
Financial Management Number: \_\_\_\_\_  
Federal Aid Project Number: \_\_\_\_\_  
Efficient Transportation Decision Making (ETDM): \_\_\_\_\_

In accordance with Part 1, Chapter 11 of the **Project Development and Environment (PD&E) Manual**, this Public Involvement Plan is submitted to the manager of the District office in charge of PD&E studies as appropriate based on District organizational structure for his/her review and approval.

Submitted by: \_\_\_\_\_ (Name)  
Project Manager  
\_\_\_\_\_  
(Name of Consulting Firm)

Date: \_\_\_\_\_

*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.*

Approved by: \_\_\_\_\_  
Manager of the District office in charge of PD&E studies  
as appropriate based on District organizational structure  
or Designee

Date: \_\_\_\_\_

**Figure 11-4 Sample Public Involvement Plan**

**PUBLIC INVOLVEMENT PLAN**

**Project Development and Environment (PD&E) Study**

**(Project Name)**

from \_\_\_\_\_ to \_\_\_\_\_

**(County), Florida**

The purpose of this Public Involvement Plan (PIP) is to assist in providing information to and obtaining input from concerned citizens, agencies, private groups (residential/business), and governmental entities. The overall goal of this plan is to help ensure that the study reflects the values and needs of the communities it is designed to benefit. A schedule of events and a list of documentation exhibiting compliance with these procedures are included.

This plan is in compliance with the Florida Department of Transportation's *Project Development and Environment (PD&E) Manual, Part 1, Chapter 11*.

**I. DESCRIPTION OF PROPOSED IMPROVEMENT**

Financial Management Number: \_\_\_\_\_

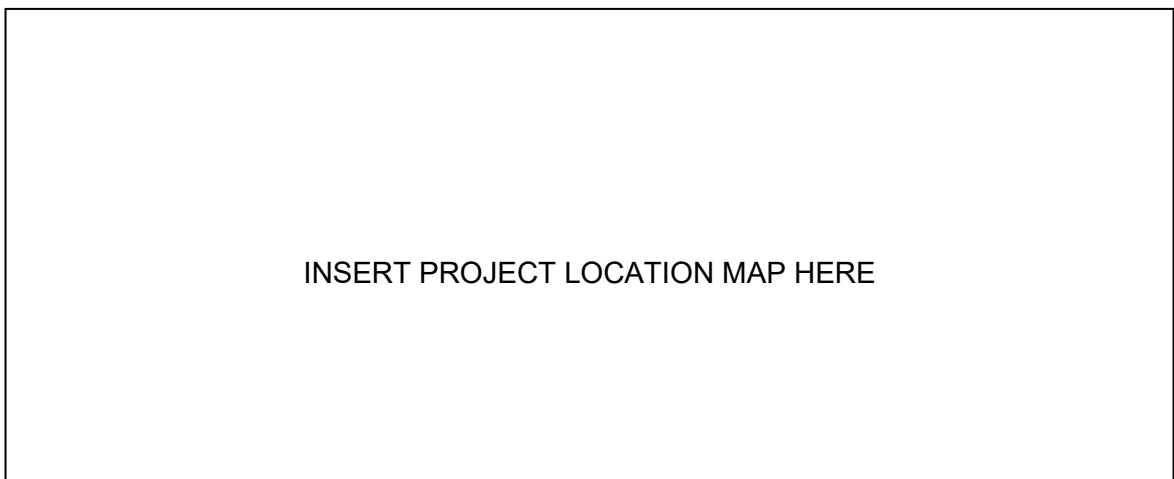
Federal Aid Project Number: \_\_\_\_\_

Project Limits: \_\_\_\_\_

Proposed Activity: \_\_\_\_\_

Class of Action: \_\_\_\_\_

Project Location Map:



**Figure 11-4 Sample Public Involvement Plan (Page 2 of 11)**

## Project Contact Information

For additional information regarding this project contact:

(Name) _____ FDOT Project Manager	(Name) _____ Consultant Project Manager
Address: _____ _____	Address: _____ _____
Telephone: _____	Telephone: _____
E-mail: _____	E-Mail: _____

## II. PROJECT BACKGROUND

*(Note: Give a brief project background description)*

## III. PROJECT GOALS

The following goals and objectives have been defined for this study:

*(Note: List and define project goals)*

## IV. IDENTIFICATION OF ELECTED OFFICIALS AND AGENCIES

The following local, regional, state, or federal agencies having a concern in this project due to jurisdictional review or expressed interest have been identified and will be contacted directly by the Florida Department of Transportation (FDOT) through the Advance Notification (AN) process at the outset of the project in accordance with the PD&E Manual, Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification. As other concerned public agencies are identified throughout the study, they also will be listed and contacted.

*(Note: the ETDM/ETAT distribution list can be used for specific names and contact details for state, federal, and regional agencies)*

**State:** Florida Department of State, Division of Historical Resources  
Florida Department of Agriculture and Consumer Services  
Florida Department of Environmental Protection  
Florida Department of Fish and Wildlife Conservation Commission  
Florida Department of Economic Opportunity

*(Note: Add others that pertain to the project)*

**Figure 11-4 Sample Public Involvement Plan (Page 3 of 11)**

**Federal:** Federal Highway Administration  
Federal Transit Administration  
U.S. Army Corps of Engineers  
U.S. Coast Guard  
U.S. Department of Interior - National Park Service  
U.S. Department of Interior - U.S. Fish and Wildlife Service  
U.S. Department of Commerce - National Marine Fisheries Service  
U.S. Environmental Protection Agency

**(Note: Add others that pertain to the project)**

**Regional:** **(List: e.g., Chamber of Commerce, Regional Planning Council, Transportation Planning Organization, Water Management District, or others that may pertain to the project)**

**Native American Tribes:**

Miccosukee Tribe of Indians of Florida  
Muscogee (Creek) Nation  
Poarch Band of Creek Indians of Alabama  
Seminole Nation of Oklahoma  
Seminole Tribe of Florida  
Mississippi Band of Choctaw Indians (only contact for projects in the Florida Panhandle, west of the Apalachicola River to the Alabama state line)

**Local Elected and Appointed Officials:**

**(NOTE: ELECTED OFFICIALS SHOULD BE REVIEWED AND UPDATED PRIOR TO MAIL OUTS FOR PUBLIC MEETINGS/HEARINGS)**

Florida State Senators for Local Districts:

Name	Senator, District _____
Name	Senator, District _____
Name	Senator, District _____

Florida State Representatives for Local Districts:

Name	Representative, District _____
Name	Representative, District _____
Name	Representative, District _____

Federal Delegation:

Name	U.S. Senator
Name	U.S. Senator
Name	U.S. Representative, District _____
Name	U.S. Representative, District _____

**Figure 11-4 Sample Public Involvement Plan (Page 4 of 11)**

_____ County:	
Name	County Administrator
Name	Commissioner, District 1
Name	Commissioner, District 2
Name	Commissioner, District 3
Name	Commissioner, District 4
Name	Commissioner, District 5
Name	Clerk of the Circuit Court
Name	Public Works Director
Name	County Engineer
Name	County Sheriff
Name	County Superintendent of Schools
_____ (City)	
Name	Mayor
Name	Councilman/Commissioner
Name	Councilman/Commissioner
Name	Councilman/Commissioner
Name	Councilman/Commissioner
Name	Councilwoman/Commissioner
Name	City Manager
Name	City Clerk
Name	Fire Chief
Name	Chief of Police
Name	Recreation and Parks Director
Name	Public Works Director
Name	City Engineer
Name	Airport Director (if applicable)

**V. IDENTIFICATION OF AFFECTED COMMUNITIES AND STAKEHOLDERS**

*This section describes the demographics of the study area and approaches for accommodating any special populations. An example discussion is provided below as a guide but it should be tailored to your specific project. If no special demographic concerns exist, make a statement to that effect and attach a copy of the SDR to the PIP.*

This project traverses through the City of \_\_\_\_\_ and several unincorporated communities including \_\_\_\_\_ and \_\_\_\_\_. A map of the communities in relation to the project limits is provided within Figure \_\_\_\_\_. The demographics of the study area was obtained through a Sociocultural Data Report (SDR) analysis. A copy of the SDR is attached to this PIP. Based on the demographics of the study area, there is a large number of \_\_\_\_\_ residents (e.g. transit dependent, elderly, limited English proficiency, etc.). Therefore, the project team will \_\_\_\_\_ (e.g. hold all public meetings at a location accessible by transit, translate all notification materials in another language, ensure that team members fluent in that language are present at the meetings, etc.).

**Figure 11-4 Sample Public Involvement Plan (Page 5 of 11)**

The following local, state, and national public interest groups or organizations having a direct or expressed interest in the project study have been identified and will be contacted by the Florida Department of Transportation (*e.g., Sierra Club, Audubon Society, local neighborhood associations*).

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## VI. OUTREACH ACTIVITIES

The following techniques will be used to notify the public of the proposed transportation improvement and to solicit public input into the project development process.

### Newspaper(s):

◆ *Name of Publication*  
Address

Phone Number

◆ *Name of Publication*  
Address

Phone Number

### Television:

◆ *Name of Television Station*  
Address

Phone Number

◆ *Name of Television Station*  
Address

Phone Number

### Radio:

◆ *Name of Radio Station*  
Address

Phone Number

◆ *Name of Radio Station*  
Address

Phone Number

In addition to working with the media, a number of different notification techniques will be used throughout the project development process. A brief description of these techniques is provided below.

### Letters/Newsletters:

Invitational and informational letters and newsletters will be distributed to elected and appointed officials, property owners/tenants, business owners/operators, and interested parties as feasible. It is anticipated that (number) newsletters will be distributed for this study: (note when in the project process). Notices will be hand-delivered to residences and businesses located directly along the project corridor (optional) as deemed necessary by the FDOT.

**Figure 11-4 Sample Public Involvement Plan (Page 6 of 11)**

**News/Press Releases:** News/press releases will be submitted to the FDOT seven days prior to each public meeting and the public hearing.

**Public Notices/  
Ads:**

Public advertisement will be published in the area newspaper with the largest circulation twice prior to the public meeting/hearing, and once to announce Location and Design Concept Acceptance (LDCA) at the end of the study.

**Public  
Announcements:**

In order to distribute PD&E phase information, fliers will be made available to organizations such as neighborhood/civic groups, the FDOT, and (name) County, to publish in existing newsletters and websites. Any such correspondence will be coordinated through the District's Public Information Office (PIO).

**Direct Mail List  
For Public Hearings:**

The following will be contacted by direct mail in order to obtain input throughout the project development process and/or in order to provide project information:

- ◆ Those whose property lies, in whole or part, within at least 300 feet on either side of the centerline of each project alternative (Section 339.155, F.S.), as well as other local citizens who may be impacted by the construction of this project. This portion of the mailing list will be based on the County Property Appraiser's tax rolls.
- ◆ Local elected and appointed public officials or individuals who request to be placed on the mailing list for this project.
- ◆ Public and private groups, organizations, agencies, or businesses that request to be placed on the mailing list for this project.

**Techniques:**

**Local Advisory Group:** A local advisory group (or public advisory committee) will be selected with the assistance of local governments; composed of local citizens having an active role in the community, such as representatives from impacted/interested cities, counties, regional agencies, MPOs and committees, and neighborhood associations or other groups within the project area. This group will be organized at the beginning of the project to involve local participants for advisory purposes, especially on highly controversial or sensitive projects (See PD&E, Part 1, Chapter 11, Section 11.2.2). (optional)

**Figure 11-4 Sample Public Involvement Plan (Page 7 of 11)**

**Presentations to Local Officials:** Presentations will be given to local officials and agencies such as the MPO prior to the Public Information Meeting(s) and the public hearing to apprise local officials of the project status, specific location, and design concepts, and to receive their comments.

**Public Information Meetings:** (number) (#) public meeting(s) will be conducted, as required by the FDOT, to present the project and the conceptual project alternatives being considered, and to obtain comments from the general public. These meetings will be informal.

**Public Hearing:** A formal public hearing, as required by federal regulations and state law, will be held.

**Informal Meetings:** In addition to the scheduled public meetings, there will be (number) (#) additional meetings with the public, elected and appointed officials, public agencies, or civic groups. The purpose of these meetings will be to apprise the attendees of the project status, specific location, and design concepts, and to receive input.

**Public Outreach Activity Schedule:**

	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.
Advance Notification	★		<b>Note: This is a sample project schedule. Adjust the months and tasks to pertain to a specific project.</b>							
Newsletter #1	★									
Public Kick-off Meeting		★								
Corridor / Other Public Meeting				★						
Small Group Meetings										
Newsletter #2					★					
Alternatives Public Meeting						★				
Public Hearing								★		
LDCA Announcement										★

**Figure 11-4 Sample Public Involvement Plan (Page 8 of 11)**



**VII. COORDINATION WITH \_\_\_\_\_ COUNTY**

Copies of aerial maps depicting all alignment and design concepts under consideration, along with draft copies of engineering and environmental study documentation, will be furnished to the County Engineers, with their review and written comments solicited. Updated information will also be forwarded to the county(s) for review and comment prior to the scheduled public hearing.

**VIII. PUBLIC HEARING**

In compliance with the Project Development and Environment (PD&E) Manual, 23 CFR 771, and Section 339.155, F.S., a public hearing will be held.

**Public Hearing Site:** The public hearing will be held at an appropriate facility convenient to the study area.

**Public Advertisement:** An advertisement will appear in the \_\_\_\_\_ (name of newspaper) twice (at least 15 days and no more than 30 days) prior to the public hearing.

*Name of Publication*  
Address

Phone Number

All advertisements will be sent to local newspapers via e-mail or by registered mail, return receipt requested.

In addition, an announcement of the public hearing will be published in the *Florida Administrative Register* at least 7 days prior to the public hearing. See Section 11.2.5.4.4 for instructions regarding FAR Ad submittal.

**Figure 11-4 Sample Public Involvement Plan (Page 9 of 11)**

<b>Letters of Invitation:</b>	Letters will be mailed to all property owners as required by Section 339.155, F.S., and to local elected and appointed government officials notifying them of the upcoming public hearing. Notices may be hand-delivered to residences and businesses located directly along the project corridor as deemed necessary by the FDOT.
<b>Hearing Preparation:</b>	Slide presentations and/or video presentations, project corridor aerial maps, graphics, and handouts will be prepared to supplement the oral public hearing presentation.
<b>Transcript:</b>	A verbatim transcript of the public hearing will be compiled to include written comments received at the hearing and written comments received within the established comment period after the hearing. All public hearing documentation (handouts, presentation, graphics, etc.) will be included with the transcript. The transcript will include a script of the recorded presentation, if applicable.
<b>Documents for Public Review:</b>	All draft documents to support PD&E studies evaluation will be available for public review at least 21 calendar days prior to the public hearing date.
<b>Locations of Documents for Public Review:</b>	<p>Public notice will be provided in the public hearing advertisement and by mailed invitational letters as to where the study documents are located for public review.</p> <p>Suggested public review sites are:</p> <ul style="list-style-type: none"><li>◆ County Libraries</li><li>◆ District Offices</li><li>◆ County Offices</li><li>◆ City Offices</li></ul>
<b>Title VI and Related Statutes:</b>	Information about the Title VI Program will be provided in the presentation, by handout, signage, and through availability of personnel, on the Title VI Program and the Relocation Assistance Program.
<b>Americans with Disabilities Act Compliance:</b>	Notification of the Department's intent to comply with the Americans with Disabilities Act will be provided in the public advertisements for the public hearing, in invitational letters to property owners/tenants and local officials, in handouts, and by selection of a public hearing site that meets ADA requirements.

**Figure 11-4 Sample Public Involvement Plan (Page 10 of 11)**

## IX. PUBLIC HEARING FOLLOW-UP

The following procedures will occur after the public hearing.

**Responses:** Responses to letters received as a result of the hearing and questions and comments not answered at the public hearing will be made in writing.

### **Recommendation**

**Notice:** A legal notice announcing the Office of Environmental Management's (OEM's) approval of the final document and recommendations will be published in the (Name of Local Publication) newspaper. In addition, press releases detailing the Department's recommendations will be provided to local media.

### **Public Hearing**

**Transcript Package:** A Transcript Package will be produced and submitted following the public hearing. The Transcript Package will include a verbatim hearing transcript prepared by an approved court reporter, an errata sheet detailing any transcript discrepancies, a copy of correspondence received by the Department as part of the public hearing record, and affidavits of publication for newspaper ads advertising the hearing.

### **Public Involvement**

**Summary:** A public involvement summary will be produced and submitted at the conclusion of the study, containing, at a minimum, documentation regarding public participation performed throughout the study period. This summary will include comments and responses received from the public, as well as Advance Notification, coordination with local officials and agencies, and public meetings; the verbatim transcript from the public hearing; proof of publication of ads; sign-in sheets; public hearing certification by the Project Manager (Moderator); and public comments.

## X. PUBLIC INVOLVEMENT DURING DESIGN

To the extent public involvement activities are necessary in the Design phase, the Design Project Manager will be responsible for coordinating any such activities.

**Figure 11-4 Sample Public Involvement Plan (Page 11 of 11)**



## *Florida Department of Transportation*

GOVERNOR

District Address  
District City, State and Zip Code

SECRETARY

### **PRESS RELEASE**

FOR IMMEDIATE RELEASE: \_\_\_\_\_ Date \_\_\_\_\_  
PROJECT CONTACT: \_\_\_\_\_ (Name) \_\_\_\_\_  
\_\_\_\_\_ (Phone Number) \_\_\_\_\_

### **PUBLIC MEETING/PUBLIC HEARING NOTICE**

The Florida Department of Transportation (FDOT) District \_\_\_ Office has scheduled a public hearing regarding proposed improvements to \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ in \_\_\_\_\_ County, Florida. The hearing is scheduled for (day of week), (month) (date), (year), at (meeting location) from to \_\_\_\_\_. The hearing will begin as an informal open house, with a formal presentation at \_\_\_ followed by a comment period.

This hearing is being held to allow interested persons an opportunity to be informed and provide comments concerning the location; conceptual design; and social, economic, and environmental effects of the proposed project to (name of project). The proposed project consists of improving [the roadway capacity to meet future travel demand, improving existing drainage and bridge deficiencies, constructing a sidewalk, and improving safety (select or add items pertaining to a specific project)].

The \_\_\_\_\_ (Environmental Document type), along with other pertinent information developed by the Department, will be available for public review on weekdays from \_\_\_\_\_, 20\_\_ through \_\_\_\_\_, 20\_\_, at (name of facility), \_\_\_\_\_ (address) \_\_\_\_\_, (City/State) \_\_\_\_\_. These materials will also be available at the hearing site from \_ p.m. until the end of the hearing. Persons desiring to submit written comments in place of or in addition to oral statements, may do so at the hearing or by sending them to \_\_\_\_\_ at FDOT District \_\_, (FDOT address) \_\_\_\_\_. All comments postmarked no later than (10 days after hearing), 20\_\_ will become a part of the public hearing record.

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.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact \_\_\_\_\_ at \_\_\_\_\_ at least seven days prior to the meeting.

### **Figure 11-5 Sample Press Release**



## PUBLIC MEETING ANNOUNCEMENT

**Project Name**

**Project Limits**

\_\_\_\_\_ County, Florida

Financial Management Number #

Federal Aid Project ID #

Efficient Transportation Decision Making (ETDM) #

The Florida Department of Transportation (FDOT), District (District number), will conduct an Public Meeting for (name of facility) from \_\_\_\_\_ to \_\_\_\_\_ in \_\_\_\_\_ County, Florida. The meeting will be held on (day of week), (date), from (time) to (time), at (location and street address). The meeting will be an open house with representatives from the FDOT available to answer questions. There will be **[no formal presentation OR a brief informational presentation at (time)]**. Maps, drawings and other information will be available.

The project's primary objective is to provide continuous dedicated bike lanes on both sides of NW 19th Street between SR 7 and Powerline Road. From SR 7 to NW 29th Avenue and from NW 24th Avenue to NW 15th Avenue, 4-foot-wide bike lanes will be provided by reducing the width of the traffic lanes; existing 12-foot-wide lanes will be reduced to 10-foot-wide via pavement milling, resurfacing, restriping, and isolated widening. From 29th Avenue to NW 24th Avenue and from NW 15th Avenue to Powerline Road, 5-foot-wide bike lanes with 3-foot-wide buffers will be provided by converting the outside traffic lane to a buffered bike lane through pavement milling, resurfacing, and restriping. In addition, this project will also retrofit a number of existing curb ramps to meet current Americans with Disabilities Act (ADA) requirements, upgrade bicycle signing and pavement markings, and install new pedestrian countdown signals at all signalized intersections.

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.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act (ADA) or persons who require translation services (free of charge) should contact \_\_\_\_\_, at least seven (7) days prior to the public hearing at (phone #). Email: name@dot.state.fl.us.

For more information, please visit our website at www.\_\_\_\_\_.com





### Figure 11-6 Sample Public Meeting Notice

**PUBLIC MEETING FACILITY CHECKLIST**

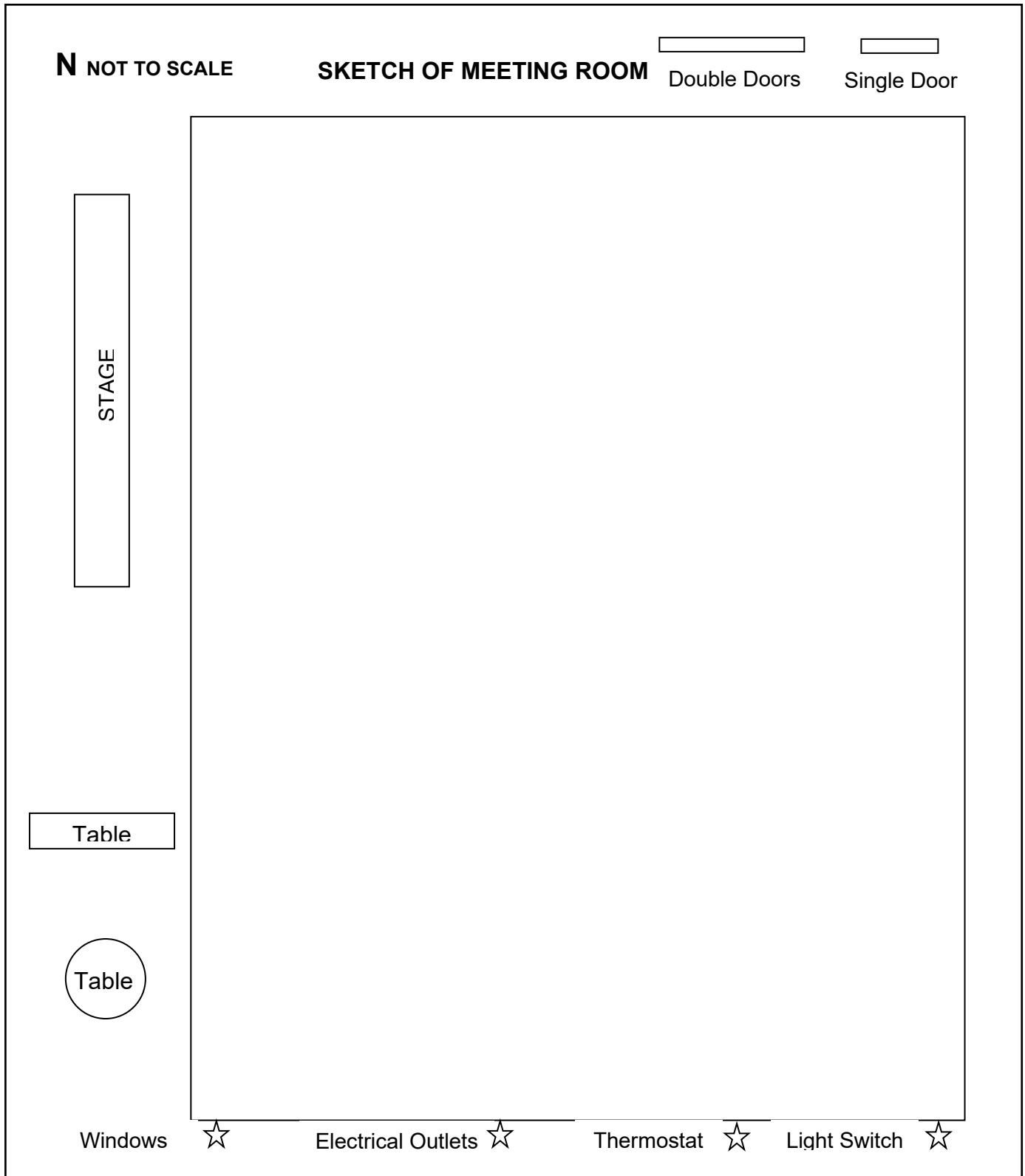
Project Name: \_\_\_\_\_ Project Number: \_\_\_\_\_  
 Facility Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
 Facility Address: \_\_\_\_\_ Contact Name: \_\_\_\_\_  
 \_\_\_\_\_ Date of Visit: \_\_\_\_\_  
 \_\_\_\_\_ Time of Visit: \_\_\_\_\_

Facility Information	Notes/Information	✓
Meeting Room Dimensions		
Capacity Number		
ADA Compatible: Wheelchair Access Ramps Parking		
Sound System: Microphone Speakers Podium		
Audiovisual Equipment Available: Screen Projector Projector Table		
Room Layout (Draw Sketch): Wall Space Available Location of Doors, Windows Room for Display Boards Stage Presentation Area		
Number of Chairs Needed		
Number of Tables Needed		
Janitor Service/Self Service		
Fees: Facility Rental Fee Janitorial Fee Other		
Available Parking		
Access to Meeting Room from Parking Lot		

**Figure 11-7 Sample Public Meeting Facility Checklist**

Facility Information	Notes/Information	✓
Number of Directional Signs Needed (Outside)	 Right Arrow  Left Arrow  Down Arrow  Up Arrow                        Double Sided    Welcome Sign	
Restroom Facilities: Location from Meeting Room  ADA Accessibility		
Food/Beverage Allowed? Soft Drink Dispenser Water Fountain Trash Containers		
Electrical Outlets: Number/Locations Extension Cords Needed		
Special Instructions: Lights Thermostat Lock-Up Other		
Insurance Needed:		
Facility Agreement Needed:		
Facility Schedule/Conflicts: Other Meetings/Activities Split Use/Exclusive Use		
Overall Site Security: Lighting Fire Exits		
General Notes		

**Figure 11-7 Sample Public Meeting Facility Checklist (Page 2 of 3)**



**Figure 11-7 Sample Public Meeting Facility Checklist (Page 3 of 3)**





## *Florida Department of Transportation*

GOVERNOR

SECRETARY

District Address  
District City, State and Zip Code

Date

Name  
Position  
Agency  
Address  
City, State Zip Code

Subject: Project Name \_\_\_\_\_  
Project Limits \_\_\_\_\_  
County/State \_\_\_\_\_  
Financial Management Number: \_\_\_\_\_  
Federal Aid Project Number: \_\_\_\_\_  
ETDM Number: \_\_\_\_\_

Dear Mr./Ms. Last Name:

The Florida Department of Transportation (FDOT) District x is preparing an Environmental Impact Statement (EIS) on the above-referenced project. 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. This letter is an invitation for your agency to attend a scoping meeting.

The purpose of this scoping meeting is to:

1. Determine the scope and significance of issues and the degree of analysis required for the EIS. This will also include identification of the range of alternatives and potential impacts to be evaluated.
2. Identify issues that are not significant or have been covered by prior environmental studies, and eliminate them from detailed study. This would narrow discussion in the EIS to a brief description of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.
3. Allocate assignments for sections of the EIS among FDOT and cooperating agencies, with FDOT retaining responsibility for the EIS preparation.
4. Identify any environmental assessments or impact statements that are being prepared and are related to, but not part of, the scope of the EIS under consideration.

**Figure 11-8 Sample Scoping Meeting Invitational Letter**

5. Identify other environmental review and consultation requirements so FDOT and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the EIS. Examples of additional requirements include surveys and studies required by the National Historic Preservation Act and the Endangered Species Act.
6. Identify permits, licenses, or entitlements that will be necessary.
7. Determine the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decision-making schedule.

\_\_\_\_\_ (name of consultant firm) of \_\_\_\_\_ (City/State), has been retained by the Florida Department of Transportation to develop the conceptual design features for the proposed project and an EIS.

The scoping meeting will be held on \_\_\_\_\_ (day of week), \_\_\_\_\_ (month), \_\_\_\_\_ (date), 20\_\_ from \_\_\_\_\_ (time) to \_\_\_\_\_ (time) at \_\_\_\_\_ (street address) \_\_\_\_\_.

The proposed improvements would involve \_\_\_\_\_ (project description) for \_\_\_\_\_ (project name and project limits).

Alternatives currently under consideration include:

1. Taking no action;
2. Widening to a \_\_\_\_\_;
3. Widening to a \_\_\_\_\_; and
4. Alternate corridors.

The study also includes consideration for \_\_\_\_\_.

(Additional project description - e.g., *The project may be an influencing factor for an increased rate of development in an area containing transitional wetlands. It may affect pedestrian safety and have an economic effect on existing commercial property that may be displaced or lose parking spaces.*)

This formal scoping meeting is necessary to aid the Department in project development and to increase interagency awareness of concerns. An agenda and project location map are enclosed to assist you in studying this project and outlining potential issues. If you have any questions prior to the meeting, please contact: \_\_\_\_\_ (FDOT Project Manager's name) \_\_\_\_\_ (District address) or \_\_\_\_\_ (consultant Project Manager's name) \_\_\_\_\_ (consultant's address).

Your agency's participation and cooperation in this preliminary issues identification effort are encouraged, and the Department would appreciate being notified by \_\_\_\_\_ (date) whether your agency will attend this meeting.

Sincerely,

\_\_\_\_\_  
District Environmental Management Engineer

xx/xx  
Enclosures

**Figure 11-8 Sample Scoping Meeting Invitational Letter (Page 2 of 3)**

### **Scoping Meeting Suggested Invitation Mailing List**

Early agency coordination and involvement are part of the Efficient Transportation Decision Making (ETDM) process. Review the ETDM Public Access Site at <http://etdmpub.floridastate.gov> to help determine which agencies have already been contacted regarding a specific project. Include those agencies and others as necessary:

Florida Department of Agriculture - Division of Forestry

Florida Department of Economic Opportunity

Florida Department of Environmental Protection (FDEP) - Branch Office

Florida Department of Environmental Protection (FDEP) - District Office

Florida Department of Environmental Protection (FDEP) - Office of Environmental Services-

Florida Department of Environmental Protection (FDEP) - Land Management Advisory Council

Florida Department of Environmental Protection (FDEP) - Office of Greenways and Trails

Florida Department of State - State Historic Preservation Officer

Florida Fish and Wildlife Conservation Commission (FWC) - Division of Marine Fisheries

Florida Fish and Wildlife Conservation Commission (FWC) - Office of Environmental Services

Florida Fish and Wildlife Conservation Commission (FWC) - Regional Office

National Oceanic and Atmospheric Administration (NOAA) - National Marine Fisheries Services  
(NMFS) Regional Office

U.S. Army Corps of Engineers (USACE) - Branch and Permits Section

U.S. Coast Guard - District

U.S. Department of the Interior - Bureau of Indian Affairs

U.S. Department of the Interior - Bureau of Land Management

U.S. Department of the Interior - Fish and Wildlife Service (USFWS)

U.S. Environmental Protection Agency (EPA) - Ecological Review Branch

U.S. Forestry Service

Water Management District (for project location)

**Figure 11-8 Sample Scoping Meeting Invitational Letter (Page 3 of 3)**

<b>TITLES AND SALUTATIONS</b>			
<b>Title</b>	<b>Address on Envelope</b>	<b>Salutation in Letter</b>	<b>Close</b>
U.S. Senator	The Honorable (full name) United States Senate Address	Dear Senator (last name)	Sincerely or Respectfully yours
U.S. Representative	The Honorable (full name) House of Representatives Address	Dear Congressman/Congresswoman (last name)	Sincerely or Respectfully yours
Governor	The Honorable (full name) Governor of (State) Address	Dear Governor (last name)	Sincerely or Respectfully yours
State Senator	The Honorable (full name) Florida Senate Address	Dear Senator (last name)	Sincerely or Respectfully yours
State Representative	The Honorable (full name) House of Representatives Address	Dear Representative (last name)	Sincerely or Respectfully yours
Chairman City/County Commission/Council	The Honorable (full name), Chairman (City/County) Commission/Council Address	Dear Chairman/Chairwoman/Chairperson (last name)	Sincerely or Respectfully yours
Commissioner City/County	The Honorable (full name) (City/County) Commissioner Address	Dear Commissioner (last name)	Sincerely or Very truly yours
Mayor	The Honorable (full name), Mayor City of _____ Address	Dear Mayor (last name)	Sincerely or Very truly yours
Rear Admiral	Rear Admiral (name), U.S. Coast Guard (number) Division Address	Dear Admiral (last name)	Sincerely or Respectfully yours

**Figure 11-9 List of Titles and Salutations**



## *Florida Department of Transportation*

GOVERNOR

District Address  
District City, State and Zip Code

SECRETARY

Date

(Mr./Ms./The Honorable) First Name Last Name, Suffix  
Position/Title  
Address  
City, State Zip Code

SUBJECT: Kick-off Meetings  
Name of Project  
Project Limits  
County/State  
Financial Management Number  
Federal-Aid Project Number

Dear (Salutation - see Figure 11.9 for proper salutations):

The Florida Department of Transportation (FDOT), District \_\_\_\_, has scheduled both an Elected Officials/Agencies Kick-off Meeting and Public Kick-off Meeting to discuss the (name of project) from (begin limit) to (end limit) in \_\_\_\_\_ County, Florida. The study will consider (describe proposed improvements).

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.

The Elected Officials/Agencies Kick-off Meeting is scheduled for (date), from (time) to (time) at (location and address).

This Elected Officials/Agencies Kick-off Meeting is an opportunity to provide you with a short presentation of the proposed project, including potential improvements as well as social, environmental and economic effects, followed by a question and answer session.

**Figure 11-10 Sample Officials/Agencies Kick-off Meeting Invitation**

The Public Kick-off Meeting is scheduled on the same day and at the same location as the Elected Officials/Agencies Kick-off Meeting, but will be held from (time) to (time). This meeting will be conducted as an informal, open house with a brief presentation at (time). The open house setting will provide a more relaxed opportunity for the public to learn about the project, become familiar with the study process, and provide initial feedback. Enclosed is a copy of the notice for the Public Kick-off Meeting.

If you would like further information about this project, please contact (name) at (phone) or by email at name@dot.state.fl.us. You may also visit the project website at www.\_\_\_\_\_.com.

Sincerely,

---

District Environmental  
Manager or Designee

Enclosure

**Figure 11-10 Sample Officials/Agencies Kick-off Meeting Invitation (Page 2 of 2)**

**PUBLIC HEARING PLANNING CHECKLIST** - Project Name: \_\_\_\_\_ Public Hearing Date: \_\_\_\_\_

Task	Person Resp.	Target Start	Target Complete	Date Complete	Comments
<b>Meeting Facility</b>					
Identify Public Hearing Facility					Ensure ADA compliant
Reserve/Confirm Public Hearing Facility					
Send Letter of Reservation/Confirmation to Facility					
<b>Newspaper Ads - Two (2) 1/4 Page Size and Press Release</b>					
Draft Newspaper Ad and Press Release					Newspaper Ads:  PUBLISH TWICE First Notice at least 15 days but not more than 30 days prior to Public Hearing When needed, Second Notice 7-12 days prior to Public Hearing
Submit Draft Ad and Press Release to Consultant PM for Review					
Consultant PM Review of Draft Ad and Press Release					
Submit Draft AD and Press Release to FDOT for Review					
FDOT Review of Draft Ad and Press Release					
Final Revisions to Ad and Press Release					
<b>Submit Ad to Newspaper (Send by E-mail or Return Receipt Requested)</b>					
First print date at least 15 calendar days prior to Hearing					
Second print date 7 to 12 calendar days prior to Hearing					
<b>Fax Press Release to Media 5 Days Prior to Hearing</b>					
Obtain Affidavit of Publication from Newspaper - Forward to FDOT					
<b>FAR AD (Publish Not Less Than 7 Days Prior to Hearing)</b>					
Draft Florida Administrative Register Ad					FAR Ad  FAR notice to be printed no less than 7 calendar days prior to Hearing
Submit Draft FAR Ad to Consultant PM for Review					
PM Review of Draft FAR Ad					
Make PM Revisions to FAR Ad					
Submit Draft FAR Ad to FDOT for Review					
FDOT Review of Draft FAR Ad					
Final Revisions to FAR Ad					
<b>Submit FAR Ad to District PIO to be Received:</b>					
<b>FAR Ad to FAR - to be Received on or Before 12:00 p.m. on:</b>					
<b>Mailing Lists</b>					
Update Mailing List for Elected/Appointed Officials and Agencies					Public Mailing Lists  Update to include any new elections/appointments and new property owners
Update Property Owners/Tenants/Interested Citizens Mailing List(s)					
Submit Mailing Lists to PM for Review					
PM Review of Mailing Lists					
Make Consultant PM Revisions to Mailing Lists					
Submit Mailing Lists to FDOT for Review					
FDOT Review of Mailing Lists					
Make Final Revisions to Mailing Lists					
<b>Letters to Elected/Appointed Officials and Agencies</b>					
Draft Letter to Officials and Agencies					Letters to Elected/Appointed Officials and Agencies  Officials/Agencies to receive notification at least 25 days but no more than 30 calendar days prior to Public Hearing
Submit Draft Letter to Consultant PM for Review					
PM Review of Draft Letter					
Make PM Revisions to Draft Letter					
Submit Draft Letter to FDOT for Review					
FDOT Review of Draft Letter					
Make Final Revisions to Letter and Merge with Officials Mailing List					
<b>Send Letters to FDOT EMO for Signature</b>					
<b>Letters to be Mailed No Later Than:</b>					
<b>Newsletters (or Letter) to be Sent to Property Owners</b>					

Draft Newsletter (or Letter)					Newsletter (or Letter) to Property Owners  Property Owners to receive notification no less than 20 calendar days prior to Public Hearing
Submit Draft Newsletter to PM for Review					
PM Review of Draft Newsletter					
Make PM Revisions to Draft Newsletter					
Submit Draft Newsletter to FDOT for Review					
FDOT Review of Draft Newsletter					
Make Final FDOT Revisions to Newsletter					
Prepare Newsletter for Distribution - Print, Fold, Address, Stamp					
<b>Locations for Documents to be Available for Public Review</b>					
Facility Name/Address					Documents to be available for public review 21 days prior to the Public Hearing
Facility Name/Address					
Facility Name/Address					
Facility Name/Address					
<b>Presentation/Hearing Materials</b>					
Engage Court Reporter for Public Hearing					Meeting materials should be prepared well in advance of the Public Hearing to allow for reviews and revisions
Prepare PowerPoint or Video Presentation					
Prepare Narration Script and Moderator's Script					
Sign-in Sheets					
Comment Forms					
Project Facts Sheet (for Team Members)					
Handouts and/or Brochures					
Speaker Cards					
List of Project Team Attendees and Name Tags					
Table Signs					
Directional Signs (outdoor/indoor)					
Welcome Sign					
Title VI Display Board and Complaint Forms					
Roadway Profiles and/or Typical Sections					
Comparative Evaluation Matrix					
Aerial Photograph Display Boards					
Submit Draft Hearing Materials to PM for Review					Preparations for Briefing with FDOT
PM Review of Meeting Materials					
PM Revisions to Meeting Materials					
First Briefing Meeting with FDOT - Public Hearing Preparation Review					First Briefing Meeting with FDOT
FDOT Review of Hearing Materials					
FDOT Revisions to Hearing Materials					
Second Briefing Meeting with FDOT					Finalize Materials in Preparation for Public Hearing
<b>Finalize Materials for Public Hearing</b>					
<b>Post Public Hearing Activities and Tasks</b>					
Obtain Hearing Transcript from Court Reporter					
Review Transcript and Prepare Errata if Necessary					
Prepare Public Hearing Certification Form					
Review and Revisions to Errata and Public Hearing Certification Form					
Submit Transcript, Errata, and Public Hearing Certification Form to FDOT for Signature					
<b>Public Involvement Summary</b>					
Prepare Public Involvement Summary containing transcript, errata, and signed certification, as well as documentation for all public involvement activities conducted throughout the project.					Public involvement activities may be summarized in the Environmental Document. Environmental Document. Method used for documentation should be provided within the Public Involvement Plan.
Submit Public Involvement Summary to PM for Review					
Consultant PM Review of Public Involvement Summary					
Consultant PM Revisions to Public Involvement Summary					



Submit Public Involvement Summary to FDOT for Review					
<b>Location and Design Concept Acceptance (LDCA) Newspaper Ad and Press Release</b>					
Prepare LDCA Announcement and Press Release and have PM Review					Publish LDCA Announcement after receiving OEM acceptance
Make LDCA Announcement and Press Release Revisions and Submit to FDOT					
Finalize LDCA Announcement and Submit to Local Newspaper					
Finalize Press Release and Submit to FDOT for Media Notification					
Obtain Affidavit of Publication from Local Newspaper - Forward to FDOT					

**Figure 11-11 Public Hearing Planning Checklist**

<b>Public Notice Type</b>	<b>Statute/Laws</b>	<b>Federal/State Requirements</b>	<b>FDOT Timeframes</b>	<b>Justification</b>
Florida Administrative Register Ad	Section 120.525, F.S.	7 days	7 days	FDOT's FAR ad requirement is consistent with Chapter 120, F.S.
Newspaper Ads	Section 339.155, F.S.	Published Twice 1 <sup>st</sup> – 15-30 days 2 <sup>nd</sup> – Not Specified	Published Twice 1 <sup>st</sup> – 15-30 days 2 <sup>nd</sup> – 7-12 days (when needed)	the first newspaper ad should coincide with the time frame of the property owner notification, as well as when project documents will be available for public review.
Officials and Agencies	Section 339.155, F.S.	Not Specified	25-30 days	notification to officials and agencies should be prior to notification to property owners so that they can obtain additional project information to prepare for any questions they might receive from the public.
Property Owners	Section 339.155, F.S.	20 days	21 days	property owner notification is consistent with the time frame when project documents will be available for public review. It also coincides with the first newspaper ad.

**Figure 11-12 Public Hearing Notice Requirements**

**Notice of Meeting/Workshop Hearing  
DEPARTMENT OF TRANSPORTATION**

The Florida Department of Transportation, District XX

announces a (hearing, workshop, telephone conference call – Choose one) to which all persons are invited.

DATE AND TIME \_\_\_\_\_

PLACE \_\_\_\_\_

**GENERAL SUBJECT MATTER TO BE CONSIDERED:**

At the end include the following 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 December 14, 2016, and executed by FHWA and FDOT.

A copy of the agenda may be obtained by contacting:

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least \_\_\_\_\_ (days, hours – choose one) before the workshop/meeting by contacting:

If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

\_\_\_\_\_ If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, that person will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact:

**Figure 11-13 Sample Florida Administrative Register Ad Form**  
[www.flrules.org/agency/login.asp](http://www.flrules.org/agency/login.asp)



**P Name of Project  
Project Limits  
County, Florida**

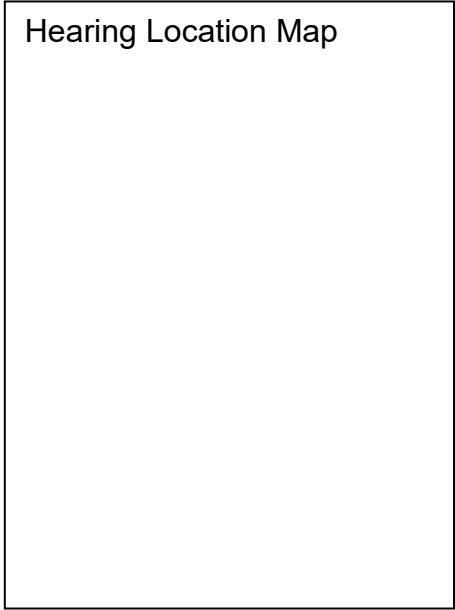
Financial Management #  
Federal Aid Project ID #  
Efficient Transportation Decision Making (ETDM) #

The Florida Department of Transportation (FDOT), District \_\_\_\_, will conduct a public hearing for the proposed improvements to (name of facility) from \_\_\_\_\_ to \_\_\_\_\_ in \_\_\_\_\_ 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 FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT. The public hearing will be held on (date) at (location and street address). The public hearing will begin as an open house at (time), with a formal presentation at (time), followed by a public comment period. The proposed improvements consist of (describe improvements).

This public hearing is being conducted to give interested persons an opportunity to express their views concerning the location, conceptual design, and social, economic, and environmental effects of the proposed improvements. Draft project documents will be available for public review from (date) to (date) at the (location and address) and on the project website, www.\_\_\_\_.com.

Persons wishing to submit statements, in place of or in addition to oral statements, may do so at the hearing or by sending them to (FDOT contact name and address) or at (email address). All statements postmarked on or before (end of 10-day comment period) will become part of the public hearing record.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act (ADA) or persons who require translation services (free of charge) should contact \_\_\_\_\_, at least seven (7) days prior to the public hearing at (phone #). Email: name@dot.state.fl.us.



**Figure 11-14 Sample Public Hearing Newspaper Display Ad**



## *Florida Department of Transportation*

GOVERNOR

District Address  
City, State and Zip Code

SECRETARY

Date

(Mr./Ms./The Honorable) First Name Last Name, Suffix  
Position/Title  
Address  
City, State Zip Code

SUBJECT:       Public Hearing Announcement  
                  Name of Project  
                  Project Limits  
                  County, State  
                  Financial Management Number  
                  Federal Aid Project Number  
                  Efficient Transportation Decision Making (ETDM) Number

Dear (Salutation - see Figure 11.10 for proper salutations):

The Florida Department of Transportation (FDOT), District \_\_\_\_\_, will hold a public hearing for the above referenced project on (date) at (location and address). The hearing will begin as an open house at (time) with a formal presentation at (time). A copy of the newspaper ad, including a location map for the hearing is enclosed. Notices are being sent to all property owners and tenants located within at least 300 feet on either side of the proposed alignment and to other public officials, regulatory agencies, organizations, and individuals interested in the project. The hearing is being conducted to give interested persons an opportunity to express their views concerning the location, conceptual design, and social, economic, and environmental effects of the proposed improvements. 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.

This hearing is being held as part of a current Project Development and Environment (PD&E) Study that is being conducted to evaluate proposed transportation solutions for this segment of (facility name) and to provide documented information necessary for FDOT to reach a decision on the type, design, and location of the improvements. The project is being developed to (describe what the project is trying to achieve – reduce congestion, enhance safety, achieve an acceptable level of service, etc.) while minimizing potential impacts to the natural and human environments.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact (name) at (phone #) or by email at name@dot.state.fl.us at least seven days prior to the hearing.

If you have questions about the project or scheduled public hearing, please contact the Project Manager, (name), at (phone #), or by email at name@dot.state.fl.us. You may also visit the project website at www.\_\_\_\_\_.com.

Sincerely,

\_\_\_\_\_  
FDOT Contact

Enclosure

### **Figure 11-15 Sample Hearing Invitation Letter for Officials and Agencies**



## *Florida Department of Transportation*

GOVERNOR

District Address  
City, State and Zip Code

SECRETARY

Date

SUBJECT:       Public Hearing Announcement  
                  Name of Project  
                  Project Limits  
                  County, State  
                  Financial Management Number  
                  Federal Aid Project Number  
                  Efficient Transportation Decision Making (ETDM) Number

Dear Property Owner or Current Resident:

The Florida Department of Transportation (FDOT), District \_\_\_\_\_, will hold a public hearing for the above referenced project. The proposed improvements involve (name of project) from (begin limits) to (end limits), for a distance of \_\_\_\_\_ miles. The hearing will be held on (date) at (location and address). The hearing will begin as an open house at (time) with a formal presentation at (time). A location map of the hearing site is provided at the end of this letter.

This public hearing is being conducted to give interested persons an opportunity to express their views concerning the location, conceptual design, and social, economic, and environmental effects of the proposed improvements. 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. The project consists of (describe project improvements). The draft project documents and other information will be available for public review from (date) to (date) at (location and address) and on the project website ([www.\\_\\_\\_\\_\\_.com](http://www._____.com)).

Persons wishing to submit written statements, in place of or in addition to oral statements, may do so at the hearing or by sending them to (FDOT contact name and address) or by email at [\\_\\_\\_\\_\\_.name@dot.state.fl.us](mailto:_____.name@dot.state.fl.us). All statements postmarked on or before (end of 10-day comment period) will become a part of the public hearing record.

This letter is being sent to all property owners and tenants within at least 300 feet of either side of the proposed project and to other public officials, regulatory agencies, organizations, and individuals interested in the project.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact (name) at (phone #) or by email at [\\_\\_\\_\\_\\_.name@dot.state.fl.us](mailto:_____.name@dot.state.fl.us) at least seven days prior to the hearing.

If you have questions about the project or scheduled public hearing, please contact the Project Manager, (name), at (phone #), or by email at [\\_\\_\\_\\_\\_.name@dot.state.fl.us](mailto:_____.name@dot.state.fl.us). You may also visit the project website at [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

Sincerely,

\_\_\_\_\_  
District Environmental Management Engineer

Enclosure

### **Figure 11-16 Sample Hearing Invitation Letter for Property Owners**



**Project Name**  
**Public Hearing/Meeting**

Date \_\_\_\_\_  
Financial Management No. \_\_\_\_\_

**Comments**

(Please print)

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**Contact Information** (please print):

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

If you require extra time, please forward comments by (end of 10-day comment period) to be included in the project record, to:

Contact Name  
Florida Department of Transportation  
Address  
City, State Zip

**Figure 11-17 Sample Comment Form**

<b>Speaker Request Card</b>		Number <input type="checkbox"/>
<i>To be completed prior to making a recorded statement</i>		
<b>PUBLIC HEARING - (date) ____, 20__</b>		
(project name) _____		
(project limits) _____		
<b>PLEASE PRINT:</b>		
Name:	_____	
	First	Middle      Last
Address:	_____	
	Street	
	_____	
	City	State      Zip code
Telephone:	_____	
Representing:	Self _____ Firm/Agency _____	
	Government Agency _____	
	Civic Organization _____	
	Homeowners Association _____	
	Other _____	

Figure 11-18 Sample Hearing Speaker Card





The FLORIDA DEPARTMENT OF TRANSPORTATION announces an opportunity for a public hearing. 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.

PURPOSE: Notice is hereby given that interested persons may request a location and design concept public hearing for:

Project Name: \_\_\_\_\_  
Type of Project: \_\_\_\_\_  
Project Limits: \_\_\_\_\_  
City/Town/County: \_\_\_\_\_, Florida  
Financial Management Number: \_\_\_\_\_  
Federal-Aid Project Number: \_\_\_\_\_  
This Project Includes (Project Description):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This proposed project involves the use of properties protected under the National Historic Preservation Act of 1966. Persons interested in this project may review the approved Draft Section 4(f) Statement at the following Florida Department of Transportation Office: (if applicable)

Florida Department of Transportation District \_\_\_\_  
Mailing Address  
City, State Zip Code  
Telephone Number

Persons interested in requesting a location and design concept public hearing should submit a request in writing to:

Florida Department of Transportation  
District Environmental Management Engineer  
Mailing Address  
City, State Zip Code  
E-Mail Address

The request should be postmarked no more than 21 days following the publication of this notice.

**Figure 11-20 Sample Notice to Request a Public Hearing**



**NOTICE OF  
FINAL ENVIRONMENTAL IMPACT STATEMENT**

**Name of Project  
Project Limits  
County, Florida**

Financial Management #  
Federal Aid Project ID #  
Efficient Transportation Decision Making (ETDM) #

The Florida Department of Transportation, District \_\_\_\_ has released a Final Environmental Impact Statement (FEIS) for the proposed improvements to (name of project) in \_\_\_\_ 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 FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The project consists of (provide a brief summary of the project and recommendations).  
The FEIS will be available for a 30 calendar-day review period effective (date) to (date), at (locations and address).

Persons wishing to submit written statements, may do so by sending them to (FDOT contact name and address).

All statements postmarked on or before (end of 30-day comment period date) will become a part of the project record.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status.

(Include name, telephone number and email of contact person).

**Figure 11-21 Sample Notice of Final Environmental Impact Statement**



**ANNOUNCEMENT OF  
LOCATION AND DESIGN CONCEPT ACCEPTANCE**

**Name of Project  
Project Limits  
County, Florida**

Financial Management #  
Federal Aid Project ID #  
Efficient Transportation Decision Making (ETDM) #

On (month/day), (Year), 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 FHWA and FDOT, granted Location and Design Concept Acceptance for the (name of project) from (begin limits) to (end limits). The proposed improvements consist of (describe improvements).

This project will now proceed to the next phase of development. For more information please contact:

FDOT Project Manager  
Address  
City, State Zip  
Contact phone #

**Figure 11-22 Sample Location and Design Concept Acceptance Announcement**

## **PART 1, CHAPTER 12**

### **ENVIRONMENTAL PERMITS**

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## PART 1, CHAPTER 12

# ENVIRONMENTAL PERMITS

### 12.1 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).

This chapter details the environmental permits that may be required for transportation projects as well as coordination required with regulatory agencies and within the FDOT from project planning through construction and maintenance. The need to obtain an environmental permit for a transportation project is dictated by the project's impact on a protected resource. [Table 12-1](#) identifies the major federal and state laws, and agency rules and policies associated with environmental permits. It is not meant to be all inclusive. For qualifying projects, FDOT's Efficient Transportation Decision Making (ETDM) process is initiated during the Planning phase where resource agencies review projects to identify potentially affected resources and permits that FDOT may need to obtain. See [Section 12.3.2](#) for guidance on projects that qualify for ETDM screening.

In the Project Development and Environment (PD&E) phase, FDOT develops technical reports as needed, completes environmental analyses, and ultimately identifies the alternative to be designed. Resource impacts are evaluated, mitigation options are considered, and commitments may be made with regulatory/resource agencies. Information gathered during PD&E can be used in environmental permit applications. More guidance on preparing for permitting during PD&E is provided in [Section 12.3.3](#).

Permitting is generally initiated during the Design phase (i.e., typically after Phase II design plans or 60% plans), but can be advanced in the PD&E phase if enough detailed information regarding project and resource impacts is available. In order to prepare for and efficiently navigate the permitting process, a project should avoid and minimize impacts to assure regulatory agencies that the project would not result in unacceptable



impacts to environmental resources under their purview. After FDOT meets the regulatory agency's permitting criteria, the permit is issued. Guidance on the permitting process in the Design phase is provided in [Section 12.3.5](#).

During Construction, FDOT ensures environmental permit compliance and confirms that permit conditions are addressed as specified in the contract documents. Environmental permit compliance is handled by the Construction Office. Guidance on environmental permitting issues during Construction is provided in [Section 12.3.6](#).

An additional resource for environmental permitting is the [Permit Handbook](#), published by OEM.

### **12.1.1 District Roles and Responsibilities**

The District ETDM Coordinator screens qualifying projects in the Environmental Screening Tool (EST) and provides agency comments to the PD&E Project Manager and Permit Coordinator. See the [ETDM Manual, Topic No. 650-000-002](#) for details on ETDM Coordinator and Permit Coordinator responsibilities during ETDM.

The District prepares the appropriate Environmental Document and supporting technical reports.

The Permit Coordinator is ultimately responsible for obtaining the necessary project permits. They are also tasked with coordinating with Environmental Office staff during PD&E, reviewing the Environmental Document and applicable technical reports, coordinating with resource agencies during project permitting, and coordinating with Construction later in the project as necessary. The responsibilities of the Permit Coordinator may also be handled by other District staff, such as District Environmental Permitting Engineer, Environmental Permits Coordinator, or Drainage Engineer. Throughout the remainder of this chapter this position will be referred to as the Permit Coordinator.

Design Project Managers in coordination with the District Drainage Engineer and Permit Coordinator ensure that permits are obtained in accordance with the project schedule and the project design incorporates appropriate environmental commitments.

The Construction Project Administrator is responsible for compliance during the Construction phase. For more information on the responsibilities of the Construction Project Administrator, please see [Section 8.2, Environmental Permit Compliance](#) of the [Construction Project Administration Manual \(CPAM\), Topic No. 700-000-000](#).

### **12.1.2 Definitions**

The definitions below are used throughout this chapter.

**As-Built Drawings** - Plans certified by a registered professional engineer that accurately represent the constructed condition of a project, including identifying any substantial deviations from the permitted design. See **Rule 62-330.310(4)(a)1, Florida Administrative Code (F.A.C.)**.

**Coastal Zone Management Act Consistency Determination** - A finding that an activity that affects land or water uses, or natural resources in a state's coastal zone complies with that state's federally-approved Coastal Management Program. See **33 Code of Federal Regulations (CFR) § 330.4(d)(1)** and **33 CFR § 325.2(b)(2)**.

**Compensatory Mitigation** (federal definition) - The restoration, establishment, enhancement, or protection/maintenance of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization have been achieved via the mandatory federal mitigation sequence process. See **33 CFR § 332.2**.

**Critical Habitat** - For federally listed species, critical habitat consists of: (1) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of **Section 4** of the **Endangered Species Act (ESA)**, on which are found those physical or biological features (constituent elements) (a) essential to the conservation of the species and (b) which may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of **Section 4** of the **Act**, upon a determination by the Secretary that such areas are essential for the conservation of the species [**ESA § 3 (5)(A)**]. Designated critical habitats are described in **50 CFR §§ 17 and 226**.

**Design-Build (DB)** - A project delivery contracting method whereby one entity performs both design and construction under one single contract.

**Design-Bid-Build** - A project delivery method whereby the contracting agency either performs the design work in-house or negotiates with an engineering design firm to prepare drawings and specifications under a design services contract, and then separately contracts for at-risk construction by engaging a contractor through competitive bidding.

**Direct Impact** - Project impacts to environmental resources, water quality, water quantity, protected species or cultural/historical resources caused by the action within FDOT Right of Way (ROW) or construction footprint.

**Discharge of Dredged Material** - Any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, the waters of the United States. See **33 CFR § 323.2(d)**.

**Discharge of Fill Material** - The addition of fill material into waters of the United States. See **33 CFR § 323.2(f)** for the complete definition of this term.

**Dredging** - Excavation, by any means, in surface waters or wetlands. It also means the excavation, or creation, of a water body which is, or is to be, connected to surface waters or wetlands, as delineated in **Section 373.421(1), Florida Statutes (F.S.)**, directly or via an excavated water body or series of water bodies. See **Section 373.403(13), F.S.**

**Essential Fish Habitat (EFH)** - Those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. For the purpose of interpreting the definition of EFH: "waters" include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; "substrate" includes sediment, hard bottom, structures underlying the waters, and associated biological communities; "necessary" means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem; and "spawning, breeding, feeding, or growth to maturity" covers a species' full life cycle. See **50 CFR § 600.10**.

**Fill** - Material placed in waters of the United States where the material has the effect of: (i) Replacing any portion of a water of the United States with dry land; or (ii) Changing the bottom elevation of any portion of a water of the United States. Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the United States. The term fill material does not include trash or garbage. See **33 CFR § 323.2(e)**.

**Filling** - The deposition, by any means, of materials in wetlands or other surface waters, as delineated in **Section 373.421(1), F.S.** See **Section 373.403(14), F.S.**

**Incidental Fallback** - The redeposit of small volumes of dredged material that is incidental to excavation activity in waters of the United States when such material falls back to substantially the same place as the initial removal. Examples of incidental fallback include soil that is disturbed when dirt is shoveled and the back-spill that comes off a bucket when such small volume of soil or dirt falls into substantially the same place from which it was initially removed. See **33 CFR § 323.2(d)(2)(ii)**.

**Incidental Take** (federal definition, **ESA**) - Take of listed fish or wildlife species that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by a federal agency or applicant, or contractors working on behalf of the applicant. See **50 CFR § 402.02**.

**Incidental Take** (state definition) - Any taking otherwise prohibited, if such taking is incidental to, and not the purpose of the carrying out of an otherwise lawful activity. See **Chapter 68A-27, F.A.C.**

**Indirect Impact** - Those impacts caused by the authorized activity that are not considered direct, and are later in time or farther removed in distance but are still reasonably foreseeable. The terms "indirect" and "secondary" are used interchangeably.

**Local Agency Program (LAP)** - A program where towns, cities and counties develop, design, and construct transportation facilities with federal funds with oversight conducted by FDOT.

**Mitigation** (state definition) - An action to off-set the adverse impacts caused by an activity typically consisting of restoration, enhancement, creation, or preservation of wetland resources, or a combination thereof.

**Mitigation Sequence** - A federal process by which proposed wetland impacts must be avoided to the maximum extent practicable; the remaining unavoidable impacts must then be minimized, and finally compensated for, to the extent appropriate and practicable.

**Navigable Waters of the United States** - Those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water line and/or those waters that are presently used, or have been used in the past or may be susceptible to use for interstate or foreign commerce. These are waters that are navigable in the traditional sense. Permits are required in these waters pursuant to **Section 10** of the **Rivers and Harbors Act of 1899**. See **33 CFR § 329.4**.

**Ordinary High Water Line** (state definition) - For the regulatory purposes of **Chapter 62-330, F.A.C.**, means that point on the slope or bank where the surface water from the water body ceases to exert a dominant influence on the character of the surrounding vegetation and soils. The ordinary high water line frequently encompasses areas dominated by non-listed vegetation and non-hydric (i.e., upland) soils. See **Volume 1** of the state **Applicant's Handbook**.

**Ordinary High Water Mark** (with respect to non-tidal waters) - The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed upon the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. See **33 CFR § 328.3(e)**.

**Sovereignty Submerged Lands** - The State of Florida acquired title to sovereignty submerged lands on March 3, 1845, by virtue of statehood. Sovereignty submerged lands include all submerged lands, title to which is held by the Board of Trustees (Governor and Cabinet) of the Internal Improvement Trust Fund (TIITF). Sovereignty submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters.

**Stormwater** - The surface flow of water that results from, and that occurs immediately following, a rainfall event.

**Stormwater Management System** - A surface water management system that is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system [**Sections 373.403(10)** and **403.031(16), F.S.**].

**Surface Water** (state definition) - Means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface [**Section 373.019(21), F.S.**]. **Rule 62-340.600, F.A.C.**, further defines surface waters as waters on the surface of the earth, contained in bounds created naturally or artificially, including, the Atlantic Ocean, the Gulf of Mexico, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, and other watercourses.

**Take** (federal definition, **ESA**) - "The term 'take' means to **harass, harm**, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct [**16 U.S.C. § 1532(19)**]."

- **Harm** - Significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding or sheltering.
- **Harass** - Actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include but are not limited to breeding, feeding, or sheltering (**50 CFR § 17.3**).

**Take** (state definition) - To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct (**Chapter 68A-27, F.A.C.**).

- **Harm** - An act which actually kills or injures fish or wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.
- **Harass** - An intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.

**Take**, as related to state and federal bald and golden eagle permitting - To "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or **disturb**" an eagle.

- **Disturb** - To "agitate or bother a bald or golden eagle to the degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to

an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior" (**Title 50 CFR § 22.3**). The **Florida Fish and Wildlife Conservation Commission (FWC) Bald Eagle Management Plan** adopts the federal definition of "disturb" in **50 CFR § 22.3** and Florida's definition of "take" in **Rule 68A-1.004(79), F.A.C.**

**Waters of the United States** - Waters of the United States is defined in **33 CFR Part 328** and **40 CFR § 122.2** and is the jurisdictional boundary of a water that is regulated by the United States Army Corps of Engineers (USACE) or the United States Environmental Protection Agency (EPA) under the **Clean Water Act (CWA)**.

**Wetlands** (federal definition) - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (**40 CFR § 232.2**)

**Wetlands** (state definition) - Those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. See **Section 373.019(27), F.S.**

## 12.2 PERMITTING AGENCIES AND ENVIRONMENTAL REGULATIONS

Environmental permits are required from one or more regulatory agencies for most land alterations, including the addition of impervious surfaces; construction, alteration, or abandonment of stormwater management facilities; impacts to wetland or surface waters (including navigable waters); and actions that could adversely affect specific protected wildlife species and/or their habitat.

Permit applications are reviewed by the regulatory agencies for their consistency with regulatory criteria and/or the effect of the project on the environmental resources (e.g., wetlands, water quality, protected species and their habitats). Through the application process, the regulatory agencies may request other agencies to review transportation projects to ensure that they are not adversely impacting the resources (i.e. wildlife, habitat, cultural) under their purview. Also, for protected species impacts, a specific species permit may be required.

Below is a list of agencies FDOT typically coordinates with throughout the permitting process. More details on the permitting agencies can be found in [Section 12.2.1](#).

## Federal Agencies

The U.S. Army Corps of Engineers (USACE) has the authority to issue permits for activities involving the discharge of dredge and fill materials into waters of the United States, including wetlands.

The U.S. Coast Guard (USCG) issues permits for bridges or causeways in or over navigable waters of the United States, and for causeway construction in all tidal waters of the United States.

The U.S. Environmental Protection Agency (EPA) develops and interprets policy, guidance and environmental criteria used in evaluating federal permit applications. The agency also serves as the water resource commenting body during the federal permitting process and has veto authority over the issuance of a USACE permit.

The U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) serve as the federal wildlife commenting agencies during the USCG and USACE federal permitting processes. These agencies act as lead permitting agencies for **Section 10** permitting under the **ESA**.

The Advisory Council on Historic Preservation (ACHP) serves as a review agency on permit applications where any district, site, building, structure, or object, that is included in or eligible for inclusion in the **National Register of Historic Places (NRHP)** may be affected. The day-to-day responsibilities for project reviews are carried out by the State Historic Preservation Officer (SHPO), or the Tribal Historic Preservation Officer (THPO) of the Seminole Tribe of Florida for projects occurring on Seminole tribal lands. In the case of projects occurring on tribal lands of the Miccosukee Tribe of Indians of Florida, the SHPO serves as the THPO but the tribe must be included in the consultations. For significant sites occurring on non-tribal lands that may have cultural or religious importance to the tribes having cultural affiliation with Florida, the tribes must be provided an opportunity to comment on the effects of the project on the site. These tribes include: the Seminole Tribe of Florida, the Miccosukee, the Muscogee (Creek) Nation, the Poarch Band of Creek Indians, the Seminole Nation of Oklahoma and, for projects west of the Apalachicola River, the Mississippi Band of Choctaw Indians.

## State Agencies

The Florida Department of Environmental Protection (FDEP) is the State's primary environmental regulatory agency. FDEP has delegated much of the permitting responsibility for Environmental Resource Permits (ERPs) to four of the five Water Management Districts (WMDs) and specified local governments. The Northwest Florida Water Management District (NFWMD) does not have full ERP authority from FDEP. FDEP continues to implement the National Pollution Discharge Elimination System (NPDES) and Coastal Construction Control Line (CCCL) permitting programs throughout

the State. The permitting responsibilities of each agency is detailed in the FDEP and WMD agency operating agreements.

The five WMDs are: NFWWMD, Suwannee River (SRWMD), St. Johns River (SJRWMD), South Florida (SFWMD), and Southwest Florida (SWFWMD). WMDs have been delegated permitting authority by FDEP for discharges, including stormwater discharges; dredge and fill activities in, on, or over waters of the State; construction activities which discharge to waters of the State; and, state-owned submerged lands which include all tidal lands and submerged lands under navigable waters owned by the State of Florida. The NFWWMD does not have full permitting authority from FDEP; the FDEP processes permit applications for projects with submerged lands and actions on military bases within the geographic area of the NFWWMD. Right of Way (ROW) Occupancy permits may be required for projects impacting WMD property.

The FWC serves as the state wildlife commenting agency on state environmental permits and issue certain protected species permits.

The Director of the Division of Historical Resources (DHR) at the Department of State serves as the SHPO for the State of Florida. The DHR is a commenting agency on certain state environmental permits and the SHPO is the commenter on federal permits that may impact historical resources. The SHPO assists the regulatory agency in determining whether a proposed activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of **Section 267.061, F.S.**

The Bureau of Archaeological Research (BAR) within the Department of State issues permits for archaeological testing and research occurring on state-owned or controlled lands, including sovereign submerged lands under **Chapter 1A-32, Florida Administrative Code (F.A.C).**

**Section 335.02(4), F.S.**, provides that FDOT is not subject to county, municipal, or special district regulations for projects on the SHS and therefore is not required to obtain local permits. Notwithstanding, if an FDOT project has a direct impact on property or water control district structures, FDOT shall coordinate with the District legal counsel and may need to coordinate with the appropriate county, municipality, or special district based on counsel direction.

Both the state and federal permitting programs have established various permit types based on specific impact thresholds and/or activity types. The permit types and threshold criteria are described in detail in the federal **Source Book (USACE, 2015)** and in the state **Applicants Handbook, Volume I (FDEP, 2015)**, referenced in [Figure 12-1](#) and [Figure 12-2](#). Additionally, both the state, via delegated authority for federal programmatic permits, and the Lead Federal Agency use certain species-specific “effect” determination keys in order to assess the effect a given project may have on a federally protected species. These keys, and supplemental protected species information, can be found at web links provided in [Figure 12-3](#).



Additionally, there are state and federal species-specific wildlife permitting requirements unrelated to the dredge and fill permitting process. These requirements are typically implemented shortly in advance of the commencement of construction. Refer to [Section 12.2.3](#) for a discussion of these permits. See [Part 2, Chapter 16, Protected Species and Habitat](#) for more information.

### 12.2.1 Federal Permitting

Federal permits are handled by multiple federal agencies under various regulatory authorities. They are typically required for proposed impacts to jurisdictional wetlands and other surface waters, or for bridge or causeway construction over navigable waters of the United States. For these types of impacts, the USACE and USCG are the primary federal permitting agencies for FDOT projects. [Table 12-2](#) provides the federal permit types that are often needed from these regulatory agencies. See [Section 12.2.3](#) for federal species permit information.

The USACE is the Lead Federal Agency when a given activity involves dredge and fill in Waters of the United States in accordance with **Section 404** of the **Clean Water Act (CWA)** and **Section 10** of the **Rivers and Harbors Act of 1899**. Additionally, **Section 10** of the **Rivers and Harbors Act of 1899** grants the USACE the permitting authority for “structures or works in or affecting a navigable water of the United States.” Such structures or works include boat ramps, piers, breakwaters, jetties, docks, bridge abutments, and aids to navigation.

If a project involves a bridge over navigable waters of the U.S., the USCG is the Lead Federal Agency or may serve as a Cooperating Agency under the **Rivers and Harbors Act of 1899** and the **General Bridge Act of 1946**. These **Acts** placed the navigable waters of the United States under the exclusive control of the USCG to prevent any interference with their navigability by bridges or other obstructions except by express permission of the United States Government.

As the Lead Federal Agency, either the USACE or USCG must prepare a **NEPA** document in support of their **NEPA** action (permit). If either agency participates as a Cooperating Agency in a FDOT **NEPA** study, they may adopt the FDOT’s study as their own, or they may use it to develop their own **NEPA** study. It is important to coordinate early in the **NEPA** study with the USACE or USCG to confirm that the FDOT **NEPA** document, or a State Environmental Impact Report (SEIR), will meet the Cooperating Agency’s **NEPA** requirements.

The USFWS and the NMFS serve as the federal wildlife commenting agencies during the USACE’s or USCG’s federal permitting process. Which agency provides comment depends upon which protected species (terrestrial and/or marine) or critical habitat are potentially affected. The EPA serves as the water resource commenting body during the federal permitting process and has veto authority over the issuance of a USACE permit.

In the absence of a federal nexus (i.e., a project does not require a federal permit, federal funding, or other federal authorization when an action has the potential to affect a federally listed species or its habitat, the listed species will be addressed via **Section 10** of the **ESA**. In these situations, the USFWS or NMFS serves as the Lead Federal Agency and would have to prepare a **NEPA** document in support of their permit action. This process also requires the development of a **Habitat Conservation Plan (HCP)**. See [Part 2, Chapter 16, Protected Species and Habitat](#) for more information on **Section 10** of the **ESA**. For protected species permitting, see [Section 12.2.3](#).

Regardless of whether the USACE and/or USCG function as lead or cooperating agencies for a given federal action, the issuance of federal permits requires coordination with resource agencies. If a given project is determined to have the potential to affect federally listed species or their habitats, the USACE or USCG will solicit comment from NMFS and/or the USFWS following the **ESA Section 7** consultation process outlined in [Part 2, Chapter 16, Protected Species and Habitat](#). If a project is determined to have the potential to affect EFH, the USACE or USCG will solicit comment from the NMFS ([Part 2, Chapter 17, Essential Fish Habitat](#)). For projects that require public notification of the federal action, the EPA may provide comment.

Additionally, the USACE, USCG, or USFWS acting as the permit issuing agency is required to comply with **Section 106** of the **National Historic Preservation Act of 1966 (NHPA)**. **Section 106** of the **NHPA** requires federal agencies to take into account the effects of their undertakings on historic properties, and afford the ACHP a reasonable opportunity to comment. The historic preservation review process mandated by **Section 106** is outlined in regulations issued by ACHP ([Part 2, Chapter 8, Archaeological and Historic Resources](#)).

### 12.2.1.1 United States Army Corps of Engineers

Activities in waters of the United States regulated under **Section 404** of the **CWA** include (but are not limited to) fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports), and mining projects. **Section 404** requires issuance of a permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from **Section 404** regulation (e.g., certain farming and forestry activities).

As described by the EPA (**EPA, 2015**), the basic premise of the **Section 404** program is that no discharge of dredged or fill material may be permitted if:

1. A practicable alternative exists that is less damaging to the aquatic environment;  
or
2. The nation's waters would be significantly degraded. Therefore, a proposed

activity must first show that steps have been taken to

- a. Avoid impacts to wetlands, streams and other aquatic resources;
- b. If impacts are unavoidable, that their adverse effects on the resource have been minimized, and
- c. That compensation (i.e., wetland or listed wildlife mitigation) will be provided for all remaining unavoidable impacts such that there is no net loss of wetland function as a result of the proposed project.

There are several federal dredge and fill permit types that are distinguished by their limits of impact. In increasing magnitude/complexity, they include Nationwide Permits, General Permits, State Programmatic General Permits, Letter of Permission, and Standard Permits. Additionally, it is possible to obtain a determination from the USACE of “no permit required” if a project is anticipated to have no impact on wetlands or surface waters under the jurisdiction of USACE. This determination by the USACE does not supersede the requirement to obtain any other federal or state permits which may be necessary for a project, nor does it constitute a federal evaluation of possible impacts to species protected under the **ESA**, or impacts to historic resources protected under **Section 106** of the **NHPA**.

1. **General Permit** - This refers to a USACE authorization that is issued on a nationwide or regional basis (District-wide or more limited geographic scope) for a category of activities when those activities are substantially similar in nature and cause only minimal individual and cumulative impacts (**USACE, 2014**). They are reviewed every five years and may be renewed or suspended. The USACE's **Source Book**, included by reference in [Figure 12-1](#) should be reviewed for an entire listing of required thresholds in order for a project to qualify under a general permit. Coordination with the USACE will ensure the project impacts meets the requirements under general permit authorizations. It is important to note that “consideration of alternatives are not directly applicable to General Permits” (**40 CFR § 230.7**).
  - a. **Nationwide Permits (NWP)** - There are more than 50 established NWPs. These are essentially automatic permits for qualifying activities that result in only minimal adverse environmental effect. Each NWP includes a series of impact thresholds, such that if a project’s anticipated impacts fall below the specified thresholds, the project would be able to be executed without review by or approval of the USACE. However, it is recommended to submit an application package to the USACE and request that the USACE concur with the determination that the project is consistent with the thresholds associated with a given NWP. With concurrence from USACE, the applicant will have a level of comfort that their project is consistent with the federal intent of the NWP. Without USACE concurrence, an applicant may run the risk of being in violation

of the **CWA** during construction if there is a disagreement with a USACE representative as to whether their project is consistent with NWP intent.

There are certain NWPs that require Pre-Construction Notification (PCN) prior to project construction due to variability in the degree of potential impacts for a given type of work. In accordance with **33 CFR § 330.1** for NWPs requiring advance notification, the notification must be in writing as early as possible prior to commencing the proposed activity. The permittee may presume that the project qualifies for the NWP unless the permittee is otherwise notified by the USACE within a 45-day period. The 45-day period starts on the date of receipt of the notification in the USACE district office and ends 45 calendar days later. If the USACE notifies the prospective permittee that the notification is incomplete, a new 45-day period will commence upon receipt of the revised notification. The prospective permittee may not proceed with the proposed activity before expiration of the 45-day period unless otherwise notified by the USACE. If the USACE fails to act within the 45-day period, the USACE must use the procedures of **33 CFR § 330.5** in order to modify, suspend, or revoke the NWP authorization.

Both the NWPs, and the General Conditions required in PCN, are itemized in the **Federal Register (FR)** and on the USACE web site (See [Figure 12-1](#)). It is important to be aware of general conditions associated with NWP. For example, general condition 18 requires consultation with the NMFS or USFWS if the project activity may affect a listed species or critical habitat protected under the **ESA**.

NWPs are reviewed and renewed every five years so it is important to keep abreast of current NWP listings. Coordination with the USACE will ensure the applicant meets the requirements under NWP authorizations. NWP that are typically relevant to FDOT projects include: NWP No. 3 Maintenance, No. 14 Linear Transportation Projects, and No. 15 USCG Approved Bridges.

b. **Regional General Permits** that may apply to FDOT projects.

Regional General Permit **SAJ-92** is applicable for projects with identified impact thresholds (i.e., including, but not limited to, fewer than five acres of non-tidal waters of the United States impacts for any one-mile segment, up to a maximum of 50 acres, where USFWS concurrence is received in advance of the federal approval under SAJ-92). This regional general permit is limited to projects that have been reviewed through the FDOT's ETDM and/or PD&E processes.

Regional General Permit **SAJ-46**, Shoreline Stabilization Activities in Florida, may also be applicable to FDOT projects. This permit authorizes new work and maintenance associated with shoreline stabilization activities including bulkheads and seawalls with backfill, seawall footers, and shoreline stabilization materials.

- c. **State Programmatic General Permits (SPGP)** - The purpose of the SPGP is to avoid duplication of permitting between the USACE and the FDEP for minor work located in waters of the United States, including navigable waters. These agencies have a coordination agreement detailing the procedures and process on how to avoid duplication of regulatory review. A link to the FDEP website on the SPGP is included in [Figure 12-2](#).
2. **Letter of Permission (LOP)** - **LOPs** are used when project impacts are minor or would not have significant individual or cumulative effect. The process required to obtain a **LOP** approval is more detailed than the NWP process; however, it is typically less rigorous than that for a Standard Permit. The USACE is not required to publish an individual public notice, but they must coordinate with wildlife agencies and complete a public interest evaluation as outlined in **33 CFR § 325.2 (e)(1)**. A determination as to whether a **LOP** is the appropriate instrument for a given action is at the discretion of the USACE.
3. **Standard Permit** - This permit is also referred to as an Individual Permit and is required for larger, more complex projects when a proposed project does not meet the criteria to qualify for a General Permit, Nationwide Permit, or **LOP**. See **33 CFR § 325.2** for more information on the Standard Permit requirements.

[Figure 12-1](#) provides the locations and contact information of regional USACE offices.

There are exemptions for very narrowly-defined activities that result in incidental impacts to wetlands or surface waters in accordance with **Section 404(f)(1)** of the **CWA**. For instance, one exemption for FDOT is for the maintenance of transportation structures, so long as the structures are in non-tidal waters and the character, slope, and size of the original fill design is not proposed to change. [Figure 12-1](#) provides links to information sources that identify these exemptions.

FDOT is required to obtain USACE authorization when an FDOT project is proposed to alter existing federal flood control projects (i.e., levees, dams, and canals). The USACE provides guidance for this process in **Section 408 – Interim Changes for Immediate and Future Policy Revisions (2018)**. **Section 14** of the **Rivers and Harbors Act of 1899** and codified in **33 U.S.C. § 408** (commonly referred to as “**Section 408**”) authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the USACE, to grant permission for the alteration or occupation or use of a USACE civil works project if the Department of the Army’s Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. The

granting or denial of permission pursuant to **Section 408** is made formal through a **Section 408** Decision Letter.

A decision on a **Section 408** request is a federal action, and therefore subject to **NEPA** and other environmental requirements. While ensuring compliance is the responsibility of USACE, the requester is responsible for providing all information that the District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances. Like traditional federal **Section 10/404** permitting, insufficient supporting documentation may result in requests for additional information until the file is deemed complete by USACE. The **NEPA** process is set forth in **40 CFR §§ 1500-1508** and the USACE civil works **NEPA** implementing regulations are found in **33 CFR Part 230**. Because proposed alterations vary in size, level of complexity, and potential impacts, the procedures and required information to make such a determination are intended to be scalable. Early coordination with USACE is suggested in order to determine the appropriate level of required support to navigate the **Section 408** review process.

Typically, when a ROW Occupancy Permit application is submitted to a WMD, the WMD reviews it and determines if the WMD needs to send it to USACE ([Section 12.2.2.5](#)). If sent to USACE, they will evaluate whether **Section 408** applies. If it is determined that **Section 408** applies, the USACE will decide whether the **Section 408** review can be conducted at the District level in Jacksonville or the review would need to be elevated to USACE Headquarters in Atlanta, Georgia. In general, review at the District level would be for projects that adjust features around a canal, dam, or levee that would not result in changes to authorized structural geometry or hydraulic capacity. These reviews take approximately 30 to 90 days for decisions to be rendered. For more complicated projects that may propose changes to structural geometry or hydraulic capacity of an existing facility, the review may be elevated to USACE Headquarters. These reviews can take between 18 to 24 months. Generally, proposed alterations that would result in substantial adverse changes in water surface profiles will not be approved. There are no statutory time limits on **Section 408** review.

In situations where USACE is also evaluating a **Section 10/404** permit application, the USACE may forward the **Section 408** decision letter with the **Section 10/404** permit decision, once it is made. Under no circumstances will **Section 10/404** actions be rendered in advance of a decision on a **Section 408** request. For cases involving a categorical permission, the written approval will be validation that the categorical permission is applicable.

### 12.2.1.2 United States Coast Guard

The USCG approves the location and plans of bridges and causeways and imposes conditions relating to the construction, maintenance, and operation of these bridges in the interest of public navigation. The USCG is also required by law to ensure environmental considerations are given careful attention and importance in each bridge permitting decision.

The USCG has only one permit type, a bridge permit. A bridge permit is necessary if a bridge project includes any of the following:

1. The construction of a new bridge over navigable waters;
2. The modification of an existing bridge that increases the travel capacity of the bridge (i.e., adding a travel lane); or
3. The modification of an existing bridge that would result in changes to navigation (i.e., changes to the horizontal or vertical clearances, fender systems).

Modification of existing bridges to add bicycle paths, sidewalks, or non-capacity features, even if it causes widening of the existing bridge, results in the need for a minor deviation. Minor deviations are not permits, but they must be reviewed and approved by the USCG.

The USCG consults with and obtains comments from state and federal agencies with jurisdiction or special expertise concerning environmental or navigational impact involved. Such agencies include but are not limited to the NMFS, USFWS, FWC, WMD, SHPO, and EPA. Comments are generally obtained through direct coordination with affected agencies, responses to the public notice, and the Local Notice to Mariners.

USCG bridge permits specify that the permit becomes null and void unless construction of the bridge is commenced and completed by certain dates. This time period is usually three years and five years, respectively, from the date of the permit issuance. Longer construction times can be requested and must be substantiated.

The applicant should contact the local USCG District Bridge Office when a project includes a plan to construct a new bridge or causeway or modify an existing bridge or causeway over a canal, channel, stream, river, lake, bay, or other body of water or waterway. If the applicant is uncertain whether a waterway is susceptible to improvement for navigation, is tidal, or is considered navigable, the appropriate USCG representative can be contacted to obtain information regarding a navigability determination. The USCG representative determines whether the waterway is navigable and jurisdictional and provides comments in the EST for qualifying projects or correspondence confirming the determination.

There may be instances where bridges are proposed to be built across waterways which are deemed navigable in law but not traversed by any vessel larger than small motorboats (logs, log rafts, kayaks, canoes, outboard John boats). In these scenarios, the USCG can issue an Advance Approval authorization in accordance with **33 CFR § 115.70**. Each potential candidate bridge/waterway crossing is evaluated by the USCG on a case by case basis to determine if an Advance Approval may be appropriate. If there is a potential candidate "bridge/waterway crossing" the District should contact the appropriate USCG representative to initiate the evaluation process.

[Figure 12-1](#) provides links to information sources that identify details regarding the USCG permit review process, required components of permit applications, and the locations and contact information of regional USCG offices.

## 12.2.2 State Permitting

State permits are required for proposed impacts to jurisdictional wetlands and other surface waters as well as for flood protection and water quality, and to ensure compliance with coastal zone management criteria. The FDEP and WMDs are the primary state wetland permitting agencies for FDOT projects. WMDs issue ERPs for most FDOT projects; whereas, FDEP issues NPDES and CCCL permits ([Sections 12.2.2.3](#) and [12.2.2.6](#) respectively).

[Table 12-3](#) provides the state permit types that are often needed from these regulatory agencies. For state protected species permit requirements, see [Section 12.2.3](#).

The FDEP and the WMDs are required to consider the effects of their agency action (issuance or denial of a permit) on historic resources in accordance with **Section 373.414(1)(a)(6), F.S.** These requirements are set forth in **Chapter 267, F.S.**, or the **Florida Historical Resources Act**, specifically **Section 267.061, F.S.** The statute requires state agencies of the executive branch to consider an array of possible adverse effects of state undertakings over which they have direct or indirect jurisdiction upon historic resources. In addition, these agencies must also afford the Florida Division of Historical Resources a reasonable opportunity to comment with regard to the proposed action or actions and to initiate measures to minimize harm to the historic resources prior to the approval or initiation of such action. In these cases, the consideration, treatments, and permitted activity in relation to impacts to historic resources and archaeological sites are detailed in the **Applicant's Handbook, Volume I (FDEP, 2015)**. These requirements include consultation and findings letters from the Florida Division of Historical Resources. See [Part 2, Chapter 8, Archaeological and Historical Resources](#) for more information.

### 12.2.2.1 Environmental Resource Permitting

Under the authority of **Section 373.4131, F.S.**, FDEP and Florida's five WMDs implemented **Chapter 62-330, F.A.C.**, Environmental Resource Permitting (ERP). The ERP program was adopted to provide consistent permitting thresholds, requirements, and processes throughout the state. The ERP program governs the following activities: construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling) located in, on or over wetlands or other surface waters, as defined and delineated in **Chapter 62-340, F.A.C.**

ERP permitting is performed under the guidance of **Chapter 62-330, F.A.C.** and the **ERP Applicant's Handbook-Volume I (AHI)**. The **AHI (FDEP, 2015)** is incorporated by reference as part of **Rule 62-330.010(4) F.A.C.**, and carries the same authority as the rule itself. **Chapter 62-330, F.A.C.**, and the **AHI** apply statewide.



The **AHI** provides general background information on the ERP program, including agency contact information, a summary of the statutes and rules used to authorize and implement the ERP program, and the forms used to notice or apply to the agencies for an ERP authorization. This volume of the **Applicant's Handbook** also provides discussion on:

1. Activities regulated under **Chapter 62-330, F.A.C.**, and **Part IV of Chapter 373, F.S.**;
2. Types of permits, permit thresholds, and exemptions;
3. Procedures used to review exemptions and permits;
4. Conditions for issuance of an ERP, including the environmental criteria used for activities located in wetlands and other surface waters;
5. Erosion and sediment control practices to prevent water quality violations; and,
6. Operation and maintenance requirements.

There are also handbooks [**Applicant's Handbook-Volume II (AHII)**] for each of the WMDs. **Volume II (SFWMD, 2014; SWFWMD, 2013; SJRWMD, 2013; SRWMD, 2012; and NFWWMD, 2013)** primarily applies to activities that require the services of a registered professional to design a stormwater management system. Links to **AHI** (identical for all WMDs) and **AHII** (unique to each of the five WMDs to address regional differences) are provided in [Figure 12-2](#).

One section of the **AHII** is uniform among all the WMDs, **Section 2.10 Flexibility for State Transportation Projects and Facilities**. This section states that the language of **Section 373.413(6), F.S.**, governs ERP regulation of state linear transportation projects and facilities. This statutory language provides FDOT with additional flexibility, such as regional treatment facilities, for providing treatment of stormwater runoff from linear projects. FDOT is also only required to treat stormwater generated by its transportation projects, not water entering its treatment systems from offsite areas, unless it is cost-effective to do so.

Depending on the size, location and nature of proposed project activities, they may be exempt from permitting, or may require either a General or Individual Permit. General Permits are required for activities which can be conducted with minimal environmental impact, provided the applicant adheres to certain conditions (specifically listed in **Chapter 62-330, F.A.C.**). An Individual Permit is required for projects which do not fall under permitting size and impact thresholds (**Rule 62-330.020, F.A.C.**) and is not covered by a General Permit. See [Table 12-3](#) for a list of permits that may be required by state agencies.

A conceptual approval permit is also available, but not required, for activities occurring in phases or over a large land area. A conceptual approval permit does not authorize

construction, maintenance, removal, or alteration (a separate individual permit is required for those activities). However, the first phase of construction can be authorized at the same time the conceptual approval permit is issued. A conceptual approval permit provides the permit holder with a rebuttable presumption that, during the duration of the conceptual approval permit, the design and environmental concepts upon which the conceptual approval permit is based (within the detail provided in the application) will meet applicable rule criteria for issuance of permits for subsequent phases of the project. This presumption is rebuttable at the time of receipt of a complete application to construct or operate future phases, dependent on the factors in subsection **Rule 62-330.056(7), F.A.C.** This type of permit is not typically applicable to FDOT projects, but may prove useful for complicated, controversial, and/or long-term projects where FDOT wants to establish their expectations in the way the ERP will be administered during future phases of a given project. It also has the potential to save time with agency reviews when applying for construction permits for individual phases especially if the elimination and reduction of impacts criteria has been addressed at the conceptual stage.

**Exempt** activities do not typically require notice be given to the FDEP or WMDs. If agency notice is required, it will be stipulated in the rule for the specific exemption. If it is desirable to verify that the activity is exempt, an on-line self-certification can be obtained, or the appropriate regulatory agency can perform the certification for a fee. Although some projects may be exempted from the need to obtain an ERP, the project may still require coordination with wildlife agencies. For example, a project may have a bridge or culvert inhabited by bat species. This may require coordination with the FWC or USFWS.

A list of exempt activities is contained in **Rule 62-330.051, F.A.C.** Two exemptions of interest to FDOT include:

1. **Rule 62-330.051(4), F.A.C., Bridge, Driveways, and Roadways** - Exempts work in other Surface Waters (water conveyances that are not wetlands as defined by **Chapter 62-340, F.A.C.** (such as some roadside ditches) for road shoulder and turn lane improvements, or paving of dirt roads owned by county or local governments. Subsection (c) Minor roadway safety construction, alteration, or maintenance and operation can be applicable for FDOT sidewalk and milling and resurfacing projects.
2. **Rule 62-330.051(9), F.A.C., Pipes or Culverts** - Exempts up to 0.03 acres of work in wetlands as delineated under **Chapter 62-340, F.A.C.**, including Outstanding Florida Waters (OFW) for culvert outfall and headwall construction.

### 12.2.2.2 State-owned Submerged Lands Authorizations

Activities located on sovereignty submerged lands also referred to as “state-owned submerged lands” (as described in [Section 12.1.2](#)) also require a proprietary authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) to use such lands according to **Chapter 18-21, F.A.C.** Proprietary authorization is required for essentially all FDOT activities on state-owned submerged

lands. FDOT fee simple ownership of an area does not preclude the determination of state owned sovereign submerged lands by FDEP.

FDEP and the WMDs act as staff to the Board of Trustees and in accordance with the Operating Agreement between their agencies, will process all applications involving proposed work on state-owned submerged lands. These agencies have delegated authority from the Board to approve or deny most projects, but for some types of projects (such as submerged land leases), the final decision to approve or deny the state-owned submerged lands authorization rests with the Governor and Cabinet of the state of Florida, who serve as the Board of Trustees. Leases are typically required for revenue-generating uses and are, therefore, not required for FDOT projects. FDOT projects proposed on state-owned submerged lands typically need a letter of consent or an easement. The determination for the proprietary authorization is part of the ERP permitting process. However, the final easement or letter of consent is provided by the FDEP after issuance of the ERP.

### 12.2.2.3 National Pollutant Discharge Elimination System

As authorized by the **CWA**, the NPDES permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. The EPA delegated to the FDEP the authority to implement the NPDES stormwater permitting program in the State of Florida (in all areas except Indian Country lands). FDEP's authority to administer the NPDES program is contained in **Section 403.0885, F.S.** If a project will disturb one acre or more of soil, and if the stormwater run-off from the site will discharge to waters of the state (even if the discharge is conveyed through the municipal storm sewer system), a NPDES Construction Generic Permit (CGP) will be required prior to commencement of construction as a means of protecting down-stream water quality. A **Notice of Intent (NOI)** (application) is filed with FDEP at least two days prior to the commencement of construction. Due to the proximal timing of this permit to the commencement of construction, it is the contractor's responsibility to apply for and obtain the NPDES permit. FDOT's Construction Engineering and Inspection (CEI) ensures that the Contractor has obtained the permit by verifying proof of permit coverage (e.g., FDEP coverage letter or **NOI**). More details on the NPDES permitting process can be found at the web link provided in [Figure 12-2](#).

Part of the NPDES permit program is the Municipal Separate Storm Sewer System (MS4). An MS4 is a publicly-owned conveyance or system of conveyances (i.e., ditches, curbs, catch basins, underground pipes, etc.) that is designed or used for collecting or conveying stormwater and that discharges to surface waters of the State. An MS4 can be operated by entities such as municipalities, counties, drainage districts, colleges, military bases, or prisons. FDOT is a regulated MS4 operator under federal and state rules. Regulated MS4 operators must obtain an NPDES stormwater permit and implement a comprehensive **Stormwater Management Program (SWMP)** to reduce the contamination of stormwater runoff and prohibit illicit discharges to the MS4.

As implemented by **Chapter 62-624, F.A.C.**, Phase I of the MS4 program addresses discharges of stormwater runoff from "medium" and "large" MS4s (i.e., those MS4s located in areas with populations of 100,000 or greater). A Phase I MS4 is defined in **Rule 62-624.200(10), F.A.C.**, as "a municipal separate storm sewer system identified under **Section 402(p)(2)** of the **CWA** and subject to regulation under **Section 402(p)(3)(B)** of the **CWA** as implemented as part of FDEP's federally approved NPDES stormwater program pursuant to **Section 403.0885, F.S.**" Generally, Phase I MS4s are covered by individual permits and are effective for no more than five years. There are individual MS4 permits issued to several counties in Florida, and FDOT is a co-permittee in each of those permits.

FDOT has an approved [Statewide Stormwater Management Plan \(SSWMP\)](#) that describes the activities to be conducted, methods to be used, and procedures to be followed by FDOT to reduce the discharge of pollutants to and from the Phase I MS4s throughout the State of Florida. This plan supports FDOT's documentation and procedures for annual reporting as a co-permittee under the MS4 Phase 1 permits. As stated in Section II of the Phase 1 permit, the **SSWMP** is incorporated into the permit by reference once approved by FDEP and serves as the guiding document for FDOT compliance as a co-permittee under Florida's Phase 1 MS4 program. More information can be found in the [FDOT SSWMP](#).

Phase II of the program regulates discharges from certain MS4s not regulated under Phase I, that meet designation criteria set forth in **Chapter 62-624, F.A.C.** A Phase II MS4 is defined in **Rule 62-624.20(11), F.A.C.**, as "a municipal separate storm sewer system subject to regulation under **Section 402(p)(6)** of the **CWA**, as implemented as part of FDEP's federally approved NPDES stormwater program pursuant to **Section 403.0885, F.S., Chapter 62-244, F.A.C., and Rule 62-621.300(7)(a), F.A.C.**, which incorporates by reference FDEP's Generic Permit for Discharge of Stormwater from Phase II MS4, and includes MS4 facilities owned or operated by the United States and MS4 facilities operated by the FDOT that are not covered by an existing Phase I MS4 permit." Phase II MS4s are covered by a general permit. There are numerous general permits issued to FDOT for various Phase II designated areas.

Each regulated MS4 is required to develop and implement a **SSWMP** to reduce the contamination of stormwater runoff and prohibit illicit discharges.

#### 12.2.2.4 Coastal Zone Management Act Consistency

Per the Operating Agreement between USACE, FDEP, and the WMDs, the ERP review process includes an assessment of whether an action proposed in Florida is consistent with the **Coastal Zone Management Act (CZMA)**. Issuance of an ERP constitutes a finding of consistency with, or waiver from, the **Florida Coastal Management Program (FCMP)** that implements the **CZMA**. A determination of consistency is made by FDEP in coordination with other agencies early in the planning process for transportation projects (see [Part 2, Chapter 15, Coastal Zone Consistency](#)) and again in the ERP review

process. More details on the **FCMP** can be found at the web link provided in [Figure 12-2](#).

### 12.2.2.5 Right of Way Occupancy Permit

A ROW Occupancy Permit is issued by a WMD or local water control district if applicable allowing for a compatible public or private use while protecting the WMD's ability to use the canal and levee rights of way of the USACE's Central and Southern Florida Flood Control Project, the related water conservation areas, and certain other canals and works or lands of a WMD. A ROW Occupancy Permit is a proprietary revocable license and does not convey property rights to the permittee. The WMD coordinates with the USACE through the **Section 408** process. In some instances, FDOT must coordinate directly with the USACE for **Section 408** approval. See [Section 12.2.1.1](#) for more information.

### 12.2.2.6 Coastal Construction Control Line

FDEP manages a CCCL Program to protect the coastal system from improperly sited and designed structures which can destabilize or destroy the beach and dune system. As defined in **Rule 62B-33.002(11), F.A.C.**, the CCCL is "the line established pursuant to the provisions of **Section 161.053, F.S.**, and recorded in the official records of the county, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions." A CCCL permit is required for construction activities seaward of the CCCL and fifty-foot setback. For projects within the CCCL, FDOT must coordinate with FDEP to ensure FDOT projects adhere to the special siting and design criteria established to eliminate or reduce impacts to the beach dune system, adjacent properties, native salt resistant vegetation, and marine turtles. Rules and procedures for obtaining this permit can be found in **Chapter 62B-33, F.A.C.**

### 12.2.2.7 Consumptive Water Use Permits

Consumptive use of water is broadly defined as any use of water which reduces the supply from which it is withdrawn or diverted. The consumptive use of water is managed by the WMDs as prescribed in **Part II of Chapter 373, F.S.** Each WMD regulates the use of water within its jurisdictional boundaries to ensure that permitted water uses are reasonable-beneficial, will not interfere with any presently existing legal uses of water, and are consistent with the public interest, as required by **Section 373.223, F.S.** This authority applies to public water supplies, agricultural and landscape irrigation, contamination clean-up, commercial/industrial uses, and dewatering/mining activities. The WMDs issues general and individual consumptive water use permits. FDOT should coordinate with the appropriate WMD to determine whether a water use permit will be required for a project.

### 12.2.2.8 Class V Stormwater Well Permits

FDEP's Aquifer Protection program protects Florida's underground sources of drinking water while maintaining the lawful option of disposal of appropriately treated fluids via underground injection wells. An underground source of drinking water is defined as an aquifer that contains a total dissolved solids concentration of less than 10,000 milligrams per liter. The program implements the Underground Injection Control regulations (**Chapter 62-528, F.A.C.**) and is dedicated to preventing degradation of the quality of other aquifers adjacent to the injection zone. Subsurface injection, the practice of emplacing fluids in a permeable underground aquifer by gravity flow or under pressure through an injection well, is one of a variety of wastewater disposal or reuse methods used in Florida.

Class V injection wells are used for storage or disposal of fluids into or above an underground source of drinking water. In locations where the available area for pond siting(s) is limited (e.g., urbanized coastal areas), FDOT may direct stormwater into shallow wells. These wells are considered non-major Class V wells that are permitted through FDEP District offices. More information on the permitting process for Class V stormwater well permitting can be found in [Figure 12-2](#).

### 12.2.3 Federal and State Protected Species Permits

Federal and state permits may be required for unavoidable impacts to or take of listed species. [Table 12-4](#) provides wildlife permit types that may be needed for FDOT projects. Wildlife within Florida is protected under federal regulation through USFWS and NMFS and state regulation through FWC. This section provides the most common types of protected species permits required for transportation projects, but other species permits may be required. See [Part 2, Chapter 16, Protected Species and Habitat](#).

Species protected by the federal **ESA** may require an Incidental Take permit from the USFWS or NMFS. The **ESA** is designed to regulate a wide range of activities affecting plants and animals designated as endangered or threatened, and the habitats upon which they depend. With some exceptions, the **ESA** prohibits activities affecting these protected species and their habitats unless authorized by a permit from the USFWS or NMFS. Permitted activities are designed to be consistent with the conservation of the species. Incidental Take permits are required when activities will result in take of threatened or endangered species. A **Habitat Conservation Plan (HCP)** must accompany an application for an incidental take permit. The **HCP** associated with the permit ensures that the effects of the authorized incidental take are adequately minimized and mitigated. More information on this process can be found at the USFWS webpage ([Figure 12-3](#)).

In 2016, FWC developed the **Florida's Imperiled Species Management Plan (ISMP)** to identify species-specific conservation actions for 57 state listed species. This plan includes species action plans addressing individual species needs and conservation strategies that benefit multiple species with shared habitats. FWC is in the process of developing species conservation measures and permitting guidelines for all species in

the **ISMP**. Where required, the FWC issues Incidental Take permits for activities that may result in take of state listed species. These species also may be federally listed. State incidental take permit applications are contingent upon a USFWS **HCP** which defines the full impact on the species, describes methods proposed to minimize take, and outlines mitigation which may be rendered to offset the take. Additional information on the **ISMP**, **HCPs**, and incidental take permits is available on the FWC website ([Figure 12-3](#)).

The species discussed below (American bald eagle, Florida burrowing owl, and osprey) are not subject to **ESA** review, but receive federal protection by the **Migratory Bird Treaty Act (MBTA)** and/or the **Bald and Golden Eagle Protection Act**. Pursuant to the **MBTA**, it is unlawful to take, possess, buy, sell, purchase, or barter any migratory bird including feathers or other parts, nests, eggs, or products, except as allowed by implementing regulations. It should be noted that all non-exotic birds in the state of Florida are protected by the **MBTA**. However, except as specifically discussed below for the bald eagle, burrowing owl, and osprey, the presence of other non-exotic avian species that could be affected by proposed FDOT projects will not be addressed in regard to **MBTA** unless FDOT is specifically required to do so by USFWS on a project-by-project basis during project permitting. The gopher tortoise receives state protection under **Rule 68A-27.003, F.A.C.**

Permits may require pre-construction species-specific surveys prior to the initiation of construction activities, depending upon the species and habitats present within or near the project ROW.

### 12.2.3.1 American Bald Eagle

The American bald eagle (*Haliaeetus leucocephalus*) was removed from the federal endangered species list in August 2007 because its population recovered sufficiently. However, bald eagles and their nests remain protected under the federal **MBTA** and the **Bald and Golden Eagle Protection Act**, and they are managed under FWC's **A Species Action Plan for the Bald Eagle**.

On April 20, 2017, the FWC approved revisions to **Rule 68A-16.002, F.A.C.**, which eliminated the need for applicants to obtain both a state and federal permit for activities with the potential to take or disturb bald eagles or their nests. Under the approved revisions, only a federal permit is required. The rule revisions became effective June 22, 2017. The **A Species Action Plan for the Bald Eagle** is a non-regulatory conservation plan to maintain a stable or increasing population of bald eagles in the state.

The federal **Bald and Golden Eagle Protection Act** prohibits anyone from taking, possessing, or transporting a bald eagle or golden eagle (*Aquila chrysaetos*), or the parts, nests, or eggs of such birds without prior authorization. This includes inactive nests as well as active nests. Rules promulgated under the **MBTA (50 CFR Part 21)** prohibit the destruction of active (i.e., nests which contain eggs or flightless young) nests without a federal permit. The USFWS has **Bald Eagle Monitoring Guidelines (USFWS, September 2007)** that provides information for applicants proposing construction

activities occurring within 1500 feet of an active bald eagle nest during the nesting season (see [Figure 12-3](#)).

Per the noted federal regulations, there are two permits that may be applicable to FDOT projects:

1. A permit to remove or relocate an eagle nest, called an Eagle Nest Take Permit, authorizes the removal or relocation of:
  - a. An active or inactive nest where it is necessary to alleviate a safety emergency to humans or eagles (or both);
  - b. An inactive nest to ensure public health and safety;
  - c. An inactive nest to restore operation of a man-made structure that has been rendered inoperable by the presence of the nest; or
  - d. An inactive nest in certain other instances where the removal or relocation of that nest (or the mitigation for its removal) will provide a clear and substantial benefit to eagles.

The federal definition of inactive is defined under **50 CFR § 22.3** as a bald eagle or golden eagle nest that is not currently being used by eagles as determined by the continuing absence of any adult, egg, or dependent young at the nest for at least 10 consecutive days immediately prior to, and including, at present. This differs from the state definition of inactive, which can be found in web links included in [Figure 12-3](#).

2. A permit for taking eagles when the take is associated with, but not the purpose of, an activity and cannot practicably be avoided. This type of take is referred to as "non-purposeful take" and is entitled an Eagle Disturbance Permit. Authorization is subject to conditions to minimize impacts. The regulation authorizing Eagle Disturbance Permits for bald and golden eagles can be found at **50 CFR § 22.26**. The USFWS recommends that FDOT contact the USFWS eagle biologist in their area before submitting an application. A link to the application form is included in [Figure 12-3](#).

### 12.2.3.2 Florida Burrowing Owl

The Florida burrowing owl (*Athene cunicularia floridana*) is listed by the State of Florida, FWC as Threatened (**Rule 68A-27.005, F.A.C.**). It is illegal to take (pursue, hunt, capture, molest, or kill) burrowing owls and their nest burrows and eggs without a permit issued by FWC (**Rules 68A-9.002 and 68A-27.005, F.A.C.**). FWC's policy is to issue permits to destroy burrowing owl nest burrows only as a last resort, after all reasonable alternatives (such as realigning development to avoid the nest) have been shown to be impractical. When such permits are issued, they apply to inactive nest burrows (i.e., burrows



containing no eggs or flightless young). Burrowing owl nest burrows can generally be considered inactive from July 10<sup>th</sup> to February 15<sup>th</sup>, although some nesting occurs as early as October each year. Between February 15<sup>th</sup> and July 10<sup>th</sup>, nest burrows attended by one or more burrowing owls are considered active unless information is available to suggest otherwise (i.e., proof that young fledged from the nest prior to July 10<sup>th</sup>). State burrowing owl nest burrow removal permits are applied for online. See [Figure 12-3](#) for a link to the FWC webpage.

Burrowing owls and their nest burrows are also afforded protection under the federal **MBTA**. Rules promulgated under this act (**50 CFR Part 21**) prohibit the destruction of active (i.e., nests which contain eggs or flightless young) nests without a federal permit, which is issued by the USFWS Regional Office in Atlanta, Georgia. Federal permits are required only if the nest is active (i.e., has flightless young or eggs present). In practice, these permits are seldom issued by USFWS. Instead, activities that could adversely affect burrowing owl nests are typically scheduled strategically to avoid the burrowing owl nesting season when active nests may be present, so as to avoid the need for a **MBTA** permit. See [Figure 12-3](#) for a link to the USFWS web site describing the **MBTA** permitting process.

### 12.2.3.3 Osprey

The osprey (*Pandion haliaetus*) is no longer listed in Florida, but is part of the **ISMP. Rule 68A-16.003, F.A.C.** eliminates the need for a FWC permit for on-site destruction of an inactive nest (a nest that does not contain eggs or flightless young) of non-listed birds which are protected by the **MBTA**. The rule does not provide authorization for birds listed in **Rule 68A-27, F.A.C.** (federal and state listed species) or **Rule 68A-16.002, F.A.C.** (bald eagles). Accordingly, on-site destruction of inactive non-listed migratory bird nests is currently permitted by rule and no longer requires a FWC permit. A permit for nest removal from FWC is not required.

The osprey is federally protected by the **MBTA (16 U.S.C. §§ 703 – 712)**. Coordinate with the USFWS Region 4 Migratory Bird Permit Office to determine what federal authorization or permits are required for any activity involving non-listed and listed migratory bird species, their nests, and any part thereof. See [Figure 12-3](#) for guidance on contacting the USFWS regarding osprey nests.

### 12.2.3.4 Gopher Tortoise

Gopher tortoises (*Gopherus polyphemus*) are protected by state law, **Rule 68A - 27.003, F.A.C.**, and are currently a candidate species for federal listing under the **ESA**. The FWC established a multi-tiered approach to permitting actions involving gopher tortoises.

These permits are divided into three main types:

1. **Authorized Agent Permits**, which authorize persons to capture, transport, and release tortoises;

2. **Site-Specific Relocation Permits**, which authorize capturing and relocation of tortoises either within the boundaries of an area being impacted (on-site) or from an area being impacted to a permitted recipient site (off-site); and
3. **Recipient Site Permits**, which authorize the use of designated sites meeting specific criteria as recipient areas for tortoises.

Site-Specific Relocation permits are primarily applicable to FDOT projects, although knowledge of the overall permitting structure may be important to effective project management. Emergency Take Permits, Disturbed Site Permits, and Burrow or Structure Protection Permits are three additional permit types, which are only issued under unusual circumstances. The FWC gopher tortoise permitting program, including online permitting, is described on the FWC web site referenced in [Figure 12-3](#). For FDOT guidance on gopher tortoises, see [The Gopher Tortoise, Guidance for Each Phase of FDOT Project Delivery](#).

In general, a permit is required for any activity that causes a take, harassment, molestation, damage, or destruction to gopher tortoises or their burrows (See **Rule 68A-27.003, F.A.C.**). An exception that applies to roadway projects is that certain linear highway ROW vegetation maintenance activities, that may impact gopher tortoises or gopher tortoise burrows, do not require a permit. These activities include mowing and tree cutting.

Relocation permits vary depending upon the quantity of burrows and the condition of the site. The permit types include:

1. **10 or Fewer Burrows Relocation Permit** - for projects, which require the relocation of five or fewer tortoises (i.e., 10 burrows or less).
2. **Conservation Permit** - for development projects which require the relocation of gopher tortoises when more than 10 burrows are proposed to be impacted on a development site. This permit allows for relocation either to an on-site preserve or off-site to a FWC-certified Recipient Site.
3. **Disturbed Site Permit** - May be required for development projects where premature disturbance to the ground has occurred before gopher tortoise burrow surveys are complete or before gopher tortoise capture and relocation activities have been completed at the development site.
4. **Burrow or Structure Protection Permits** - Are available when the integrity or utility of an existing structure is jeopardized by one or two burrows and therefore poses a public safety concern (e.g., burrow under a propane tank, road, or other such structure), or if the safety of the resident tortoise is compromised (e.g., burrows in a grass parking lot, dirt driveway, etc.). This permit type may be

applicable to FDOT projects. Application requirements and tortoise capture and handling procedures are similar to those for 10 or Fewer Burrows permits, however, tortoises relocated under a Burrow or Structure Protection permit shall only be relocated on-site.

5. **Emergency Take without Relocation Permit** - Will be issued only under limited and specific circumstances, in cases where there is an immediate danger to the public's health and/or safety or in direct response to an official declaration of a state of emergency by the Governor of Florida or a local governmental entity. This permit type is not likely to be applicable to FDOT projects. Applications submitted for this permit must include all information that is required from any other applicant seeking a conservation permit, along with a copy of the official declaration of a state of emergency, if applicable.

Due to the limited duration that gopher tortoise surveys are valid as well as the tendency for gopher tortoises to repopulate an area where relocation of the original population has occurred, FDOT typically does not conduct relocation until just prior to construction commencement. However, knowledge of the existing gopher tortoise population during the permitting process may be necessary to support the application review (i.e., with regard to indigo snake involvement/effects determination). In these cases, the Project Manger may need to have at least 15% surveys of the potential gopher tortoise habitat conducted.

## 12.3 PROCEDURE

During the Planning phase, some projects may qualify for ETDM screening in the EST. [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) and [Chapter 2](#) of the [ETDM Manual, Topic No.650-000-002](#) list the qualifications for ETDM screening. [Figure 12-4](#) provides a flow chart of the typical permitting process.

### 12.3.1 Projects Not Qualifying for Screening

Regardless of whether a project is screened in the EST, environmental permits may be needed. For transportation projects not qualifying for EST screening, anticipated environmental permits are documented as a part of discussion and coordination with the resource agency charged with regulating the activity. Decisions should be documented in the Environmental Document and project file, and appropriately addressed through incorporation into the final design contract documents. Documentation in the Environmental Document is as follows:

1. **Type 1 Categorical Exclusions (CEs)** - Type 1 CEs may occasionally need environmental permits. For these projects, complete a **Type 1 Categorical Exclusion Checklist** ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)). Include documentation of permitting agency coordination and mitigation for impacts (as appropriate) in the project file.

2. **Non-Major State Actions (NMSAs)** - For a NMSA, include documentation of permitting agency coordination and mitigation for impacts (as appropriate) in the project file.
3. **Type 2 Categorical Exclusions (CEs)** Some Type 2 CEs may not require screening through the EST. For these projects, anticipated environmental permits are listed on the ***Type 2 Categorical Exclusion Determination Form*** and in the project file. See [Section 12.3.3.1.2](#) for guidance on documenting Type 2 CEs.

## 12.3.2 Projects Qualifying for Screening

For projects qualifying for EST screening, the proposed project is entered into a Planning or Programming Screen Event according to the [ETDM Manual, Topic No. 650-000-002](#). This screening initiates the project-level coordination with the regulatory agencies and includes a Preliminary Environmental Discussion (PED) ([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)). The District's initial assessment of the environmental permits that may be needed for the project is included in the Anticipated Permits section of the PED.

As Environmental Technical Advisory Team (ETAT) members, the agency representatives review the proposed project and provide comments identifying potential permits, mitigation opportunities, and technical studies. The ETAT should also provide recommendations and suggestions for minimizing potential environmental impacts to facilitate the permitting process. The EST documents and stores the ETAT review in the ***Planning or Programming Screen Summary Report***. This information supports development of the PD&E scope.

Coordination with the regulatory and resource agencies should be continuous throughout the ETDM process. The ETDM Coordinator and Project Manager should also coordinate internally with FDOT Permit Coordinators, District Environmental Offices, and others who may be involved in the PD&E process that will follow the project screening.

### 12.3.2.1 Planning Screen

The Planning Screen may be used for the early identification of project permits. Regulatory agency ETAT members may identify the types of permits that may be needed for the project, or they may agree with those already listed in the PED. Permits that may be needed for the project are listed in the "Anticipated Permits" section of the ***Planning Screen Summary Report***.

### 12.3.2.2 Programming Screen

In accordance with [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#), qualifying projects must complete the ETDM Programming Screen and may also have completed the Planning Screen. If a Planning Screen was completed, the Programming Screen will build upon information from the Planning Screen.

### 12.3.2.2.1 Identification of Potential Permitting Needs

If the project completed a Planning Screen, the ETAT may confirm potential permits that were identified. If the project did not complete a Planning Screen, the PED created during the Programming Screen is the first record of potential permits that may be needed for the project. The regulatory agency ETAT members may identify additional permits, or agree with the types of potential permits identified in the PED. Potential permits identified by the regulatory agency ETAT are recorded in the “Anticipated Permits” section of the ***Programming Screen Summary Report***.

Consider any potential impacts to navigation for proposed construction, reconstruction, rehabilitation, or replacement of federally-aided or assisted projects over waters:

1. Which are not used or are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and
2. Which are not tidal; or
3. If tidal, are used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

The District should coordinate with the USCG to determine if a bridge permit is required for the project during ETDM screening. The USCG representative can make the determination when the District provides the location of the project activity. Refer to [Part 1, Chapter 16, United States Coast Guard Projects and Navigation](#) for detailed information on the USCG permitting process.

### 12.3.2.2.2 Opportunities for Mitigation

Through early coordination, a regulatory or resource agency may identify opportunities for mitigation to offset potential project impacts. If mitigation options are identified during the Programming Screen, they are recorded in the applicable section of the ***Programming Screen Summary Report***. Depending on the issue/resources and the agency providing the comments, the discussion of mitigation opportunities may be in the Wetlands and Surface Waters, Wildlife and Habitat, or Water Resources sections of the report. Mitigation opportunities are discussed in PD&E Environmental Documents and should be referred to during the permitting process.

## 12.3.3 Project Development and Environment Phase

Typically, information from ETDM screening should be used to prepare the PD&E scope of services and to focus the analysis/impact assessment. During PD&E, FDOT should utilize resource agency comments from the ***Programming Screen Summary Report*** to anticipate a project’s permitting needs.

It is recommended that District staff hold regular meetings or teleconferences with USFWS, NMFS, USACE, FWC, or WMDs to discuss current project issues, mitigation needs, the status of ongoing PD&E Studies and mitigation projects, and review project status to see if there is anything the agencies may require to support their ongoing reviews. Other resource agencies (e.g., SHPO/DHR) may need to be coordinated with based on project impacts to their resources which would have to be addressed in the anticipated permits. The frequency of the meetings is at the discretion of each District. Providing project priority lists may also assist regulatory agencies with prioritizing their review of FDOT projects.

The District's Project Manager is responsible for collecting and maintaining correspondence with resource agencies (e.g., letters, emails), documenting coordination, and maintaining the project file. The documentation provides information for the next project phase.

### 12.3.3.1 Preparation for Permitting during PD&E

Information gathered during PD&E should inform project permitting. Early in PD&E, FDOT identifies the project's anticipated permitting needs from knowledge of regulations, agency comments and information included in the **Programming Screen Summary Report** (if the project was screened in the EST). The District should review ETAT comments for the "Coastal and Marine," "Wetlands and Surface Waters," "Water Resources," "Navigation," "Cultural Resources," and "Wildlife and Habitat" issues in the **Programming Screen Summary Report**. FDOT should focus on the comments from the regulatory agencies in developing and conducting analysis. The **Programming Screen Summary Report** may specifically identify the types of permits that may be needed in the "Anticipated Permits" section of the report.

During PD&E, an impact assessment is conducted for direct and indirect/secondary impacts to wetlands/surface waters and impacts to listed species and their habitats according to [Part 2, Chapter 9, Wetlands and Other Surface Waters](#) and [Part 2, Chapter 16, Protected Species and Habitat](#). During this impact assessment, the District coordinates with the regulatory agencies to determine what permit types will be needed for the project based on anticipated project impacts. This should involve the Permit Coordinator and compare the list of anticipated permits identified during the ETDM screening to those permits necessary for the project as a result of the analysis/impact assessment. This coordination may include a field review with appropriate resource agencies.

The impact assessment typically requires the preparation of a **Natural Resources Evaluation (NRE)** or a technical memorandum. Coordination between the Permit Coordinator and the Environmental Office during development of the **NRE** or technical memorandum will ensure that the resulting report contains information sufficient to support subsequent permitting. The **NRE** must be sent to the resource agencies for review so that they have an opportunity to review the project impacts and provide concurrence, as applicable, in advance of finalization of the Environmental Document.

The District and OEM review the draft **NRE** prior to agency submittal. Preparation of an **NRE** or technical memorandum where OEM is the Lead Federal Agency under **NEPA** Assignment requires the inclusion of the following standard statement on the report cover page:

*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.*

During the PD&E process, the **NRE** is summarized in the Environmental Document.

Scoping of PD&E projects should follow the Statewide Acceleration Transformation (SWAT) process which is a project management approach that streamlines FDOT's project delivery process through early coordination and communication among the different functional offices within the District. One potential outcome of the SWAT process is to conduct the design phase concurrently with the PD&E phase, potentially resulting in advancing environmental permitting. More information on the SWAT process can be found in [Part 1, Chapter 4, Project Development Process](#) and the [FDOT SWAT Training Workbook](#).

It is important for the PD&E Project Manager to coordinate with the Permit Coordinator to discuss project schedules and timing of environmental permit applications. Several factors that may be discussed include:

- Information obtained during PD&E to support the permit application
- Environmental issues including agency consultation that may require additional time to obtain the environmental permit (i.e. protected species consultation)
- Timing of protected species surveys needed to support environmental permit applications
- The anticipated date of project construction
- If the project will need a State-Owned Submerged Lands authorization requiring a decision by the Board of Trustees
- Whether project funding is available to support the permitting effort, including mitigation, during PD&E

### **12.3.3.1.1 Consideration of Mitigation Options**

During the PD&E phase, project design is developed in sufficient detail to quantify impacts to environmental resources such as wetlands and protected species. To the extent

practicable, FDOT must demonstrate avoidance (elimination) and minimization (reduction) of impacts prior to the consideration of compensatory mitigation options. For those projects that have unavoidable wetland and species impacts, compensatory mitigation may be required. In accordance with the USACE's federal mitigation sequencing [***Compensatory Mitigation for Losses of Aquatic Resources (33 CFR §§ 325 and 332)***], wetland impacts must be addressed through: 1) avoidance, 2) minimization, and finally 3) compensatory mitigation. Environmental Resource Permits (ERPs) under state jurisdiction must follow criteria established under ***Chapter 62-330, F.A.C.*** and in the ***ERP Applicant's Handbook Volume I*** which is to reduce or eliminate wetland or other surface water impacts prior to mitigation. Additionally, impacts to certain protected species or their habitat may result in the need to mitigate potential impacts. FDOT mitigation requirements are further enumerated in ***Section 373.4137, F.S.***

To validate that the project design in PD&E is feasible (i.e., that it is reasonably anticipated to be permissible), the Environmental Document should include consideration of mitigation options to address anticipated unavoidable direct and indirect/secondary wetland impacts and impacts to listed species. Coordination is needed with the regulatory agencies when developing the mitigation option to determine if proposed mitigation for wetland impacts may also satisfy mitigation needs for wetland dependent listed species. This helps to ensure FDOT provides the appropriate mitigation to offset project impacts and that mitigation used to satisfy one agency does not conflict with the mitigation recommendations of another agency. Mitigation options should be available and/or technologically feasible such that projects do not get advanced to the Final Design that have no known viable means to adequately address unavoidable impacts.

The impact assessment may include a Uniform Mitigation Assessment Method (UMAM) in accordance with ***Chapter 62-345, F.A.C.***, conducted at a broader level than is needed for permitting. If a modified UMAM is being considered during PD&E, it should be coordinated with the applicable permitting agencies. Other suitable wetland assessment methods (e.g. Wetland Rapid Assessment Procedure) may be used depending on the available mitigation options in the service area of the proposed impacts. See [\*\*\*Part 2, Chapter 9, Wetlands and Other Surface Waters\*\*\*](#) for guidance on using UMAM during PD&E.

For wetland impacts, a conceptual mitigation plan may need to be prepared according to [\*\*\*Part 2, Chapter 9, Wetlands and Other Surface Waters\*\*\*](#). The level of detail for the conceptual mitigation plan is determined through coordination with the appropriate regulatory agency(s) and is dependent upon the magnitude of mitigation required. The conceptual mitigation plan must demonstrate that mitigation is available to offset impacts to wetlands. In accordance with ***Section 373.4137, F.S.***, as amended, mitigation options may include "the use of mitigation banks and any other mitigation options that satisfy state and federal requirements" (i.e., mitigation bank credit purchases, funding to WMD for mitigation services and FDOT-responsible mitigation projects). Such options must be identified in the Environmental Document. Mitigation options identified during PD&E are those available at that time; however, final mitigation is determined at the time the permit is obtained.



It is recommended that the Permit Coordinator assist with preparation, or review of the conceptual mitigation plan and mitigation discussion that is included in the Environmental Document. The Permit Coordinator may provide input on mitigation banks and credit availability in the project area, mitigation services available from FDEP or the WMDs, and other mitigation opportunities available for the project.

### **12.3.3.1.2 Environmental Commitments**

FDOT may make environmental commitments to minimize potential adverse project effects. These commitments provide assurance to the reviewing agencies that the identified issues will be appropriately addressed during design and permitting – paving the way for a more efficient permit review process. Additionally, commitments provide predictability to FDOT and to designers/consultants for the level of effort (cost) that will ensue during design and permitting. Project commitments must be documented in the Environmental Document and tracked in accordance with the [Project Commitment Tracking, Procedure No. 650-000-003](#). Some commitments made during PD&E may become permit conditions at the discretion of the regulatory agency. See [Part 2, Chapter 22, Commitments](#) for more information on project commitments.

### **12.3.3.1.3 Documenting Permits**

Permits identified during the PD&E Study, including those permits identified as no longer being applicable to the project, must be documented in the Environmental Document. Permits that were identified as anticipated during the ETDM process that are no longer applicable to the project should be identified with an explanation as to why they are no longer needed. Documentation of regulatory agency coordination must be added to the project file.

Permits are documented in the Environmental Document as described below:

1. **Type 2 CE and SEIR** – For Type 2 CEs and SEIRs, environmental permits needed for the project are listed in the “Anticipated Permits” section. They are also discussed in the applicable Environmental Analysis section (Wetlands and Other Surface Waters, Protected Species and Habitat, Navigation) as a part of the discussion of coordination with the resource agency requiring the permit. The Navigation Section of the report should identify whether the USCG has determined if a bridge permit is required. See [Part 1, Chapter 5, Type 2 Categorical Exclusion](#), or [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#) for more detail on how to prepare these sections of the Type 2 CE or SEIR.
2. **Environmental Assessment (EA)** – Permits are documented in the Anticipated Permits section, as well as the applicable Environmental Analysis section (Wetlands and Other Surface Waters, Protected Species and Habitat, Navigation) as a part of the discussion of coordination with the resource agency requesting the

permit. See [Part 1, Chapter 6, Environmental Assessment](#) for more detail on how to prepare these sections of the EA.

3. **Environmental Impact Statement (EIS)** – Permits are documented in the Anticipated Permits section, as well as the applicable Environmental Analysis section (Wetlands and Other Surface Waters, Protected Species and Habitat, Navigation) as a part of the discussion of coordination with the resource agency requesting the permit. See [Part 1, Chapter 8, Draft Environmental Impact Statement](#) for more detail on how to prepare these sections of the EIS.

Permits that will be needed for the project are also listed in the Executive Summary of the Draft Environmental Impact Statement (DEIS) and the Final Environmental Impact Statement (FEIS) when it is to be submitted without a Record of Decision (ROD). In the DEIS this section is titled “List of Other Government Actions Required” and in the FEIS it is titled “Other Government Actions and Permits Required”. See [Part 1, Chapter 8, Draft Environmental Impact Statement](#) and [Part 1, Chapter 9, Final Environmental Impact Statement](#) for more detail on how to prepare these sections of the EIS Executive Summary.

#### 12.3.4 Re-evaluation

Changes after approval of the Environmental Document must be documented in a re-evaluation per [Part 1, Chapter 13, Re-evaluations](#). Specific to permitting, the re-evaluation should address any changes in laws, rules, or regulations that may impact project permitting, and provide a status of environmental permits required on the project. If a project’s design has changed, the re-evaluation should also address whether the design changes impact permitting and associated mitigation. Permitting information should be included in the “Status of Permits” section of the **Re-evaluation Form** ([Part 1, Chapter 13, Re-evaluations](#)).

#### 12.3.5 Design and Permitting

The purpose of the Design phase is to refine the project design initiated in PD&E, apply for and obtain federal and/or state environmental permits authorizing the construction of the proposed project, and generate plans and specifications consistent with permit allowances and conditions. During this phase, it is important for the Permit Coordinator and Project Designer(s) to refer to information prepared during the PD&E phase such as the Environmental Document, technical reports, and agency coordination to appropriately incorporate agency input, design considerations, and project commitments into the project design and related permit application packages. Some project commitments made earlier in the project life-cycle may become permit conditions.

From the PD&E phase to the Design and Construction phases, projects generally follow one of two project delivery methods: Design-Bid-Build or Design-Build (DB). The Design-Bid-Build method is where FDOT obtains separate contractors for the Design phase and the Construction phase. The first contractor handles the project Design, including

permitting. Once Design is complete, FDOT solicits a bid for another contractor to construct the project based upon the approved plans and specifications of which the issued permits are a part. Alternatively, projects could proceed using the DB method where the design and construction are combined in a single contract. If the environmental permits have not been obtained prior to procurement of DB firm, then FDOT must work closely with the selected DB firm on obtaining or modifying permits, following the steps described in [Section 12.3.5.2](#). This includes oversight/review of the contractor throughout the permitting process. Whether Design-Bid-Build or DB, the District as the permittee is responsible for reviewing, approving, and signing permit applications.

For LAP projects not on the SHS (off-system), the LAP agency is responsible for obtaining necessary permits and conducting regulatory agency coordination. This includes signature of permit applications and execution of required mitigation, as applicable. FDOT may provide oversight of the LAP agency to assure completeness. FDOT Districts have LAP Coordinators to assist the LAP agencies. See [Local Agency Program Manual, Topic No. 525-010-300](#).

### 12.3.5.1 Finalize Mitigation

As the project design is refined and permitting is initiated, the previously-identified quantities and mitigation options are refined in consultation with the appropriate regulatory agency. The intent is to identify the appropriate mitigation, how much mitigation will be required to off-set net adverse wetland impacts, and which mitigation option(s) will be incorporated into the respective state and federal permits. Since the state and federal permitting processes are independent in relation to quantifying wetland impacts and mitigation, it is possible that the quantities of compensatory mitigation required may differ between the state and federal permits.

In accordance with **Section 373.4137, F.S.**, FDOT must consider any mitigation options that meet state and federal requirements. The mitigation option must be coordinated with the appropriate regulatory agency. Mitigation for wetland impacts may also provide conservation benefit for listed species. When finalizing mitigation, coordination with regulatory agencies can help to determine whether project mitigation may serve mitigation needs of multiple permits. The final mitigation plans are then carried through the permitting process and become conditions of the environmental permits, as appropriate.

### 12.3.5.2 Permitting Process

Permits must be obtained before construction begins. For traditional Design-Bid-Build projects dredge and fill permits (i.e., ERP and **Section 404/10** permits) are typically issued during the Design phase, in advance of letting. Ideally, the District should obtain the environmental permits prior to production and no later than the project letting date. For DB projects permits may be obtained during procurement (in advance of project letting) or by the DB firm once the project is let. A project's contract letting date is the date the FDOT opens bid proposals from potential contractors.

It is important for the Permit Coordinator, environmental staff, and the Design Project Manager to coordinate during permitting to ensure that information gathered during the PD&E Study is utilized during permitting. The PD&E Project Manager should transmit the Environmental Document as well as relevant technical reports, such as the ***NRE, Cultural Resource Assessment Survey (CRAS)***, and resource agency correspondence/concurrence to the Permit Coordinator. In some cases, the Environmental Document may include agency concurrence documentation, which when submitted with the permit applications, may expedite agency review and identify important commitments which need to be addressed during the Design phase. It is the responsibility of the Permit Coordinator to review the documents and ensure that applicable information is used when preparing environmental permit applications.

In the Design phase, exact project alignment and the extent of resource impacts become known. During the permitting process alignment-specific or updated environmental studies may be conducted to identify the presence or absence of state or federally listed or otherwise protected species, establish jurisdictional wetland and surface water boundaries, quantify wetland impacts and mitigation needs (using appropriate functional assessment method), determine seasonal high and average wet season water table elevations, delineate/document cultural resources, and identify other environmentally sensitive resources (such as seagrasses, mangroves, coral and associated benthic resources). Appropriate drainage requirements focusing on the development of, or improvement to the stormwater management system, and how the project meets state water quality and quantity criteria should be addressed. See [Part 2, Chapter 11, Water Resources](#), [Part 2, Chapter 13, Floodplains](#), and FDOT [Drainage Manual, Topic No. 625-040-002](#) for more information. This information provides the “facts on the ground” that complement or update the PD&E Study results and support pre-application communication with the regulatory agencies and permit application submittal(s). These activities should be done in coordination with the Environmental Office so that these items/updates can be recognized in re-evaluations. [Figure 12-1](#) and [Figure 12-2](#) include links to web sites that itemize typical permit types and application content for FDEP, WMD, USCG, and USACE; links to digital application forms for these agencies; and descriptions of typical state and federal permit review processes.

### **12.3.5.2.1 Pre-application Conference**

To facilitate project permitting, a pre-application conference should be scheduled to discuss the project and related requirements with the appropriate state or federal agency. These conferences are in addition to resource agency coordination during ETDM and PD&E. They are meant to:

1. Notify agency personnel of the pending application,
2. Establish agency expectations of application content, and
3. Identify project-specific issues that should be addressed in the application.

It is recommended that the Permit Coordinator or District designee attend this meeting, along with appropriate consultant staff and/or contractors. Other FDOT staff may also attend such as the Project Manager or Lead Designer. FDOT participation in these meetings help to ensure the agency coordination is in FDOT's interest. Such coordination typically facilitates a more complete application submittal and a more efficient permit application review process.

### **12.3.5.2.2 Application Preparation/Submittal**

The state and federal “dredge and fill” permit applications, in general, describe who, what, when, where, and how through forms, narrative, tables, and graphics. The application for a state wetland permit will include a request for authorization to use state-owned submerged lands. Applicants are not required to submit a separate application for sovereign submerged lands authorization. The federal and state application packages are typically initiated when project design approaches Phase II design plans (60% design plans). At this point, the major components of the project (i.e., the project impact footprint) have been designed and environmental impacts and mitigation can be computed with low risk of further revision that would result in the need to re-quantify project impacts and mitigation.

Permit application packages may be generated by in house by the District or by consultants. The timing of initiation of the application process is directed by the Permit Coordinator, in coordination with the Design Project Manager and the Program Management Office. This coordination ensures that design, permitting, and construction are appropriately scheduled and funded to avoid extended periods between permit issuance and construction funding. When permit application packages are prepared by consultants, they are reviewed, approved, and signed by the Permit Coordinator, or their designee, since FDOT is responsible for the project. The use of an appropriate application checklist is recommended to ensure the application packages are complete.

Permit application packages are submitted to the WMD or FDEP to initiate the state permitting process. FDOT Districts can submit the **NRE** as supporting data along with any updated information. Upon receipt of the application, or of a notice to use a general permit or a determination of an exemption, FDEP or WMD staff will examine the application or notice to determine whether the activity appears to be located, in whole or in part, on state-owned submerged lands. The applicant may also indicate in the application the need for a proprietary authorization (e.g. a letter of consent, easement or lease) in addition to the regulatory authorization being requested. Where necessary, FDEP or WMD staff will request a title determination from FDEP's Division of State Lands as confirmation whether state lands would be affected by a proposed project. Activities located in one of the state's Aquatic Preserves must receive a separate written authorization prior to initiating any work.

A separate application is submitted to the USACE for the federal permit. The FDOT uses **Form ENG 4345** to initiate the federal permitting process. The form, and instruction on how to complete the form, are available on the USACE web site (**USACE, 2015**). The

Permit Coordinator with assistance from the Environmental Manager should coordinate with the USACE, and WMD or FDEP.

Application packages for USCG permits are submitted directly to the USCG. Typical contents of a USCG application package are described in detail in the ***Bridge Permit Application Guide (USCG, 2016)*** and the application review process is described in the ***Bridge Permit Processing Procedure (USCG, 2014)***. It is recommended that the Permit Coordinator work with the Design Project Manager to ensure permits are obtained at the appropriate time to avoid the need for a permit extension.

For CCCL permits, FDOT submits an ***Application for a Permit for Construction Seaward of the Coastal Construction Control Line or Fifty-Foot Setback*** to FDEP Bureau of Beaches and Coastal Systems according to ***Rule 62B-33.008, F.A.C., Permit Application Requirements and Procedures***.

Application fees are associated with state permit review. Refer to the rate schedule on either the FDEP or WMD web sites for current permit-specific rates ([Figure 12-2](#)). The federal review process does not exact an application fee when the applicant is a government agency.

### **Erosion and Sediment Control Plan**

FDOT develops and submits an erosion and sediment control plan as part of the ERP application. This plan provides reasonable assurance that water quality standards will not be violated during the construction phase of a project. The plan must identify the location, relative timing, and specifications for all erosion and sediment control and stabilization measures that will be implemented as part of the project's construction. The plan must provide for compliance with the terms and schedule of implementing the proposed project, beginning with the initiation of construction activities. The plan may be submitted as a separate document, or may be contained as part of the plans and specifications of the construction documents. For more information on the development of an erosion and sediment control plan, refer to ***Volume 1 of the Applicant's Handbook*** or ***Part 1 of the State of Florida Erosion and Sediment Control Designer and Reviewer Manual***.

### **Stormwater Pollution Prevention Plan for NPDES Requirements**

A ***Stormwater Pollution Prevention Plan (SWPPP)*** is required to be developed and implemented for each FDOT construction project that disturbs one or more acres of total land area and discharges to waters of the United States. The objectives of a ***SWPPP*** are to:

1. Prevent erosion where construction activities are occurring,
2. Prevent pollutants from mixing with stormwater, and

3. Prevent pollutants from being discharged by trapping them on-site, before they can affect the receiving waters.

A complete **SWPPP** consists of: **SWPPP** sheets, other plan sheets and documents referenced in the **SWPPP** sheets, the contractor's approved Erosion Control Plan in accordance with [Standard Specifications, Section 104](#), inspection reports, and documentation of field changes that were made to better address the objectives and is prepared in consultation with Drainage, Construction, and Environmental personnel. The [FDOT Design Manual, Part 2, Section 251, Topic No. 625-000-002](#) describes the purpose, objective, and signing and noticing requirements of the **SWPPP** and the [FDOT Design Manual, Part 3, Section 320, Topic No. 625-000-002](#) describes the required narrative and graphical components of the Plan. The **SWPPP** developed as part of the ERP application package may not be of sufficient detail for a contractor to obtain an NPDES permit. The contractor is responsible for developing a project specific **SWPPP** to meet regulatory requirements to obtain an NPDES permit prior to construction.

### 12.3.5.2.3 Application Processing/Review

The duration of the state permitting process depends on the complexity of the construction and the environmental sensitivity of the project area, unless the project qualifies for a general permit, which takes approximately 30 days. **Section 373.4141, F.S.**, provides FDEP or the WMD 30 days to request additional information on an application or in any subsequent submittal within 30 days after receipt of an application for permit or receipt of additional information. An application is considered complete by a regulatory agency when the applicant has provided sufficient information for the regulatory agency to make a final agency action. A permit is issued or denied within 60 days after the application has been deemed complete, or upon written request by an applicant for the regulatory agency to begin processing the application. The 60-day statutory deadline for permit issuance can be formally waived by the applicant, for a period of time identified by the applicant, using the **Waiver of the 60 Day Review Time Limit Form** available from FDEP or WMD.

The approval or denial of an ERP application is linked with the approval or denial of any required state-owned submerged lands application. Activities that require an ERP cannot become complete until all required state-owned submerged lands information has been submitted as part of the permit application. In addition, the ERP permit cannot be issued unless a determination has been made that the related state-owned submerged lands application can be issued. If an activity meets all the requirements for issuance of an ERP, but does not meet all the requirements for issuance of the state-owned submerged lands authorization, the ERP must be denied. Conversely, if the activity meets all the state-owned submerged lands requirements, but does not meet the conditions for issuance of the ERP, the state-owned submerged lands application and the ERP permit will be denied.

Activities that qualify for a general permit, or an exemption from the state, are not linked. In such cases, even though an activity may be authorized by the general permit or

exemption, construction, alteration, modification, maintenance, operation, abandonment, or removal of the project may not commence until the required state-owned submerged lands authorization has also been granted.

Unlike the state process, the federal permitting process is not tied to a statutory timeframe for permit issuance. However, like the state process, both USACE and USCG notify an applicant of apparent errors or omissions in application materials and request any additional information needed to clarify the information on an application. Concurrence for a Nationwide Permit typically takes 3 to 6 months from the date of application. For more complicated Standard Permits, the USACE may need 12 to 18 months from the date of application. The USCG permitting process for a minor deviation takes approximately 3 to 4 months. A bridge permit is typically issued or denied by the USCG within 180 days after an application has been deemed complete. More information on the USCG permitting process can be found in [Part 1, Chapter 16, United States Coast Guard Projects and Navigation](#).

Both the USACE and USCG solicit comments from the public and resource agencies (e.g., USFWS, NMFS, EPA) by publishing a public notice during the permitting process. The period for the public to submit comment is finite and identified in the public notice (i.e., typically between 15 and 30 days). Once the public comment period closes, the Lead Federal Agency consolidates the public comments with merit and conveys them to the applicant. The applicant then responds to the comments in the same manner as the typical request for additional information process described previously.

As commenting agencies, the USFWS and/or NMFS may request additional data, including recent species-specific field surveys, confirmation of habitat mapping and characterization, and data on any observed listed species occurrences. Issuance of federal permits from USACE and/or USCG is contingent upon approval from USFWS and/or NMFS that the project “may affect, is not likely to adversely affect” federally listed species, or that the action “may affect, likely to adversely affect” one or more listed species and incidental take is authorized. A review by NMFS or USFWS for listed species may take 180 days or longer, depending on the level of impact proposed.

The WMD or FDEP may solicit comment from FWC in regard to a proposed project’s potential effect on state-listed wildlife. In turn, FWC may request additional data, including recent species-specific field surveys, confirmation of habitat mapping and characterization, and data on any observed listed species occurrences to support the state permitting process. The applicant then responds to the comments in the same manner as the typical request for additional information process described previously.

Issuance of a state general, individual, or conceptual ERP from a WMD requires that the activity “will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters.” (e.g., **Rule 62-330.301(1)(d), F.A.C.**). Additionally, the applicant must provide reasonable assurance that the project will not be contrary to the public interest for activities located in, on, or over wetlands or other



surface waters - or in the case where impacts are proposed in an Outstanding Florida Water, the applicant must provide reasonable assurance that the project is clearly in the public interest; that the project will not adversely affect navigation; and that the project will not result in harm to listed wildlife species **Rule 62-330.302(1), F.A.C.** The Project Manager and Permit Coordinator should facilitate the communication of FWC decisions and commitments (if any) to the WMD as part of the state permit application process, and obtain documentation from the WMD that the wildlife and habitat commitments sufficiently meet the conditions for permit issuance.

Incidental take permits are issued for activities that may result in take of federal or state protected species. Applications are contingent upon a USFWS **HCP** which defines the full impact on the species, describes methods proposed to minimize take, and outlines mitigation which may be rendered to offset the take. Additional information on **HCPs** and incidental take permits is available on the USFWS **Ecological Services** site and in the online FWC **Florida Wildlife Conservation Guide**. See [Figure 12-3](#) for links to these resources. The NMFS website has information on permits they issue. The USFWS and NMFS have a **Habitat Conservation Planning and Incidental Take Permitting Processing Handbook** that provides guidance on this permitting process.

FWC will approve or deny a complete permit application within 90 days of receipt. A complete application includes all relevant information as attachments (e.g. scientific project proposals, educational plans and brochures, site plans, photographs, etc.). Complete permit applications, renewals, and amendment requests should be submitted a minimum of 45 days prior to the requested effective date.

#### 12.3.5.2.4 Noticing Permits

Noticing requirements vary between federal and state agencies. The information in this section provides an overview of permit noticing requirements. The District should coordinate with the appropriate regulatory agency to ensure proper noticing of permits.

In accordance with **33 CFR § 325.2(a)(8)**, for USACE standard permits, the USACE's District Engineer will publish monthly a list of permits issued or denied during the previous month. The list will identify each action by public notice number, name of applicant, and brief description of activity involved. This list will be distributed to all persons who may have an interest in any of the public notices listed. USACE general permits do not typically require noticing upon receipt (verification or authorization is the term used in the letter to FDOT). The USACE provides a public notice in the **FR** announcing the availability of general permits.

For USCG bridge permits, the applicant may publish a public notice to known navigation and other interested parties, news media, adjacent property owners, public officials and local government agencies. The public notice contains a description of the proposed bridge project and includes location maps and bridge drawings with navigational clearances. FDOT should coordinate with the USCG for details on the information to include in the public notice.

For ERPs, it is recommended that the FDOT District publish a notice of agency action in a newspaper of general circulation in the county where the proposed activity is to occur. Publication of notice informs third parties of their right to challenge the regulatory agency's action. If proper notice is provided by publication, third parties have 21 days in which to file a petition opposing the agency's action. A shorter 14-day time limit applies to an agency action regarding ERPs linked with an authorization to use State Owned Submerged Lands. Agency actions regarding issuance or denial of a permit, petition or qualification for exemption, only become closed to future legal challenges if third parties have been properly notified and no third-party objects within a specific period. Upon request FDEP or WMD staff will provide the applicant (FDOT) with the information for publishing such a notice. The District can also contact the Office of General Counsel for assistance.

### 12.3.5.2.5 Permit Distribution and Tracking

With issuance of environmental permit(s), the Permit Coordinator utilizes a **Permit Transmittal Memorandum, Form No. 650-040-01** ([Figure 12-5](#)) to transfer the permit(s) to the District Construction Engineer and posts the permit(s) to [FDOT's File Transfer Protocol \(FTP\) site](#). Posting to the FTP site is part of the official contract package. Potential contractors use the FTP site to obtain copies of the permits when preparing their bids. The Construction Office, CEI team, winning contractor, and Maintenance Office review the environmental permits to ensure permit compliance.

Each District must implement a means to track execution of the various parameters associated with each permit issued to FDOT – including but not limited to pre-construction wildlife surveys/permitting, mitigation implementation/purchase, **ESA** consultation, resource protection during construction, permit expiration dates, monitoring and inspection schedules, and post-construction notification and reporting. They may be tracked using, SharePoint, Excel spreadsheets or permit tracking databases. Tools that automatically notify the user of approaching permit expiration dates are especially helpful. For LAP agency projects, the LAP agency must provide documentation to FDOT demonstrating that the appropriate environmental permits have been obtained. More information on LAP projects can be found in the [Local Agency Program Manual, Topic No. 525-010-300](#).

### 12.3.6 Construction

The Permit Coordinator should participate in the pre-construction meeting to brief Construction staff and Contractor on permitting and environmental issues. The Permit Coordinator should also send a pre-construction environmental permit briefing memorandum to the Construction Project Administrator. **Section 8.2** of the [Construction Project Administration Manual, Topic No. 700-000-000](#) provides guidance on:

1. Providing a comprehensive review of all permits at the preconstruction conference

2. Monitoring regulated activities to assure they are conducted in accordance with permits
3. Special requirements of NPDES
4. Reporting and Enforcement

In addition, the Construction Office should coordinate with the Environmental Office and Permit Coordinator to ensure permit condition familiarity and to ensure that the intent and timeline of the environmental permit conditions are being met.

During the Construction phase, a contractor may request modification of existing permits. FDOT may authorize the contractor's request to proceed with a permit modification if it is in compliance with FDOT design criteria and state and federal regulatory requirements and is not anticipated to adversely affect project schedule or cost. FDOT will review and approve of the modification prior to submittal, as described in [Section 12.3.5.2.2](#).

### 12.3.6.1 Permit Compliance

FDOT, as the permittee, is responsible for ensuring compliance with the permit prior, during, and, after Construction. Failure to comply with issued permits may result in enforcement action by the regulatory agencies. Therefore, it is important for FDOT to assure that construction contractors, and/or DB firms are aware of their contractual obligation to follow approved commitments, permit conditions and project design in order that FDOT remains compliant with permit requirements.

In accordance with **Section 8.2** of the [Construction Project Administration Manual, Topic No. 700-000-000](#), the Project Administrator is responsible for permit compliance during Construction. The Project Administrator should meet with the Permit Coordinator and Environmental Manager prior to construction to be briefed on the content of project permits and design plan notes (if any) as they relate to protection of environmental resources. The Project Administrator should continue to coordinate with the Permit Coordinator and the Environmental Manager throughout the Construction phase to assure the Project Administrator's full knowledge of the regulatory requirements included in the permits, sediment erosion plan, **SWPPP**, and design plans and to assure the continued awareness of project progress by the Environmental Office, particularly if environmental issues arise.

Once construction is complete, the Project Administrator is responsible for addressing post-construction permit conditions. Post-construction activities may include, but are not limited to:

1. Notifying the USACE of project completion via written correspondence.
2. Notifying FDEP or WMD of construction completion and requesting conversion of the project to the operation phase via submittal of the electronic form located at

**Rule 62-330.310(1), F.A.C.**

3. Submitting an as-built certification form to the USACE (typically an attachment to the permit).
4. Submitting as-built drawings to both FDEP/WMD and USACE showing how project construction either complied with, or deviated from, permitted project design.
5. Notifying wildlife agencies about completion of species permit activities (e.g., After Action reports for Gopher Tortoise permits).

Permit conditions from both agencies typically define the required submittal information to assist FDOT in completing the forms and compiling required information. Species permits may also include conditions requiring documentation that must be submitted to the wildlife agencies. For project continuity, the Construction Office should additionally notify the Environmental Office Engineer of construction completion.

The Construction Project Administrator is also responsible for monitoring all permit expiration dates and advising the Environmental Manager and Permit Coordinator at least 6 months prior to a permit expiring. For projects requiring USFWS or NMFS consultation, notification of permit expiration should be up to twelve 12 months in advance of permit expiration, to allow ample time for coordination/consultation with the agencies. The Permit Coordinator is responsible for acquiring necessary permit extensions and/or renewals from the appropriate regulatory agency in the event work is not anticipated to be completed within the time authorized by the permit.

## **12.4 REFERENCES**

Chapter 18-21, F.A.C., Sovereignty Submerged Lands Management  
<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=18-21>

Chapter 62B-33, F.A.C., Rules and Procedures for Coastal Construction and Excavation  
(Permits for Construction Seaward of the Coastal Construction Control Line and Fifty Foot Setback)

Chapter 62-113, F.A.C., Listing of regulatory delegation agreements

Chapter 62-330, F.A.C., Implements the comprehensive statewide environmental resource permit (ERP) program

Chapter 62-340, F.A.C., Method for delineating the landward extent of wetlands and surface waters

Chapter 62-624, F.A.C., Municipal Separate Storm Sewer Systems

Chapter 68A, F.A.C., Establishes wildlife code of the state of Florida

Chapter 373 Part IV, F.S., Water Resources. Management and Storage of Surface Waters. [http://www.flsenate.gov/Laws/Statutes/2016/Chapter373/Part\\_IV](http://www.flsenate.gov/Laws/Statutes/2016/Chapter373/Part_IV)

EPA. 2015. Section 404 Permit Program. <https://www.epa.gov/cwa-404/section-404-permit-program>

FHWA. 2014. Memorandum of Agreement between the United States Coast Guard and the Federal Highway Administration to Coordinate and Improve Bridge Planning and Permitting.  
[https://www.environment.fhwa.dot.gov/env\\_initiatives/EDC/MOA\\_USCG\\_bridge\\_permits.aspx](https://www.environment.fhwa.dot.gov/env_initiatives/EDC/MOA_USCG_bridge_permits.aspx)

FDEP. 2015. Environmental Resource Permit Applicant's Handbook Volume I.  
[https://www.sfwmd.gov/sites/default/files/documents/swerp\\_applicants\\_handbook\\_vol\\_i.pdf](https://www.sfwmd.gov/sites/default/files/documents/swerp_applicants_handbook_vol_i.pdf)

FDEP and FDOT. 2013. Part 1 of the State of Florida Erosion and Sediment Control Designer and Reviewer Manual.  
<https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>

FDOT. 2007. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between South Florida Water Management District and the Florida Department of Transportation and the Federal Highway Administration. 5/15/2007- 5/14/2016

FDOT. 2011a. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between Northwest Florida Water Management District and the Florida Department of Transportation and the Federal Highway Administration. 6/6/2011-6/6/2016

FDOT. 2011b. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between Suwannee River Water Management District and the Florida Department of Transportation and the Federal Highway Administration. 10/1/2011-9/30/2016

FDOT. 2012. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between Florida Fish and Wildlife Conservation Commission and the Florida Department of Transportation and the Federal Highway Administration. 1/1/2012-12/31/2016

FDOT. 2012. Florida Department of Transportation Statewide Stormwater Management Plan. <https://www.fdot.gov/maintenance/NPDES-StormWater.shtm>

FDOT. 2016. The Gopher Tortoise, Guidance for Each Phase of FDOT Project Delivery, FDOT Office of Environmental Management.  
<https://fdotwww.blob.core.windows.net/sitefinity/docs/default->

[source/environment/pubs/fdot-the-gopher-tortoise\\_guidance\\_document\\_10-04-16.pdf?sfvrsn=c088bb97\\_0](#)

FDOT. 2019. Permit Handbook.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/fdot-permit-handbook.pdf?sfvrsn=68d9abb0\\_2](#)

FDOT. FDOT Design Manual, Topic No. 625-000-002

[http://www.fdot.gov/roadway/FDM/2018FDM.shtm](#)

FDOT. Efficient Transportation Decision Making Manual, Topic No. 650-000-002.

[http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm](#)

FDOT. 2013. Environmental Mitigation Payment Processing Handbook.

[https://www.fdot.gov/environment/publications.shtm](#)

FDOT. 2015a. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between Southwest Florida Water Management District and the Florida Department of Transportation and the Federal Highway Administration. 6/1/2015-5/31/2020

FDOT. 2015b. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between U.S. Army Corps of Engineers and the Florida Department of Transportation and the Federal Highway Administration. 6/30/2015-6/30/2020

FDOT. 2015c. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between U.S. Fish and Wildlife Service and the Florida Department of Transportation and the Federal Highway Administration. 5/1/2015-4/30/2020

FDOT. Construction Project Administration Manual, Topic No. 700-000-000.

[https://www.fdot.gov/construction/manuals/cpam/cpammanual.shtm](#)

FDOT. Drainage Manual, Topic No. 625-040-002.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/roadway/drainage/files/drainagemanual2020.pdf?sfvrsn=54b052a4\\_2](#)

FDOT. Local Agency Program Manual, Topic No. 525-010-300.

[https://www.fdot.gov/programmanagement/LAP/LAP-TOC.shtm](#)

FWC. 2017. A Species Action Plan for the Bald Eagle.

[https://myfwc.com/media/1778/baldeaglesap.pdf](#)

FWC. 2016. Florida's Imperiled Species Management Plan.

[https://myfwc.com/wildlifehabitats/wildlife/plan/](#)

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>

Northwest Florida Water Management District. 2013. Environmental Resource Permit Applicant's Handbook, Volume II

Rule 62-330.010(4), F.A.C.

Rule 62-330.020, F.A.C., Regulated Activities

Rule 62-330.051(4), F.A.C.

Rule 62-330.051(9), F.A.C.

Rule 62-330.056(7), F.A.C.

Rule 62-330.301(1)(d), F.A.C.

Rule 62-330.302(1), F.A.C.

Rule 68A-1.004(79), F.A.C.

Rule 68A-4.001, F.A.C., General Prohibitions

Rule 68A-9.002, F.A.C., Permits to Take Wildlife or Freshwater Fish for Justifiable Purposes

Rule 68A-13.002, F.A.C., Migratory Birds; Adoption of Federal Statutes and Regulations

Rule 68A-27.003, F.A.C., Rules Relating to Endangered or Threatened Species

Rule 68A-27.005, F.A.C., Designation of Species of Special Concern; Prohibitions; Permits

Section 334.03, F.S., Definitions.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0334/Sections/0334.03.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0334/Sections/0334.03.html)

Section 335.02(4), F.S.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0335/Sections/0335.02.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0335/Sections/0335.02.html)

Section 373.019(27), F.S.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0373/Sections/0373.019.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.019.html)

Section 373.413(6), F.S.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0373/Sections/0373.413.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.413.html)

Section 373.4131, F.S., Statewide environmental resources permitting rules.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0373/Sections/0373.4131.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.4131.html)

Section 373.4137, F.S., Mitigation requirements for specified transportation projects.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0373/Sections/0373.4137.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.4137.html)

Section 373.441, F.S., Role of counties, municipalities, and local pollution control programs in permitting process; delegation.

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Section 403.0885, F.S., Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) Program.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0400-0499/0403/Sections/0403.0885.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.0885.html)

South Florida Water Management District. 2014. Environmental Resource Permit Applicant's Handbook, Volume II

Southwest Florida Water Management District. 2013. Environmental Resource Permit Applicant's Handbook, Volume II

St. Johns River Water Management District. 2013. Environmental Resource Permit Applicant's Handbook, Volume II

Suwannee River Water Management District. 2012. Environmental Resource Permit Applicant's Handbook, Volume II

Title 33 CFR § 115.70, Advance Approval of Bridges. [http://www.ecfr.gov/cgi-bin/text-idx?SID=30ea9056a7eb08f3f433ac58b032b795&mc=true&node=pt33.1.115&rgn=div5#se33.1.115\\_170](http://www.ecfr.gov/cgi-bin/text-idx?SID=30ea9056a7eb08f3f433ac58b032b795&mc=true&node=pt33.1.115&rgn=div5#se33.1.115_170)

Title 23 CFR Part 650, Subpart H, Navigational Clearances for Bridges.

<http://www.ecfr.gov/cgi-bin/text-idx?SID=30ea9056a7eb08f3f433ac58b032b795&mc=true&node=pt23.1.650&rgn=div5#sp23.1.650.h>

Title 33 CFR Part 230, Procedures for Implementing NEPA. <http://www.ecfr.gov/cgi-bin/text-idx?SID=30ea9056a7eb08f3f433ac58b032b795&mc=true&node=pt33.3.230&rgn=div5>



Title 33 CFR § 323.2(d), Definitions. [http://www.ecfr.gov/cgi-bin/text-idx?SID=30ea9056a7eb08f3f433ac58b032b795&mc=true&node=pt33.3.323&rgn=div5#se33.3.323\\_12](http://www.ecfr.gov/cgi-bin/text-idx?SID=30ea9056a7eb08f3f433ac58b032b795&mc=true&node=pt33.3.323&rgn=div5#se33.3.323_12)

Title 33 CFR § 325.2(a) Processing of Applications. [http://www.ecfr.gov/cgi-bin/text-idx?SID=edfce0760950d89a77a3c2ccfd9bf7d6&mc=true&node=pt33.3.325&rgn=div5#se33.3.325\\_12](http://www.ecfr.gov/cgi-bin/text-idx?SID=edfce0760950d89a77a3c2ccfd9bf7d6&mc=true&node=pt33.3.325&rgn=div5#se33.3.325_12)

Title 33 CFR Part 328, Definition of Waters of the United States. <http://www.ecfr.gov/cgi-bin/text-idx?SID=30ea9056a7eb08f3f433ac58b032b795&mc=true&node=pt33.3.328&rgn=div5>

Title 33 CFR § 330.4(d)(1), Condition, limitations, and restrictions. [http://www.ecfr.gov/cgi-bin/text-idx?SID=33818a4dadce08fd8808bd6cdc01a4b0&mc=true&node=pt33.3.330&rgn=div5#se33.3.330\\_14](http://www.ecfr.gov/cgi-bin/text-idx?SID=33818a4dadce08fd8808bd6cdc01a4b0&mc=true&node=pt33.3.330&rgn=div5#se33.3.330_14)

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Title 40 CFR §§ 1500-1508, Chapter V – Council of Environmental Quality. <http://www.ecfr.gov/cgi-bin/text-idx?SID=d0a52e9cdad29c73a89c0c47797eb296&mc=true&tpl=/ecfrbrowse/Title40/40chapterV.tpl>

Title 50 CFR Part 17, Endangered and Threatened Wildlife and Plants. <https://www.gpo.gov/fdsys/search/pagedetails.action?collectionCode=CFR&searchPath=Title+50%2FChapter+I%2FSubchapter+B%2FPart+17&granuleId=CFR-2010-title50-vol2-part17&packageId=CFR-2010-title50-vol2&oldPath=Title+50%2FChapter+I%2FSubchapter+B%2FPart+17&fromPageDetails=true&collapse=false&ycord=2772>

Title 50 CFR Part 21, Migratory Bird Permits. <http://www.ecfr.gov/cgi-bin/text-idx?SID=d0a52e9cdad29c73a89c0c47797eb296&mc=true&node=pt50.9.21&rgn=div5>

Title 50 CFR § 22.3, Definitions. [http://www.ecfr.gov/cgi-bin/text-idx?SID=d0a52e9cdad29c73a89c0c47797eb296&mc=true&node=pt50.9.22&rgn=div5#se50.9.22\\_11](http://www.ecfr.gov/cgi-bin/text-idx?SID=d0a52e9cdad29c73a89c0c47797eb296&mc=true&node=pt50.9.22&rgn=div5#se50.9.22_11)

Title 50 CFR § 22.26, Permits for Eagle Take that is associated with, but not the purpose of, an activity. [http://www.ecfr.gov/cgi-bin/text-idx?SID=d0a52e9cdad29c73a89c0c47797eb296&mc=true&node=pt50.9.22&rgn=div5#se50.9.22\\_126](http://www.ecfr.gov/cgi-bin/text-idx?SID=d0a52e9cdad29c73a89c0c47797eb296&mc=true&node=pt50.9.22&rgn=div5#se50.9.22_126)

Title 50 CFR Part 226, Designated Critical Habitat. <http://www.ecfr.gov/cgi-bin/text-idx?SID=d0a52e9cdad29c73a89c0c47797eb296&mc=true&node=pt50.10.226&rgn=div5>

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USCG. 2014. Bridge Permit Processing Procedure. <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Marine-Transportation-Systems-CG-5PW/Office-of-Bridge-Programs/Bridge-Permit-Application-Process/>

United States Department of Transportation (USDOT). 2013. Memorandum of Understanding between the U.S. Coast Guard and Federal Highway Administration and Federal Transit Administration and Federal Railroad Administration to Coordinate and Improve Bridge Planning and Permitting

## 12.5 FORMS

[Permit Transmittal Memorandum, Form No. 650-040-01](#)

## 12.6 HISTORY

1/12/1999, 8/26/2016, 6/14/2017: NEPA Assignment, 1/14/2019

**Table 12-1 Legislation Related to Environmental Permitting**

Title and Citation	Relevance to Permitting	Lead Agency/ Required Commenters
<b>Federal Legislation</b>		
<i>Clean Water Act (Federal Water Pollution Control Act) of 1972, Section 404, (33 U.S.C. §1344) as amended; (40 CFR Part 230)</i>	The Clean Water Act (CWA) is the primary federal law related to protection of surface waters and wetlands. Section 404 regulates the discharge of dredged and fill material into waters of the United States, including wetlands. Dredge and fill activities are regulated by a permit process administered by the U.S. Army Corps of Engineers (USACE) and overseen by the U.S. Environmental Protection Agency (EPA). This process most commonly creates a “federal nexus” for wildlife consultations under the Endangered Species Act. USACE functions as the lead agency, while U.S. Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service (NMFS) serve as cooperating agencies for Section 404 federal actions. Under Section 401, states are provided authority to ensure that federal permits do not violate state water quality standards.	USACE / EPA, USFWS, and/or NMFS
Rivers and Harbors Act of 1899, Section 10	Section 10 of the Rivers and Harbors Act prohibits the unauthorized obstruction or alteration of any navigable water of the United States. The construction of any structure in or over any navigable water of the United States, the excavating from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters is unlawful unless the work has been permitted by the USACE.	USACE
General Bridge Act of 1946	Under the General Bridge Act of 1946 (33 U.S.C. §§ 525-533), construction of a bridge over a navigable U.S. waterway requires the Coast Guard to grant a bridge permit	USCG
National Pollutant Discharge Elimination System (NPDES) (40 CFR Part 122) and Section 403.0885, F.S.	NPDES requires the development of a Stormwater Pollution Prevention Plan (SWPPP) for construction project sites greater than 1 acre in size, if stormwater from the activity has the potential to enter a surface water of the State or a municipal separate storm sewer system.	FDEP (delegated from EPA)
Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. § 470f	The Act requires the federal agency to take into account the effects that activities authorized by federal permits are likely to have on historical properties listed in, or eligible for listing in, the National Register of Historic Places.	USACE / State Historic Preservation Office/Officer (SHPO)
<i>Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. §§ 1531-1541); 50 CFR Part 402</i>	Section 7 of the ESA requires federal agencies, in consultation with the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS), to ensure that effects of actions that they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species, or result in the destruction or adverse modification of designated critical habitat of such species. This congressional policy states that “All Federal departments and agencies shall seek to conserve endangered and threatened species and shall utilize their authorities in furtherance of the purposes of the Act”. In the absence of a federal nexus, Section 10 of the ESA allows for the “incidental take” of listed species when a Habitat Conservation Plan (HCP) is developed and approved. 50 CFR § 402.08 allows FDOT to conduct informal ESA consultations with USFWS on behalf of FHWA.	USFWS or NMFS

**Table 12-1 Legislation Related to Environmental Permitting**

Title and Citation	Relevance to Permitting	Lead Agency/ Required Commenters
<b>Federal Legislation</b>		
Federal Migratory Bird Treaty Act (16 U.S.C. §§ 703-712), as amended	The Act states that "it shall be unlawful at any time.....to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess.....any migratory bird, any part, nest, or egg of any such bird...". This governs avian species such as the Florida burrowing owl, osprey, and American bald eagle.	USFWS
The Federal Bald and Golden Eagle Protection Act, (16 U.S.C. §§ 668-668c), as amended	The Act prohibits anyone, without a permit issued by the Secretary of the Interior, from "taking" bald eagles, including their parts, nests, or eggs. The Act provides criminal penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." The Act defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb."	USFWS
<b>State Legislation</b>		
<i>Chapter 62-330, F.A.C.</i>	Establishes the SWERP program to provide more consistency throughout Florida in state permitting thresholds, requirements and processes. The SWERP program governs the following: construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on or over wetlands or other surface waters.	DEP or WMD / FWC and SHPO
<i>Chapter 68A-27, F.A.C.</i>	Rules Relating to Threatened or Endangered Species. This chapter provides the purpose, definitions, species designations, permitting requirements, and other rules associated with the regulation of potential impacts to state listed species in Florida.	FWC
<i>Gopher Tortoise (68A - 27.003 F.A.C.)</i>	As a Threatened species, a permit is required for any activity that causes a take, harassment, molestation, damage, or destruction to gopher tortoises or their burrows.	FWC

\*In accordance with Section 335.02(4), F.S., FDOT is not bound by county, municipal, or special district regulations for projects on the State Highway System; however, Broward and Hillsborough Counties have been delegated regulatory authority to administer the state wetland permitting program.

**Table 12-2 Federal Permit Types**

<b>Lead Agency</b>	<b>Action/Permit Type</b>	<b>Permit Number/Name or Activity Description</b>	<b>Commenting Agency</b>	<b>Remarks</b>
U.S. Army Corps of Engineers	No Permit Required	N/A	N/A	Utilize Permit Involvement Form or other checklist to ensure correct determination.
	Nationwide Permit (NWP)	54 NWPs exist as of March 2017	N/A	NWPs are reviewed every 5 years, and changes are made, as appropriate. Some NWPs subject to Pre-Construction Notice (PCN). Special conditions apply to some NWPs. Refer to USACE Source Book
	Regional General Permit (RGP)	SAJ-92, FDOT and Florida's Turnpike Enterprise	USFWS (SAJ-92, p. 4), SHPO	Capacity improvement projects. RGPs are reviewed every 5 years, and changes are made, as appropriate.
	Letter of Permission	Letter of Permission	USFWS, NMFS, SHPO	Refer to USACE Source Book
	Standard Permit	Standard Permit	USFWS, NMFS, EPA, SHPO	Refer to USACE Source Book
U.S. Coast Guard	Bridge Permit	Bridge permit	NMFS, USFWS, EPA, SHPO	Refer to USCG Bridge Permit Application Guide

**Table 12-3 State Permit Types**

<b>Lead Agency</b>	<b>Action/Permit Type</b>	<b>Permit Number/Name or Activity Description</b>	<b>Commenting Agency</b>	<b>Remarks</b>
Florida Department of Environmental Protection or Water Management District	Conceptual Permit	Conceptual Permit	FWC, SHPO	Conceptual permit may also authorize the first phase of project. Refer to Rule 62-330.056, F.A.C.
	General Permit	General Permit	N/A	Refer to Rules 62-330.401 through 62-330.635, F.A.C.
	Individual Permit	Individual Permit	FWC, SHPO	Refer to Rule 62-330.054, F.A.C.
FDEP	National Pollutant Discharge Elimination System (NPDES)	NPDES Permit	N/A	Typically acquired by construction contractor

**Table 12-4 Listed Wildlife Permit Types**

Lead Agency	Species	Permit Type/Name	Remarks
Florida Fish and Wildlife Conservation Commission (FWC)	Gopher Tortoise	10 or Fewer Burrows Relocation Permit	All named permits require the involvement of and Authorized Gopher Tortoise Agent permitted by FWC – except for on-site relocation of 10 or fewer burrows IF all of the tortoises are captured via live or bucket trapping or by hand shovel excavation
		Conservation Permit	
		Disturbed Site Permit	
		Burrow or Structure Protection Permit	
		Emergency Take without Relocation Permit	
	Florida Burrowing Owl	Migratory Bird Nest Removal Permit	Only allowed during non-nesting season (July 11 through February 14)
U.S. Fish and Wildlife Service (USFWS)	American Bald Eagle	Nest Take Permit	Only for inactive eagle nests, unless necessary to alleviate safety emergency to humans or eagles (then can include active nest removal)
		Disturbance Permit	The take (disturbance) must be necessary for the project purpose, despite implementation of all practicable measures to avoid and minimize the impact to eagles

## Federal permitting information can be obtained from the following sources:

### *United States Coast Guard*

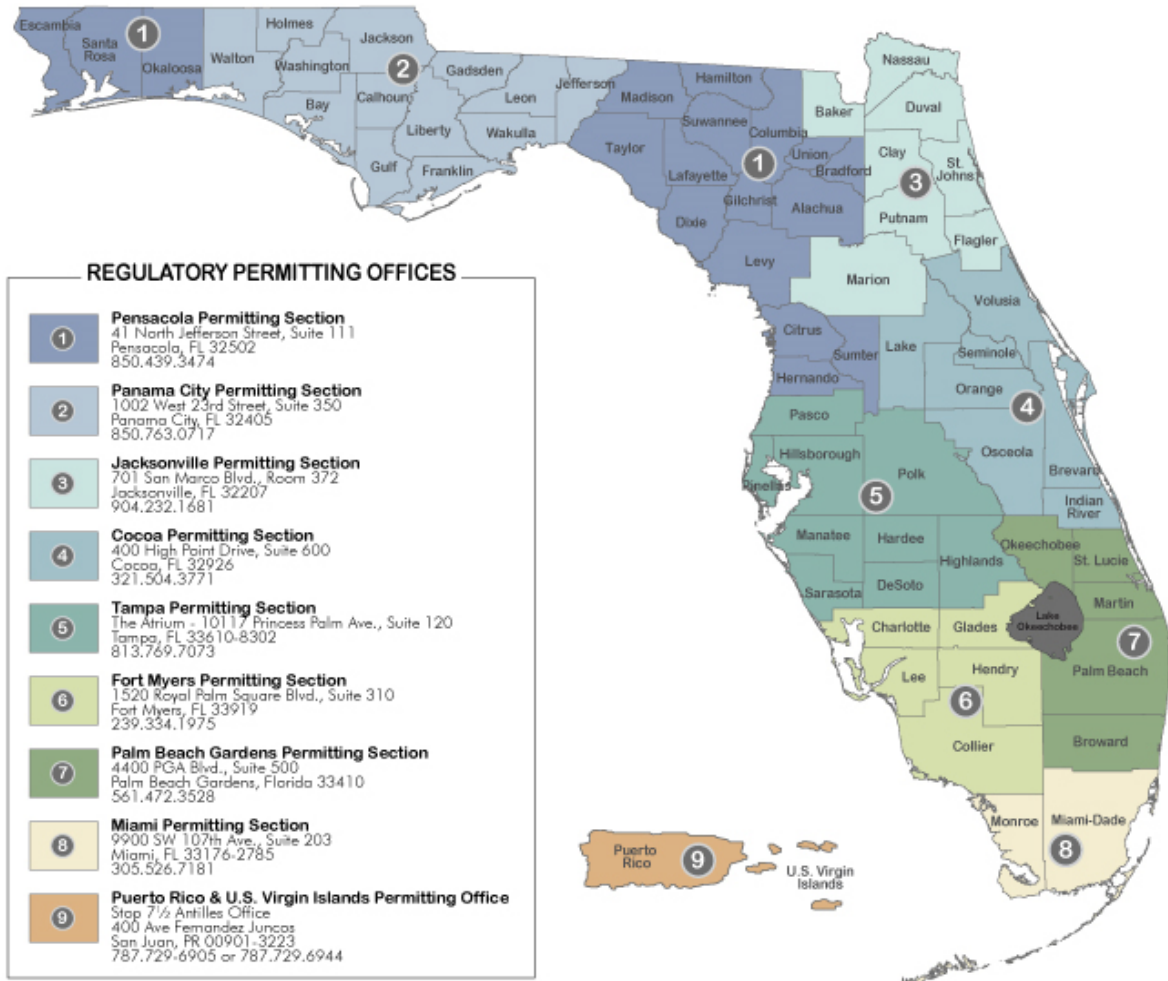
- 1) A description of the bridge permitting process can be found at [https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5pw/Office%20of%20Bridge%20Programs/COAST%20GUARD%20BRIDGE%20PERMITTING\\_August2016.pdf?ver=2017-06-23-123008-217](https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5pw/Office%20of%20Bridge%20Programs/COAST%20GUARD%20BRIDGE%20PERMITTING_August2016.pdf?ver=2017-06-23-123008-217)
- 2) Application content for bridge permits can be found at <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Marine-Transportation-Systems-CG-5PW/Office-of-Bridge-Programs/Bridge-Permit-Application-Process/>
- 3) A MOA between USCG and FHWA establishing mandatory permit review timeframes can be found at [https://www.environment.fhwa.dot.gov/env\\_initiatives/edc/MOA\\_USCG\\_bridge\\_permits.aspx](https://www.environment.fhwa.dot.gov/env_initiatives/edc/MOA_USCG_bridge_permits.aspx)
- 4) The local Coast Guard District Bridge Office is one of the best sources of information. The applicant should direct all project-related questions, concerns, comments, and requests to the bridge program staff in the Coast Guard District Bridge Office where the project is located. A list of the mailing addresses and telephone numbers of the Coast Guard District Bridge Offices is located on the Bridge Program website: <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Marine-Transportation-Systems-CG-5PW/Office-of-Bridge-Programs/District-Bridge-Contacts/>  
Note that the majority of Florida is located within USCG District 7, but the western Florida panhandle is within District 8.

### *United States Army Corps of Engineers*

- 1) A comprehensive and detailed listing of USACE permit types, application forms, wetland data forms, wetland mitigation requirements, endangered species requirements, and an overall description of the permitting process, can be found at <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>
- 2) Information on exemptions for very narrowly-defined activities that result in incidental impacts to wetlands or surface waters in accordance with **Section 404(f)(1)** of the **CWA** are provided at <https://www.epa.gov/cwa-404/exemptions-permit-requirements>
- 3) USACE regions of responsibility and office addresses: See next page.

### **Figure 12-1 Federal Permitting Information Sources**





\*The Corps office location map in the figure is located at:  
<http://www.saj.usace.army.mil/Missions/Regulatory/OfficeLocations.aspx>

**Figure 12-1 Federal Permitting Information Sources (Page 2 of 2)**

## **State permitting information can be obtained from the following sources:**

FDEP's Permitting Portal is the umbrella web link that provides access to following links as well as other state water resource regulation: <http://flwaterpermits.com/>

### *Statewide Environmental Resource Permitting (SWERP)*

1) The state (all five WMDs and FDEP) has consolidated its environmental permitting process and has described it in a two-volume set of the Environmental Resource Permit Applicant's Handbook.

2) Volume I applies state-wide and includes a comprehensive and detailed listing of WMD permit types, application forms, wetland delineation process, criteria for project evaluation, and an overall description of the permitting process. It can be found at

[https://www.sfwmd.gov/sites/default/files/documents/swerp\\_applicants\\_handbook\\_vol\\_i.pdf](https://www.sfwmd.gov/sites/default/files/documents/swerp_applicants_handbook_vol_i.pdf)

3) Five versions of Volume II, one specifically tailored to the unique soil and water conditions of each of the five WMDs, include design and performance standards for water quality, water quantify, and flood control within the respective WMD generally, and within special basins within the respective WMD. The individual region-specific Volume II handbooks can be found at:

- Northwest Florida WMD:  
<https://www.nfwwater.com/Permits/Environmental-Resource-Permits>
- St. Johns River WMD:  
<https://www.sjrwmd.com/static/permitting/PIM-20180601.pdf>
- Suwannee River WMD:  
<http://www.srwmd.state.fl.us/DocumentCenter/View/8654>
- Southwest Florida WMD:  
<https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/06-04-18%20FINAL%20AH%20II%20%28materials%20incorporated%20by%20reference%29.pdf>
- South Florida WMD:  
[http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/swerp\\_applicants\\_handbook\\_vol\\_ii.pdf](http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/swerp_applicants_handbook_vol_ii.pdf)

4) Water Management District regions of responsibility and office addresses: See next page

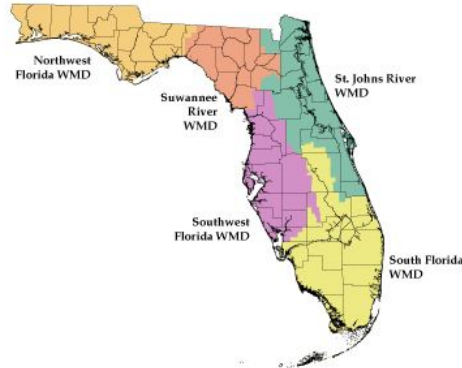
### **Figure 12-2 State Permitting Information Sources**

**Water Management Districts**

The Department of Environmental Protection is involved in managing the quality and quantity of water through its relationship with the state's five water management districts: Northwest Florida Water Management District, Suwannee River Water Management District, St. Johns River Water Management District, South Florida Water Management District and Southwest Florida Water Management District.

The water management districts administer flood protection programs and perform technical investigations into water resources. The districts also develop water management plans for water shortages in times of drought and to acquire and manage lands for water management purposes under the Save Our Rivers program. Regulatory programs delegated to the districts include programs to manage the consumptive use of water, aquifer recharge, well construction and surface water management.

As part of their surface water management programs, the districts administer the Department's stormwater management program. This increases the districts' contacts with local governments by directing the districts to help with the development of the water elements in local government comprehensive plans.



WMD	JURISDICTION	OFFICE
<a href="#">Northwest Florida WMD</a>	Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson (western half), Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, & Washington	81 Water Management Drive Havana, FL 32333 850/539-5999
<a href="#">Suwannee River WMD</a>	Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Madison, Suwannee, Taylor, Union and portions of Alachua, Baker, Bradford, Jefferson & Levy	9225 CR 49 Live Oak, FL 32060 386/362-1001 800/226-1066 (Florida only)
<a href="#">St. Johns River WMD</a>	Brevard, Clay, Duval, Flagler, Indian River, Nassau, Seminole, St. Johns, Volusia, and portions of Alachua, Baker, Bradford, Lake, Marion, Okeechobee, Orange, Osceola & Putnam	P.O. Box 1429 Palatka, FL 32178-1429 386/329-4500 800/451-7106
<a href="#">Southwest Florida WMD</a>	Citrus, DeSoto, Hardee, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Sarasota, Sumter, and portions of Charlotte, Highlands, Lake, Levy, Marion & Polk	2379 Broad Street Brooksville, FL 34604-6899 352/796-7211 800/423-1476 (Florida only)
<a href="#">South Florida WMD</a>	Broward, Collier, Dade, Glades, Hendry, Lee, Martin, Monroe, Palm Beach, St. Lucie, and portions of Charlotte, Highlands, Okeechobee, Orange, Osceola & Polk	3301 GunClub Road West Palm Beach, FL 33406-3089 561/686-8800 800/432-2045 (Florida only)

\*The WMD district map is located at: <http://www.dep.state.fl.us/secretary/watman/>

**Figure 12-2 State Permitting Information Sources (Page 2 of 3)**

5) Section 373.413(6), F.S., describes FDOT's flexibility in their stormwater management design. The statute can be found within:

<http://www.flsenate.gov/Laws/Statutes/2012/373.413>

6) More information on SWERP is available on the FDEP website, including links to applicable rules and application forms:

<http://www.dep.state.fl.us/water/wetlands/swerp>

#### *National Pollutant Discharge Elimination System (NPDES)*

The NPDES Construction Generic Permit (CGP), administered by FDEP, can be found at: <http://www.dep.state.fl.us/water/stormwater/npdes/construction1.htm>

#### *Florida Coastal Management Program*

Florida Coastal Management Program Guide at:

[https://www.dep.state.fl.us/cmp/publications/FCMP\\_Program\\_Guide\\_2014.pdf](https://www.dep.state.fl.us/cmp/publications/FCMP_Program_Guide_2014.pdf)

#### *Class V Stormwater Well Permits*

Class V Stormwater Well Permits are regulated under FDEP's Aquifer Protection program. More information about Class V Stormwater permits can be found at:

<http://dep.state.fl.us/water/uic/forms.htm>

#### *State Programmatic General Permit*

<http://www.dep.state.fl.us/water/wetlands/erp/spgp.htm>

**Figure 12-2 State Permitting Information Sources (Page 3 of 3)**

## **Wildlife permitting information can be obtained from the following sources:**

Animal species regulated by **Florida Fish and Wildlife Conservation Commission (FWC)**, plant species regulated by the **Florida Department of Agriculture & Consumer Services (FDACS)**, and further species specific information, expert interviews, habitat or GIS data can be found in [Part 2, Chapter 16, Protected Species and Habitat](#), of the PD&E Manual.

### *Osprey Permitting:*

1) Contact USFWS for Osprey nest permitting information by phone at (404) 679-7070 or email [permitsR4MB@fws.gov](mailto:permitsR4MB@fws.gov)

2) No federal incidental take permits are currently available for the take of active osprey nests. USFWS should be contacted to discuss permitting potential/strategy. Refer to the appropriate link for contact information:

North Florida Ecological Services Field Office  
<http://www.fws.gov/northflorida/>

Panama City Ecological Services Field Office  
<http://www.fws.gov/PanamaCity/>

South Florida Ecological Services Field Office  
<http://www.fws.gov/verobeach/>

### *Burrowing Owl Permitting:*

1) State burrowing owl permits are issued only for the removal of inactive owl nests (burrows). Applications are submitted on line at a link included at the bottom of the following link: <https://myfwc.com/media/11362/burrowingowlsupplementalapplication.pdf>

2) No federal incidental take permits are currently available for the take of active burrowing owl nests (burrows). USFWS should be contacted at the appropriate link to discuss permitting potential/strategy:

North Florida Ecological Services Field Office  
<http://www.fws.gov/northflorida/>

**Figure 12-3 Protected Wildlife Permitting Information Sources**

Panama City Ecological Services Field Office  
<http://www.fws.gov/PanamaCity/>

South Florida Ecological Services Field Office  
<http://www.fws.gov/verobeach/>

*Bald Eagle Permitting:*

1) On April 20, 2017, the Florida Fish and Wildlife Conservation Commission approved revisions to the state's bald eagle rule (68A-16.002, F.A.C.). The approved rule revisions eliminate the need for applicants to obtain both a state and federal permit for activities with the potential to take or disturb bald eagles or their nests. Under the approved revisions, only a federal permit is required. The rule revisions became effective June 22, 2017.

<http://myfwc.com/license/wildlife/protected-wildlife/eagle-permits/>

2) Federal bald eagle permit application for eagle depredation permits (this includes disturbance, harassment, and/or trap-relocate) can be found at <http://www.fws.gov/forms/3-200-16.pdf>. The web site includes a list of the USFWS regional permitting offices that are available to provide assistance in the permitting process.

3) The application for an eagle disturbance permit, including a fact sheet of the most commonly asked questions about this permit type, can be found at <http://www.fws.gov/forms/3-200-71.pdf>. The web site includes a list of the USFWS regional permitting offices that are available to provide assistance in the permitting process.

*Gopher Tortoise Permitting:*

Gopher tortoises are protected by Florida state law. The Gopher Tortoise Permitting Guidelines, which include links to specific permit types, can be found at: <http://myfwc.com/license/wildlife/gopher-tortoise-permits/>

*Incidental Take Permitting:*

Additional information on Habitat Conservation Plans and incidental take permits is available on the USFWS Ecological Services site: <https://www.fws.gov/southeast/tags/habitat-conservation-plan/> and in the online FWC Florida Wildlife Conservation Guide: <http://myfwc.com/conservation/value/fwcg/>

**Figure 12-3 Protected Wildlife Permitting Information Sources (Page 2 of 3)**

*Species Consultation or Effect Determination Keys:*

Florida bonneted bat:

[http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered\\_species/Florida%20Bonneted%20Bat/2013%20FBB%20Effect%20Determination%20Guidelines.pdf](http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered_species/Florida%20Bonneted%20Bat/2013%20FBB%20Effect%20Determination%20Guidelines.pdf)

Eastern Indigo Snake – South Florida:

[http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered\\_species/Indigo/20170801\\_letter\\_Service%20to%20Corps\\_Revised%20EIS%20Key.pdf?ver=2017-08-03-145030-510](http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered_species/Indigo/20170801_letter_Service%20to%20Corps_Revised%20EIS%20Key.pdf?ver=2017-08-03-145030-510)

Eastern Indigo Snake – North Florida:

[http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered\\_species/Indigo/20130813\\_Itr\\_Update%20addendum\\_2010%20COE%20Programmatic%20EIS%20Key.pdf?ver=2013-08-20-095421-223](http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered_species/Indigo/20130813_Itr_Update%20addendum_2010%20COE%20Programmatic%20EIS%20Key.pdf?ver=2013-08-20-095421-223)

Florida panther:

[http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered\\_species/Panther/pantherKey\\_Letter2007FEB19.pdf](http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered_species/Panther/pantherKey_Letter2007FEB19.pdf)

Wood Stork – Central and North Peninsular Florida:

[http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered\\_species/wood\\_stork/JAX\\_WoodStorkKey\\_Sep2008.pdf](http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered_species/wood_stork/JAX_WoodStorkKey_Sep2008.pdf)

Wood Stork – South Florida:

[http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered\\_species/wood\\_stork/20100518\\_letter\\_ServicetoCorps\\_FLProgrammaticStorkrevised.pdf](http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered_species/wood_stork/20100518_letter_ServicetoCorps_FLProgrammaticStorkrevised.pdf)

**Figure 12-3 Protected Wildlife Permitting Information Sources (Page 3 of 3)**

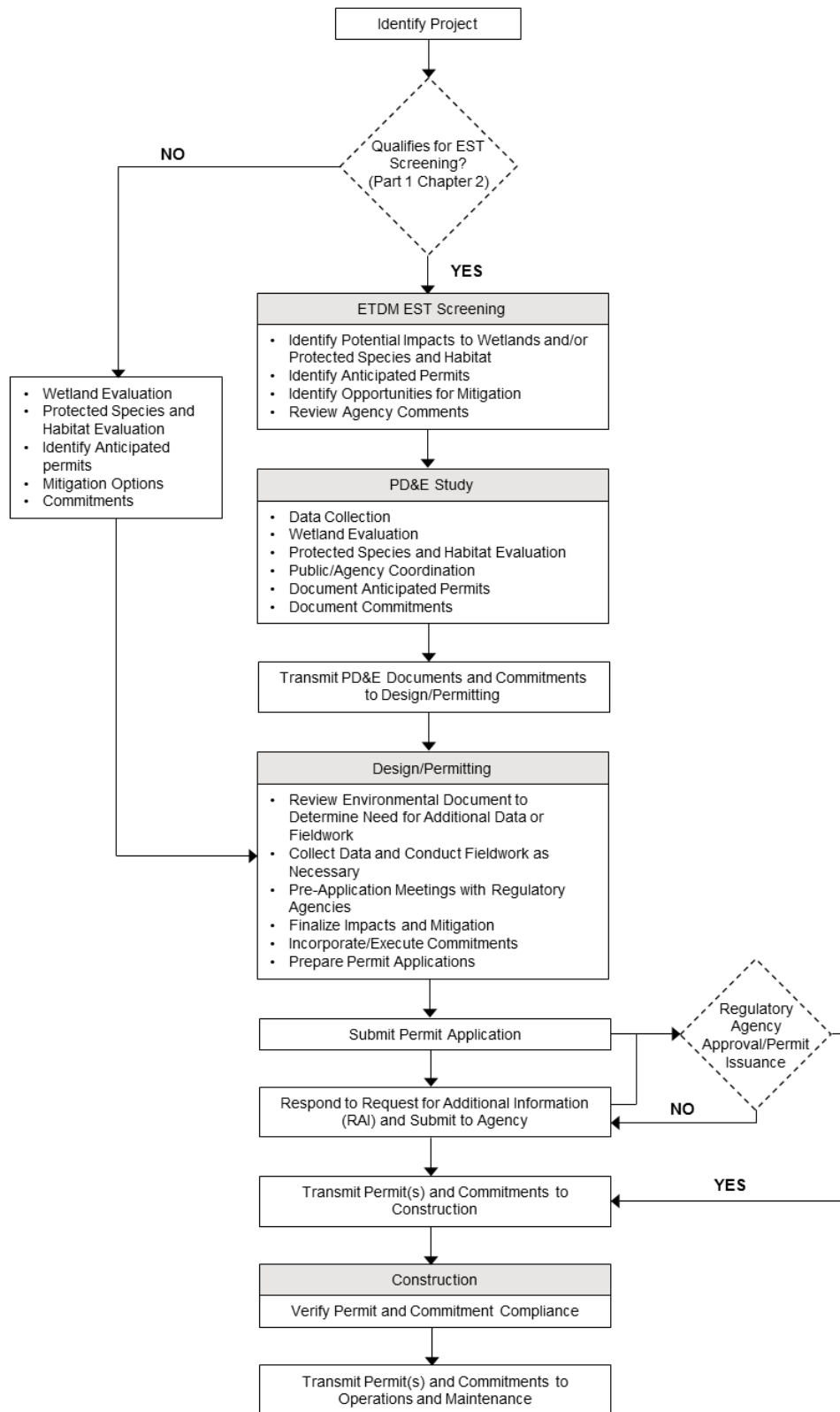


Figure 12-4 Typical Permitting Process



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PERMIT TRANSMITTAL MEMORANDUM**

650-040-01  
CONSTRUCTION  
02/12

DATE: \_\_\_\_\_

TO: DISTRICT CONSTRUCTION ENGINEER

FROM: \_\_\_\_\_  
District Permit Coordinator

PERMITS ATTACHED FOR: \_\_\_\_\_ THE FOLLOWING PERMITS ARE REQUIRED FOR THIS PROJECT:  
Financial Project No.: \_\_\_\_\_ FDEP ; USACE ; USCG ; WMD ;  
Federal Aid No.: \_\_\_\_\_ LOCAL ; \_\_\_\_\_ ;  
County: \_\_\_\_\_ \_\_\_\_\_ ; \_\_\_\_\_ .  
Description: \_\_\_\_\_

The valid permits are attached. Please note the "particular and specific conditions" and the expiration dates. Construction Engineer: Please comply with all permit conditions. Please provide me with copies of all permitted work started and permitted work completed notices you send to regulatory agencies. Please notify me six (6) months before the permit expiration date if it will occur prior to completion of the permitted work.

TOTAL STATUS OF PERMITS:  CLEAR  PENDING  MODIFIED  EXTENDED

Remarks: \_\_\_\_\_

For each permit, indicate below AGENCY and permit TYPE (NW, GP, IND, etc.):

\_\_\_\_\_ Permit No. \_\_\_\_\_ ; Type: \_\_\_\_\_ ; Expiration Date: \_\_\_\_\_

Permit Pending  Permit in hand

Remarks: \_\_\_\_\_

\_\_\_\_\_ Permit No. \_\_\_\_\_ ; Type: \_\_\_\_\_ ; Expiration Date: \_\_\_\_\_

Permit Pending  Permit in hand

Remarks: \_\_\_\_\_

\_\_\_\_\_ Permit No. \_\_\_\_\_ ; Type: \_\_\_\_\_ ; Expiration Date: \_\_\_\_\_

Permit Pending  Permit in hand

Remarks: \_\_\_\_\_

\_\_\_\_\_ Permit No. \_\_\_\_\_ ; Type: \_\_\_\_\_ ; Expiration Date: \_\_\_\_\_

Permit Pending  Permit in hand

Remarks: \_\_\_\_\_

\_\_\_\_\_ Permit No. \_\_\_\_\_ ; Type: \_\_\_\_\_ ; Expiration Date: \_\_\_\_\_

Permit Pending  Permit in hand

Remarks: \_\_\_\_\_

CC: DISTRICT OFFICE NO. \_\_\_\_\_

- District Drainage Engineer
- District Central File
- District Design Engineer
- District Project Manager  
(Legible permit in contract file)
- District Maintenance Engineer
- District Production Mgmt (copy this memo only)
- District ROW - State Lands Acq.
- District Specifications Engineer
- Other \_\_\_\_\_
- Other \_\_\_\_\_

CENTRAL OFFICE

- FHWA (by separate letter)
- Other \_\_\_\_\_

**Figure 12-5 Permit Transmittal Memorandum**

## **PART 1, CHAPTER 13**

### **RE-EVALUATIONS**

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## PART 1, CHAPTER 13

### RE-EVALUATIONS

#### 13.1 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).

**NEPA** requires federal agencies to consider and disclose the environmental impacts of their proposed projects. Sometimes there are changes to the proposed project, new information or circumstances, or there is a lapse of time between preparation of the Environmental Document and implementation of the project. This may trigger the need to revisit the **NEPA** analysis by preparing a Re-evaluation. FDOT performs Re-evaluations on both federal actions and state funded projects. The Re-evaluation process for federal actions outlined in this chapter establishes the framework to meet the consultation requirement in **23 Code of Federal Regulations (CFR) § 771.129**, to determine whether an original Environmental Document or decision remains valid. A Re-evaluation is a continuation of the project development process, though it does not necessarily re-open the **NEPA** decision. Therefore, Re-evaluations are not **NEPA** documents. This chapter provides guidance to ensure compliance with applicable federal and state laws prior to federal aid authorizations needed to advance a project. The Re-evaluation process also updates the status of environmental commitments. FDOT documents Re-evaluations for state-funded projects similarly as detailed in [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#). The Re-evaluation process is shown in [Figure 13-1](#)

A Re-evaluation is a review of proposed change(s) in action, affected environment, anticipated impact, applicable requirements, or mitigation measure as they relate to the Environmental Document. The Re-evaluation documents changes that have occurred since the originally approved Environmental Document or prior Re-evaluation, including changes in the design, project limits, project scope, new or modified laws and regulations, circumstances or project area changes, any other new information affecting the project, and consultation with OEM pursuant to **23 CFR § 771.129**.

Project managers in phases subsequent to the Project Development and Environment (PD&E) phase (e.g., Design, Construction) should be aware that major changes to the project scope can impact production schedules, as these changes may require additional environmental analysis. This is particularly important for Design-Build projects where design and construction advance concurrently. The effects of major design changes on the project schedule should be considered prior to approving such changes since this can lead to project delays if not identified and addressed appropriately. Design Project Managers should, whenever possible, minimize project changes that could impact previously coordinated avoidance, minimization, and mitigation of impacts, or commitments made during the PD&E phase. Project Managers should recognize that changes may require additional interagency coordination/consultation or public involvement, as well as the identification of new impacts requiring additional evaluation.

## 13.2 PROCEDURE

The Districts prepare Re-evaluation documents as required by **23 CFR § 771.129**. It is specified in **23 CFR § 771.129(a) and (b)** that Re-evaluations are required for a Draft Environmental Impact Statement (DEIS) and a Final Environmental Impact Statement (FEIS).

**Title 23 CFR § 771.129(c)** provides consultation and approval requirements for Re-evaluations of Final Environmental Impact Statement/Record of Decisions (FEIS/RODs), RODs, Finding of No Significant Impacts (FONSIs), or Categorical Exclusions (CEs).

Location Design Concept Acceptance (LDCA) authorizes a project's final design phase. LDCA can be used within one year to authorize Right of Way (ROW) and Construction phases, as long as no other changes have occurred that would otherwise require a Re-evaluation.

Re-evaluations are necessary as follows:

1. For design changes resulting in new or additional impacts. These may require agency consultation or new public involvement.
2. When requesting federal-aid authorization for the ROW or Construction phase, if not previously authorized within one year of LDCA.
3. For project changes due to changes in law, the passage of time or changes in resource/issue status.
4. When a project with a previously approved **NEPA** Document changes to state funded only and federal project funds were not previously expended.

Re-evaluations to advance subsequent project phases may serve to advance a single or multiple project segments; however, the project limits covered in the approved final Environmental Document must be considered in the Re-evaluation. The limits of the entire project and referenced Environmental Document are noted on the **Re-evaluation Form**.

Individual segments being advanced from within the original limits are also specifically described on the **Re-evaluation Form** ([Figure 13-2](#)).

Design changes and changes in law can be combined with a subsequent phase change Re-evaluation. Consideration of the project limits, when advancing segments, does not require re-analysis of all impacts for the entire project, only those within that segment(s). The analyst should consider if there are overall design changes, inter-relationships between the segment(s) being advanced, or new issues or changes in requirements that may have an effect on the entirety or remaining segments of the project. If project limits are extended or reduced subsequent to approval of the final Environmental Document, then those changed limits are also considered in the Re-evaluation. If changes in the project may result in new significant impacts to issues/resources, early coordination with OEM is necessary.

A Design-Build Firm (DBF) cannot prepare a Re-evaluation, make findings, or make **NEPA** or **NEPA**-related decisions for the project. A DBF is, however, authorized to prepare information to support the preparation of the Re-evaluation by the District (see [Design-Build Request for Proposals](#) boilerplate, available from the Office of Construction).

### 13.2.1 Re-evaluation Preparation for Type 2 CE, EA with FONSI, and EIS Projects

The Re-evaluation process is initiated by the District through coordination with OEM. Coordination with OEM helps determine whether a Consultative Re-evaluation is appropriate, or whether the **Re-evaluation Form** will require OEM's review and approval. Consultative Re-evaluations do not require OEM approval; however, the **Re-evaluation Form** is completed in StateWide Environmental Project Tracker (SWEPT) by the District, including the date consultation occurred with OEM. Typically, Consultative Re-evaluations will not be allowed for Construction Advertisement Re-evaluations.

It is important to begin the Re-evaluation process early enough to provide sufficient time for completion prior to the needed federal-aid authorization. The District should determine the level of analysis necessary and whether additional public involvement is needed. The type or extent of Re-evaluation documentation is contingent upon the changes in impact, and the reason for the Re-evaluation. If FDOT determines, based on the Re-evaluation, that there are changes which make the existing Environmental Document or decision no longer valid, FDOT will decide the nature and scope of the supplemental analysis and documentation needed. If the project is an Environmental Impact Statement (EIS) (draft or final), a Supplemental Environmental Impact Statement (SEIS) may need to be prepared if a Re-evaluation results in new significant impacts, see [Section 13.2.1.3](#).

#### 13.2.1.1 Re-evaluation Form

Documentation includes using SWEPT to complete the **Re-evaluation Form**. This form is provided as a visual in [Figure 13-2](#). Information supporting the Re-evaluation should be submitted with the **Re-evaluation Form** and uploaded to the project file in SWEPT.

The **Re-evaluation Form** ([Figure 13-2](#)) is completed for a Type 2 CE, Environmental Assessment (EA) with FONSI, EIS, and SEIS, and includes the following sections:

### Section 1 - General Project Information

This section contains information about the approved Type 2 CE, EA with FONSI, EIS, ROD, or any supplemental environmental document and the segment(s) being advanced. Information provided under this section includes:

- A. **Re-evaluation Type.** Select the appropriate type of Re-evaluation. The options include: Preliminary Engineering Phase, ROW, Design Change, and Construction Advertisement. Note that multiple types can be selected.
- B. **Original approved Environmental Document.** Include the original approved Environmental Document Type (e.g., Type 2 CE, EA with FONSI, EIS, or SEIS), date of approval, project numbers [e.g., Federal Aid, Financial Management (FM), and Efficient Transportation Decision Making (ETDM)], project name, and project location.
- C. **Prior Re-evaluation(s).** Include information on all prior approved Re-evaluation(s) for all project segments including FM number, type of re-evaluation (e.g., ROW, Design Change, and Construction Advertisement), District approval date, lead agency approval date if applicable, and brief description of approval. If approval was not required, then the date of consultation must be included. If there was no previous Re-evaluation, make that selection on the form.
- D. **Project or project segment(s) being evaluated.** Include Project/Segment numbers [Federal-aid project number(s), FM number(s)], Project/Segment name, location, identify letting type (i.e., Design Bid Build or Design Build), and funding type (federal, state, or local).

### Section 2 - Project Description

This section includes a brief summary of the project description, the PD&E selected/preferred alternative and/or prior Re-evaluation(s). It describes the project segment(s) being evaluated, and includes a brief status of other segments.

### Section 3 – Changes in Applicable Law or Regulation

This section includes a summary of changes in federal or state laws, rules, regulations, or guidance that require consideration since the date of the original Environmental Document or most recent Re-evaluation. If no changes have occurred, select “NO”. If changes have occurred, select “YES”, provide a summary of the changes.

## **Section 4 - Evaluation of Major Design Changes and Revised Design Criteria**

This section includes major design changes that have occurred since approval of the Environmental Document or most recent Re-evaluation. The extent of the design change(s) and modification of impacts on the project area must be documented.

Examples of design changes include, but are not limited to:

1. Changes in typical section
2. Shifts in roadway alignment
3. Changes in ROW needs
4. Changes due to revised design controls and criteria
5. New Design Variations or Design Exceptions
6. Changes in drainage/stormwater requirements

If no major design changes have occurred, select “NO”. If changes have occurred, select “YES”, provide a summary of the changes, and as appropriate, upload supporting documentation.

## **Section 5 – Public Involvement**

This section includes a summary of additional public involvement activities (meetings workshops, hearings) completed since the approval of the Environmental Document or most recent Re-evaluation. If no additional public involvement activities have occurred, select “NO”. If public involvement activities have occurred, select “YES”, provide a summary of the activities, and as appropriate, upload supporting documentation.

## **Section 6 – Project or Segment(s) Planning Consistency**

This section includes information regarding Planning Consistency with the Transportation Improvement Program (TIP), State Transportation Improvement Program (STIP), and Long Range Transportation Plan (LRTP) Cost Feasible Plan (CFP). Planning consistency documentation is required for Re-evaluations which constitute a subsequent phase approval for advancement of the project to the next phase or to update previous consistency information. For these types of Re-evaluations, complete the table and include appropriate pages from LRTP/CFP, TIP and STIP as supporting documentation. If more than one segment is being advanced for different phases, this distinction must be specified. This table does not need to include phases which have already occurred, unless funds are programmed in the current or future years. Guidance on how to complete this section is included in [\*\*Part 2, Chapter 1, Project Description and Purpose and Need.\*\*](#)

If project planning consistency is not required for the Re-evaluation, make that selection on the form. The **Re-evaluation Form** will include the following statement:

*Planning Consistency is not required for this Re-evaluation.*

## **Section 7 - Evaluation of Changes in Impacts**

This section is used to document the evaluation of changes in impacts to affected issues/resources, as well as impacts to new issues/resources, which may have been identified. The section is divided into Social & Economic, Cultural, Natural, and Physical.

If the issue/resource is not present in the project area, the analyst selects “N/A” for not applicable. If no change to an issue/resource has occurred, the analyst selects “NO”. If a change has occurred for a given issue/resource, then the analyst selects “YES” and provides a summary of the change(s). If additional agency concurrence letters are obtained they are attached to the form. Other documentation depicting the proposed changes (e.g., maps, graphs, figures) may be attached to the form. Updated technical reports or survey reports should only be included in the project file and not attached to the document.

For the following issues/resources updates are required as described in the form:

- Contamination – provide an update on the status of contamination assessment for sites rated “high” or “medium”. Describe changes in involvement with potentially contaminated sites.
- Mitigation status – provide a status update for protected species and wetland mitigation.
- Highway traffic noise – provide a status update for noise impacts.

## **Section 8 - Commitment Status**

This section provides an update on the status of commitments and any new environmental commitments since approval of the original Environmental Document or most recent Re-evaluation. If there are no existing or new environmental commitments for the project, the analyst selects “NO” in the corresponding boxes. If there are existing or new environmental commitments for the project, the analyst selects “YES” in the corresponding box(es). New environmental commitments added since the last approval should be listed and added to the **Project Commitment Record (PCR)**. The analyst must review, verify, and update the **PCR** and attach the updated **PCR** to the Re-evaluation. Commitments must be tracked throughout the project, and satisfied at the appropriate phase of the project per [Procedure No. 650-000-003, Project Commitment Tracking](#) and [Part 2, Chapter 22, Commitments](#).



## Section 9 - Status of Permits

This section identifies federal, state, and local permits [If delegated or not excluded by **Section 335.02(4), Florida Statutes (F.S.)**] required for the project and provides permit status since approval of the Environmental Document or last Re-evaluation. The status of the permit(s) should be commensurate with the phase of the project and the type of Re-evaluation. The preparer of the Re-evaluation must coordinate with the District Permit Coordinator to obtain permit status.

## Section 10 - Conclusion

This section contains a statement about the Re-evaluation of the project, confirms the validity of the Environmental Document, new findings (if necessary), and a recommendation for project advancement.

Check the box below:

- The project has been re-evaluated pursuant to 23 CFR § 771.129. The FDOT has determined that no changes to the project affect the original decision. Therefore, the Administrative Action remains valid and the project can advance.

## Section 11 – District Review and Approval

This section includes the name and title of the FDOT Preparer with the standard statement of FDOT **NEPA** Assignment automatically populated:

*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.*

It also includes a section to confirm OEM approval is required. If OEM approval is not required, the analyst selects “NO” and includes the date of OEM consultation. The District approving authority or designee is required to electronically sign the form using the SWEPT tool.

## Section 12 - OEM Approval

The District submits the Re-evaluation to OEM, only if OEM approval is required. The Director of OEM (or designee) approves the Re-evaluation by signing the **Re-evaluation Form** electronically in SWEPT.

## Section 13 – Links to Supporting Documentation

Supporting information such as summaries of reports and documentation of stakeholder coordination should be listed and linked.

### 13.2.1.2 Processing of Re-evaluations

The District prepares the Re-evaluation, conducts a quality control review, and prepares the **Environmental Document Submittal Form** in SWEPT. When OEM approval is required, the District uploads the **Re-evaluation Form**, and any supporting information for OEM review to the Electronic Review Comments (ERC). The District should confirm that the original Environmental Document, technical documents, and any supporting information has been uploaded into the SWEPT file.

The OEM Project Delivery Coordinator (PDC) receives email notification and acknowledges the **Re-evaluation Form** is complete and ready for review by confirming the **Environmental Document Submittal Form** in SWEPT. OEM will have 30 days (timeframes identified in this section are calendar days) to review the draft documents and provide comments in the ERC. The District will address OEM comments and provide responses in the ERC. The OEM project review team will have 15 days to confirm that comments have been addressed. If the comments have not been addressed, additional comment resolution time may be needed. If necessary, the District will schedule a meeting with the project review team to discuss comments.

Once comments have been addressed, the District submits the revised document along with the **Environmental Document Submittal Form** for approval in SWEPT. The PDC receives email notification and 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 Re-evaluation for approval. The Director of OEM, or designee, then has 5 days to approve the **Re-evaluation Form**.

Upon receipt of the signed **Re-evaluation Form** from OEM, or if OEM signature was not needed, the District Environmental Office will notify other phase managers e.g., Design, ROW, and Construction, Cooperating Agencies, and others as appropriate. The District Environmental Office will also provide the date of the signed Re-evaluation on the **Status of Environmental Certification for Federal Project**, as shown in [Figure 13-3](#), which is required as part of the contract file for federal oversight projects.

### 13.2.1.3 Supplemental Environmental Impact Statements

A SEIS may be necessary [**40 CFR § 1502.9(c)**] when changes, new information, or other project developments result in new significant environmental impacts which were not identified in the Environmental Document or a prior Re-evaluation. In this situation, the District needs to coordinate with OEM to define the scope of additional analysis necessary

to allow the project to progress and prepare a SEIS using the same procedures for preparing EISs as described in [Part 1, Chapter 8, Draft Environmental Impact Statement](#) and [Part 1, Chapter 9, Final Environmental Impact Statement](#), respectively.

According to **23 CFR § 771.130(a)**, OEM may determine that a SEIS is needed when:

- (1) Changes to the proposed action would result in significant environmental impacts that were not evaluated in the EIS; or
- (2) New information or circumstances relevant to environmental concerns and bearings on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.

A SEIS is not necessary under **23 CFR § 771.130(b)** when:

- (1) The changes to the proposed action, new information, or new circumstances result in a lessening of adverse environmental impacts evaluated in the EIS without causing other environmental impacts that are significant and were not evaluated in the EIS; or
- (2) The Administration (in this case OEM) decides to approve an alternative fully evaluated in an approved final EIS but not identified as the preferred alternative. In such a case, a revised ROD shall be prepared and circulated in accordance with **23 CFR § 771.127(b)**.

A Re-evaluation may need to be done on an SEIS. In this case, it is important to coordinate closely with OEM.

### 13.2.2 Type 1 Categorical Exclusion Projects

Type 1 CE updates or changes are not documented on the **Re-evaluation Form**, but rather through re-submittal of the **Type 1 Categorical Exclusion Checklist** in SWEPT. The **Type 1 Categorical Exclusion Checklist**, provided as a visual in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#), should be reviewed and updated when changes have been made to the project, or existing conditions have changed since the completion and approval of the last **Type 1 Categorical Exclusion Checklist**. The completion of the checklist is documented in the **Status of Environmental Certification for Federal Project** ([Figure 13-3](#)) in SWEPT which provides the District Environmental Office's clearance for the project to advance to the next phase. The **Status of Environmental Certification for Federal Project** is sent to the District Federal-Aid Coordinator.

### 13.3 REFERENCES

FHWA, October 30, 1987. Guidance for Preparing and Processing Environmental and Section 4(f) Documents, FHWA Technical Advisory T6640.8A  
<https://www.environment.fhwa.dot.gov/projdev/impTA6640.asp>

FHWA. NEPA Re-Evaluation Joint Guidance for Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), & Federal Transit Administration (FTA). August 14, 2019.  
[https://www.environment.fhwa.dot.gov/legislation/nepa/Reevaluation\\_guidance\\_08142019.aspx](https://www.environment.fhwa.dot.gov/legislation/nepa/Reevaluation_guidance_08142019.aspx)

FDOT. Design-Build Request for Proposals boilerplate  
<https://www.fdot.gov/construction/DesignBuild/DBDocuments/DBDocsMain.shtm>

FDOT. FDOT Design Manual, Topic No. 625-000-002  
<http://www.fdot.gov/roadway/FDM/2018FDM.shtm>

FDOT. Project Commitment Tracking, Topic No. 650-000-003  
<http://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>

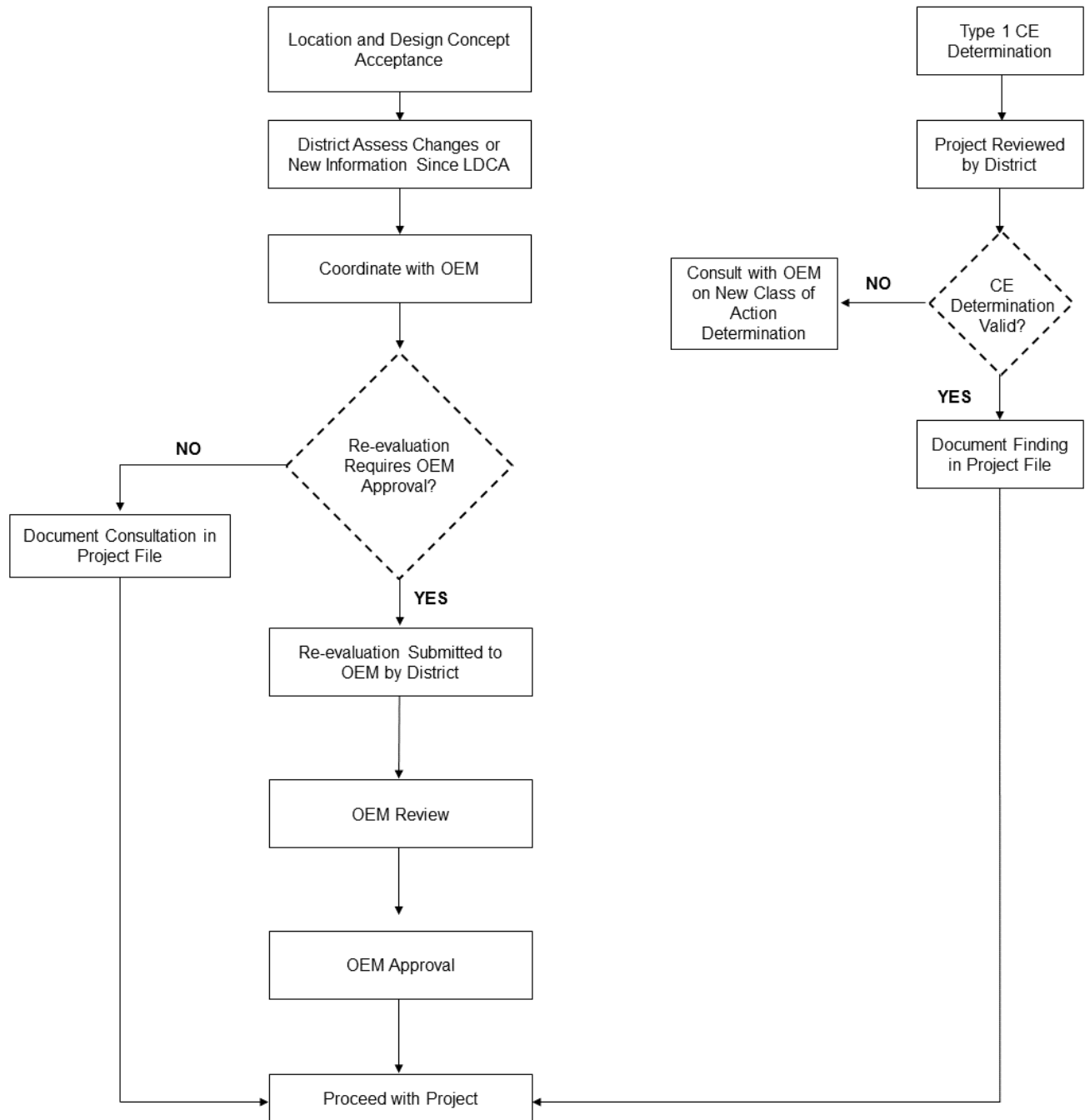
Title 23 CFR § 636, Design-Build Contracting

Title 23 CFR § 771, Environmental Impact and Related Procedures

Title 40 CFR §1502.9, Draft, Final, and Supplemental Statements

### 13.4 HISTORY

10/9/1998, 1/31/2007, 6/20/2011, 5/27/2016, 7/15/2016, 6/14/2017: NEPA Assignment, 1/14/2019



**Figure 13-1 Re-evaluation Process**

## RE-EVALUATION FORM

### 1. GENERAL PROJECT INFORMATION

A. Re-evaluation Type(s): \_\_\_\_\_

B. Original approved Environmental Document

Document Type: \_\_\_\_\_ Date of Approval: \_\_\_\_\_

Project Numbers: \_\_\_\_\_  
Federal Aid      FM      ETDM (if applicable)

Project Name: \_\_\_\_\_

Project Location: \_\_\_\_\_

C. Prior Re-evaluation(s):

Has this project been previously re-evaluated? Yes [ ] No [ ]

FM Number	Type				Date District Approved	Date Lead Agency Consultation	Date Lead Agency Approved (if applicable)
	PE	DC	ROW	CON			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Description of Approval:							

D. Project or project segment(s) being evaluated

FAP Number	FM Number	Project/Segment Name	Project/Segment Location	Type				Project/Segment Letting Type	Funding
				PE	DC	ROW	CON		
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

### 2. PROJECT DESCRIPTION

Provide a brief summary of the project description, the PD&E selected alternative and/or prior Re-evaluation(s). Describe the project segment(s) being advanced, and include a brief status of other segments.

**Figure 13-2 Re-evaluation Form**

### 3. CHANGES IN APPLICABLE LAW OR REGULATION

Are there changes in federal or state laws, rules, regulations, or guidance that require consideration since the date of the original Environmental Document or subsequent Re-evaluation(s)? Yes  No

Describe the changes and as appropriate, upload supporting documentation.

### 4. EVALUATION OF MAJOR DESIGN CHANGES AND REVISED DESIGN CRITERIA

Are there major design changes, including but not limited to changes in the alignment(s), typical section(s), drainage/stormwater requirements, design control and criteria, or temporary road or bridge? Yes  No

Describe the changes and as appropriate, upload supporting documentation.

### 5. PUBLIC INVOLVEMENT

Were there additional public involvement activities? (Meetings, workshops, hearings)

Yes  No

Describe public involvement activities and, as appropriate, upload supporting documentation.

### 6. PROJECT or SEGMENT(S) PLANNING CONSISTENCY

Would only be required as needed: phase change requiring federal funding authorization; or updating previous consistency information.

Planning Consistency is not required for this re-evaluation.

Is Planning Consistency required for this project segment? Yes  No

Segment FM Number:

<b>Currently Adopted CFP-LRTP</b>	<b>COMMENTS</b>				
<b>Y/N</b>	(If N, then provide detail on how implementation and fiscal constraint will be achieved)				
<b>PHASE</b>	<b>Currently Approved TIP</b>	<b>Currently Approved STIP</b>	<b>TIP/STIP \$</b>	<b>TIP/STIP FY</b>	<b>COMMENTS</b>
Identify phase(s) being authorized (e.g., PE, ROW, and/or Construction)	Y/N	Y/N	\$		(If phase completed, make note, otherwise provide comments describing status and activities needed to achieve consistency)

Figure 13-2 Re-evaluation Form (Page 2 of 6)

## 7. EVALUATION OF CHANGES IN IMPACTS

### a. SOCIAL & ECONOMIC

Are there changes in impacts to the social, economic, land use, mobility, and aesthetic effects? Yes  No  N/A

Describe the changes and, as appropriate, upload supporting documentation.

Are there changes in right-of-way needs? Yes  No  N/A

Provide additional details as appropriate.

Is there a change in anticipated relocation(s)? Yes  No

Describe the changes and, as appropriate, upload supporting documentation.

Are there changes in impacts to Prime or Unique Farmlands? (For Federal Projects only) Yes  No  N/A

Describe the changes and as appropriate, upload supporting documentation.

### b. CULTURAL

Are there changes in impacts to cultural resources pursuant to Section 106 of the National Historic Preservation Act (historic sites/districts and archaeological sites)?

Yes  No  N/A

Describe the changes and, as appropriate, upload supporting documentation.

Are there changes in effects to Section 4(f) of the Department of Transportation Act protected resources, recreational areas, or other protected public lands? (For Federal Projects only)

Yes  No  N/A

Describe the changes and, as appropriate, upload supporting documentation.

Are there changes in impacts to lands purchased under Section 6(f) of the Land and Water Conservation Fund Act? Yes  No  N/A

Describe the changes and, as appropriate, upload supporting documentation.

**Figure 13-2 Re-evaluation Form (Page 3 of 6)**



Are there changes in impacts to recreational areas or protected lands?

Yes  No  N/A

Describe the changes and, as appropriate, upload supporting documentation.

**c. NATURAL**

Are there changes in impacts to protected species and habitat, wetlands and other surface waters, and/or essential fish habitat? Yes  No  N/A

Describe the changes, and as appropriate, provide update to mitigation status and upload supporting documentation.

Are there changes in impacts to designated Aquatic Preserves, Coastal Barrier resources, Wild and Scenic Rivers, Nationwide Rivers Inventory Rivers, and/or Outstanding Florida Waters? Yes  No  N/A

Describe the changes and, as appropriate, upload supporting documentations.

Are there changes in impacts to Floodplains or Water Resources?

Yes  No  N/A

Describe the changes and, as appropriate, upload supporting documentation.

**d. PHYSICAL**

Are there changes in Air Quality? Yes  No  N/A

Describe the changes and, as appropriate, upload supporting documentation.

What is the status of Highway Traffic Noise?

Describe the changes and, as appropriate, upload supporting documentation.

What is the status of Contamination?

Provide an update on the status of contamination assessment for sites rated "high" or "medium". Describe the changes in involvement with potentially contaminated sites and as appropriate, upload supporting documentation.

**Figure 13-2 Re-evaluation Form (Page 4 of 6)**

Are there changes in impacts to Utilities and Railroads? Yes  No  N/A

Describe the changes and, as appropriate, upload supporting documentation.

Are there changes in impacts to Navigation? Yes  No  N/A

Describe the changes and, as appropriate, upload supporting documentation.

## 8. COMMITMENT STATUS

Are there prior commitments from the Environmental Document or previously approved re-evaluation(s)? Yes  No  If yes, attach PCR.

Are there new environmental commitments? Yes  No

List new environmental commitments added since approval of the original Environmental Document or most recent Re-evaluation. (should be contained within the uploaded PCR)

## 9. STATUS OF PERMITS

### Federal Permit(s):

Segment/Descriptor/Status/Date:

USACE Section 10 or Section 404 Permit

USACE Section 408

USCG Bridge Permit

### State Permit(s):

DEP or WMD Environmental Resource Permit (ERP)

DEP Coastal Construction Control Line Permit

DEP National Pollutant Discharge Elimination System Permit

FWC Gopher Tortoise Relocation Permit

WMD Right of Way Permits

### Local Permit(s)

if delegated or not excluded

by Section 335.02(4), F.S.:

### Other Permit(s):

Add comment/explanation if permit listed in original Environmental Document is no longer required.

*Coastal Zone Consistency is achieved at the time of state ERP issuance.*

## Figure 13-2 Re-evaluation Form (Page 5 of 6)

## 10. CONCLUSION

Check the box below:

- The project has been re-evaluated pursuant to 23 CFR § 771.129. The FDOT has determined that no changes to the project affect the original decision. Therefore, the Administrative Action remains valid and the project can advance.

## 11. DISTRICT REVIEW AND APPROVAL

Name and title of FDOT Preparer: \_\_\_\_\_

*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.*

OEM approval required? Yes  No  (date of consultation)

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
District approving authority or designee Date

## 12. OEM APPROVAL

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Director of the Office of Environmental Management or designee Date

## 13. Links to Supporting Documentation

**Figure 13-2 Re-evaluation Form (Page 6 of 6)**

### STATUS OF ENVIRONMENTAL CERTIFICATION FOR FEDERAL PROJECT

Financial Management No. \_\_\_\_\_

Federal Aid No. \_\_\_\_\_

Title: \_\_\_\_\_

Work Mix: \_\_\_\_\_

District: \_\_\_\_\_

County: \_\_\_\_\_

Project Description (include project title, limits, and brief description of the proposed scope of work): \_\_\_\_\_

This project is a Categorical Exclusion under 23 CFR § 771.117:

- A Type 1 Categorical Exclusion per  (c)\_\_\_\_ or  (d)\_\_\_\_ as determined on \_\_\_\_\_
- A Type 2 Categorical Exclusion approved on \_\_\_\_\_

The final Environmental Document for this project was a (check one):

- A Finding of No Significant Impact under 23 CFR § 771.121 approved on \_\_\_\_\_
- A Record of Decision under 23 CFR § 771.127 approved on \_\_\_\_\_

A re-evaluation in accordance with 23 CFR § 771.129 was (check one):

- Approved on \_\_\_\_\_
- Not required.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Environmental Manager or designee

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.

**Figure 13-3 Status of Environmental Certification for Federal Project**

## **PART 1, CHAPTER 14**

# **TRANSIT PROJECT DELIVERY**

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## PART 1, CHAPTER 14

# TRANSIT PROJECT DELIVERY

### 14.1 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).

This chapter outlines the environmental review process and project delivery requirements for transit projects, particularly those led by the Federal Transit Administration (FTA). All transit projects receiving federal funds or transit projects that involve federal actions, such as new or extended transit systems, maintenance facilities, or multimodal centers, must comply with the **NEPA**. Federal actions are described in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#). FTA is typically the Lead Agency in the development of transit projects; however, the FDOT and the Federal Railroad Administration (FRA) can be involved in the development of passenger rail projects and may serve as the Lead Agency. Each agency has its own set of procedures for ensuring **NEPA** compliance. The Project Development and Environment (PD&E) process is how the FDOT complies with **NEPA** and FTA's transit capital Project Development process.

The Capital Investments Grants (CIG) program is the FTA's primary grant program for funding major transit projects. Given the competitive grant-based nature of FTA projects, there is a two-year timeframe to complete the FTA Project Development phase for New Starts and Core Capacity projects. There is no time requirement to complete Project Development for Small Starts projects. This chapter focuses on the **NEPA** and project delivery requirements for a FTA-led transit project.

#### 14.1.1 Definitions

The terms used by various agencies may be similar but there are notable distinctions for certain key terms used by FDOT and FTA for transit planning purposes. The following definitions clarify key terms used in this chapter:

**Alignment** – Refers to the length, station locations, stop location, intermodal connections, degree of right of way (ROW) separation, horizontal use of ROW and vertical placement



within a transportation facility. Horizontal alignment refers to the location within the transportation facility on existing tracks, new track alignment, exclusive lane, mixed traffic, or separate lane except at intersections. Vertical alignment refers to the orientation of the facility (i.e., below grade, at grade, or above grade).

**Alternative** – Refers to the Alignment (see above), as well as the transit technology, operating characteristics (local, express, non-stop, headways and operating standards, loading characteristics, fares, financial strategy, and start/end points). Also refers to a potential transportation improvement alternative under consideration that addresses the project’s purpose and need.

**Capital Investment Grant (CIG) Program** – Refers to the discretionary fixed guideway funding program authorized by **49 U.S.C. § 5309**. There are three categories of eligible transit projects within the CIG Program, they include: New Starts, Core Capacity, and Small Starts projects.

**Class of Action (COA)** – [**23 Code of Federal Regulations (CFR) § 771.115**] refers to the level of documentation required to comply with the **NEPA** process for FTA-led or other federally funded projects. Environmental document types are Categorical Exclusion (CE), Environmental Assessment (EA) with Finding of No Significant Impact (FONSI), or Environmental Impact Statement (EIS)/Record of Decision (ROD).

**Locally Preferred Alternative (LPA)** – Refers to the alternative that emerges from the Project Development phase of the **NEPA** environmental review process and is documented in an Environmental Document. The project sponsor then recommends the LPA to the Metropolitan Planning Organization (MPO)/Transportation Planning Organization (TPO) and requests approval by the MPO/TPO Board for inclusion in the region’s Long Range Transportation Plan (LRTP) Cost Feasible Plan (CFP).

**Project Development** – Project Development has two meanings, one within the context of FTA projects that are funded by the CIG Program and one within the context of DOT in completing PD&E. Under the FTA definition, Project Development is the phase where project sponsors work with FTA to develop and evaluate transit alternatives and complete the environmental review process. A formal Request to Enter Project Development is submitted to FTA and the Project Development must be completed within two years for New Starts and Core Capacity projects. Under the DOT definition, Project Development is the “PD” component of PD&E. PD&E is the project phase where project sponsors comply with FTA’s Project Development process requirements. During PD&E, planning decisions for projects are further assessed, transportation alternatives are developed and evaluated in a **NEPA** study, and preliminary design activities for these alternatives are completed.

**Project Sponsor** – Refers to a transit agency, local government, and/or MPO/TPO that has proposed to support and advance a transit project or proposed action, including the development of a **NEPA** document, in coordination, consultation, and cooperation with a Lead Agency. Multiple agencies may serve as the project sponsor. The project sponsor does not need to be the FTA grant applicant. The District Modal Development Office may

also serve as a project sponsor, but usually only serves as a stakeholder in the environmental review process. When seeking FTA CIG Program funds or other federal funds for a project, project sponsors will need to identify local project partners to support the project and be certain that federal funds are supplemented by state and local funds.

**Recommended Alternative** – Refers to an alternative developed during the Planning phase and determined by the community, stakeholders, project partners, and the project sponsor to meet the project’s purpose and need while minimizing adverse impacts. The Recommended Alternative should be presented with supporting information and documentation for endorsement by the MPO/TPO (in an urban area) and/or affected local governments for further evaluation in the Project Development phase (**NEPA** study).

**Sufficient Level of Engineering and Design** – At least 30 percent design and engineering, including documents at the level of detail described in the **Final Interim Policy Guidance Federal Transit Administration Capital Investment Grant Program**. This includes an adequate level of engineering to define project key design features, including satisfactory progress in advancing the project design and a corresponding and up-to-date cost estimate and schedule. At a minimum, the level of design detail should be as described in the **FTA Oversight Procedure 51–Readiness to Enter Engineering, Checklist for Approval to Enter Engineering**.

**Transit Development Plan (TDP)** – Refers to an FDOT required, 10-year horizon plan, intended to support the development of an effective multimodal transportation system by transit agencies. The TDP documents anticipated projects, associated schedules, and budgets for FDOT, as well as consistency with local comprehensive plans and the LRTP. The TDP is updated annually, with major updates occurring every five (5) years. **Sections 339.135 and 339.155, Florida Statutes (F.S.)**, govern the development of TDPs.

## 14.2 AGENCY ROLES IN THE ENVIRONMENTAL REVIEW PROCESS

FTA primarily serves as a grant-administering agency, managing grant programs to state Departments of Transportation (DOTs), transit agencies, MPOs/TPOs, Native American Tribes, local governments, and other public entities. FTA makes COA determinations and actively manages the environmental review process for all FTA-funded projects; FTA review and approval is required for all FTA **NEPA** documents. FTA expects to be involved at the beginning stages of the environmental review process before any extensive environmental work begins. It is good practice to request FTA’s review and comments on the level of effort and methodology to assess each environmental impact area required for the **NEPA** study, particularly for those listed in [Section 14.3.3.1](#). FTA is available to serve as a technical resource to ensure successful and timely completion of the environmental review process. FTA should always facilitate consultation and discussions with other federal resource agencies and Native American Tribes.

### 14.2.1 Agency Roles and Responsibilities

Transit projects are typically advanced by an agency outside of FDOT. There are several key agencies with specific roles and responsibilities associated with the development of

a transit project from concept to completion; these may include:

1. Lead Agency;
2. Project sponsor/FTA grant applicant/FTA grantee;
3. FDOT (Public Transit Office, OEM, and District staff);
4. MPOs/TPOs;
5. Transit agencies;
6. Local governments; and
7. Cooperating, participating, regulatory, and federal resource agencies.

Typically, the MPO/TPO or a local or regional transit agency identifies projects. These entities may serve as the project sponsor or FTA grant applicant/grantee. The project sponsor will be responsible for conducting the **NEPA** study, coordinating with FDOT and partner agencies, and complying with the grant requirements. The transit agency will typically serve as the FTA grantee, but not always.

Some of the activities for which the project sponsor/FTA grantee is involved include:

1. Developing a detailed scope of work/work plan identifying the tasks that will be performed, the sequence in which they will be completed, agency responsibilities for completing the work, project schedule, and the anticipated cost of the respective tasks. It is important to note that this activity usually takes more time with transit projects than with roadways projects. These items should be reviewed by the Lead Agency.
2. Identifying stakeholder responsibilities for completing assigned tasks and ensuring that the involved agencies are organized, staffed, and supported so that they may fulfill their roles in a timely manner.
3. Providing professional management and direction as the work progresses, ensuring that work is done in an efficient manner and that deliverables are obtained in a timely fashion.
4. Taking necessary steps, such as establishing a Technical Advisory Committee (TAC), to ensure the technical quality of the work.
5. Coordinating with local cooperating agencies and the FTA or other Lead Agency by means of project steering committees, monthly/quarterly reports, transmission of key project documents for review.
6. Keeping other interested agencies, private operators, and the public informed and seeking their input through established public involvement mechanisms.

7. Responding to information requests by local decision makers and FTA or other Lead Agency during the Project Development process.

For FTA-led projects that require an EIS, the roles, responsibilities, the organization, and schedule for the coordination among agencies and the public is discussed in the **Coordination Plan** (see [Section 14.3.3.4.4](#)). A summary of agency roles and responsibilities is provided below.

#### 14.2.1.1 Lead Agencies

For transit projects, the Lead Agency is typically FTA; however, OEM, FRA, and other agencies may serve this role depending on the funding source or federal actions required for the project. A project is considered an FTA-led project only if FTA funds will be spent on construction or vehicle acquisition. Allocating FTA funds to Project Development or Design does not make the project an FTA-led project or an FTA-led federal action. In addition to the Lead Agency, several other agencies may be involved in different capacities such as Cooperating or Participating agencies.

The Lead Agency must:

- (1) Identify and involve participating agencies [**23 U.S.C. § 139(d)**]; develop **Coordination Plans** [**23 U.S.C. § 139(g)**];
- (2) Provide opportunities for public and participating agency involvement in defining the purpose and need as well as determining the range of alternatives [**23 U.S.C. § 139(f)**]; and,
- (3) Collaborate with participating agencies in determining methodologies and the level of detail for the analysis of alternatives [**23 U.S.C. § 139(f)(4)(C)-(D)**].

Federal actions are described in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#). Even if federal funds are not used, the project may still have a federal action requiring the preparation of a **NEPA** document. Certain environmental impacts trigger the need for **NEPA** evaluations with various federal resource agencies. For example, wetlands impacts may trigger a need for a **NEPA** document led by the U.S. Army Corps of Engineers (USACE), while new or modified bridges or interchanges on the interstate highway may trigger a need for a **NEPA** document led by OEM, even though no federal funds are used for project implementation.

FTA divides its roles and responsibilities between staff at the Region IV office in Atlanta and the Headquarters office in Washington, D.C. Contacts from both offices may be assigned to work with the project sponsor/FTA grantee. These FTA contacts work with other appropriate FTA technical staff, project stakeholders, federal resource agencies, and consultant teams to offer specialized technical assistance on areas such as environmental technical analysis, transit service planning, travel demand forecasting, capital cost estimates, and financial planning. The project sponsor should be prepared to present all proposed technical analysis methods to FTA staff for comments and approval.

FTA Headquarters staff review and approves CIG applications.

FTA Region IV staff will provide assistance on programmatic procedures and requirements. FTA Headquarters staff may provide assistance and reviews to the FTA Region IV office during technical reviews. Although FTA's role is less formal before the Project Development phase, it is important to coordinate with FTA Region IV staff to ensure that the resulting planning analysis is consistent with FTA's accepted methods so that any planning documentation may securely link the planning and **NEPA** processes.

The FTA Region IV office serves as the lead point of contact for local agencies on the FTA programmatic matters. It handles grant-making activities, serves as the focal point for contacts and correspondence, represents FTA at meetings, monitors progress, processes the draft documents, and seeks assistance from the FTA Offices of Planning and Environment and Program Management on planning, technical, and programmatic issues. The roles of FTA's Region IV office in the Project Development phase are specifically summarized below:

1. Grant Making - Reviews grant applications, approves grants, and performs typical grant administration functions.
2. Program Guidance - Provides study sponsors with basic guidance on discretionary programs, including Project Development requirements, project evaluation procedures, and grants requirements.
3. Representation at Meetings - As necessary, and to the extent possible, Region IV office staff represents FTA at most technical and policy-level meetings that occur during Project Development. Their role is to explain overall FTA policies and procedures, FTA positions on specific issues related to Project Development, and the process for advancing major transit investments into subsequent phases, and to provide technical guidance.
4. Metropolitan and Systems Planning Issues - Provides guidance and direction on metropolitan planning requirements and issues which may impact the final Environmental Documents and subsequent project advancement, such as air quality conformity, financial constraint, and project programming.
5. Project Schedules - Reviews project schedules and provides guidance to the project sponsor.

All correspondence should be directed to the FTA Region IV Regional Administrator. The Regional Administrator may then delegate responsibility to other staff members to respond accordingly. Therefore, it is very important to copy the director of the FTA Region IV Planning and Development Director as well as the environmental protection specialist and the community planner assigned to the project.

FTA provides transit funding through one of the grant programs described in [Section 14.4](#). Each of these programs has its own set of guidance. Additionally, FTA has

considerable involvement and decision-making in the conduct of the environmental review process during the PD&E phase continuing through to design and construction. As such, FTA policies and evaluation criteria should always be reviewed prior to initiating a project.

### **14.2.1.2 Joint Lead Agencies**

For projects on which both FTA and another federal or lead agency are required to take federal actions, both agencies may serve as a Joint Lead Agency, or in the Lead Agency role together. Examples of FTA funded projects where FTA may be a Joint Lead Agency with other federal or lead agencies include:

1. OEM and FTA on a transit project located on the National Highway System (NHS);
2. OEM and FTA on a transit project that includes a new or modified bridge structure over an interstate corridor;
3. OEM and FTA on a multimodal project that involves roadway widening and new transit-only lanes on the NHS;
4. FRA and FTA on a transit project located in a freight or intercity railroad corridor; and,
5. U.S. Coast Guard (USCG) and FTA on a transit project that includes a new bridge structure over a navigable river.

The Joint Lead Agencies have the primary responsibility for overseeing the environmental review process to ensure that all work is performed in a technically sound manner and in accordance with each agency's **NEPA** implementing regulations and requirements. While both agencies will make sure the environmental review process is successfully completed within a project schedule and budget that is acceptable to both agencies, FTA will take the lead role in making sure the project sponsor completes all requirements of the Project Development process for CIG projects. FTA's decision on its role depends on the relative magnitude of the transit elements of a multimodal project and the timing of FTA funds for the project.

### **14.2.1.3 Participating Agencies**

Participating agencies may include any federal, state, tribal, regional, and local government agencies that have an interest in the project. Participating agencies must identify any issues of concern which could substantially delay the project. It is the responsibility of the Lead Agency to identify and collectively invite potential participating agencies. Private and nongovernmental organizations are not eligible to serve as participating agencies. The fact that an agency accepts the designation of a participating agency does not imply support or provide them with increased oversight or authority over the project.

#### 14.2.1.4 Cooperating Agencies

Cooperating agencies are any federal agency, other than the Lead Agency, that has legal jurisdiction or special expertise as it applies to the environmental impact of a proposed project or project alternative. Cooperating agencies can also include, through agreement with the Lead Agency, a state or local agency with similar qualifications as well as Native American Tribes with lands or cultural resource areas of interest that may be impacted by a proposed project. Cooperating agencies are, by definition, participating agencies, but not all participating agencies are cooperating agencies. The cooperating agencies have a greater role of involvement, responsibility, and authority in the environmental review process.

### 14.3 PROCEDURE

This section describes the procedure for advancing a proposed transit project from local transit systems planning to the FTA CIG Project Development phase ([Figure 14-1](#)). These procedures are consistent with FDOT's planning process and FTA's discretionary CIG program requirements. For FTA New Starts and Core Capacity projects, the procedure is a two-step process, Project Development and Engineering as shown in [Figures 14-2](#) and [14-3](#). For Small Starts projects, the procedure is a simplified process as shown in [Figure 14-4](#). The Project Development phase for CIG projects is when the **NEPA** document is completed and a formal designation of the LPA is selected, the LPA is included in the MPO/TPO's LRTP CFP, and sufficient information is developed for FTA to complete project rating. In addition to preparing the **NEPA** document, sufficient information must be gathered during this phase to develop the goals, objectives, and performance measures of the project. Information from planning activities can be used to support documentation submitted to FTA. The LPA is evaluated based on FTA's ratings criteria.

The CIG program is the most common funding source for major transit investment projects. The CIG program requires FTA approvals to begin the Project Development and the Engineering phases, which is within the context of the environmental review process. Project sponsors who want to enter Project Development must submit a letter with specific information to FTA's Associate Administrator for the Office of Planning and Environment ([Section 14.3.2.6](#)). There are two sets of criteria considered by FTA in evaluating projects for its New Starts, Core Capacity, and Small Starts Programs: Project Justification and Local Financial Commitment. Each of these criteria has a set of measures that are used to calculate the composite score for each criterion. [Figure 14-5](#) shows these criteria, their associated measures, and weighting applied to each. Projects must receive at least a Medium rating to move into the Engineering phase. The CIG program requirements are periodically updated and FTA's guidelines should be reviewed early in the planning phase to take full advantage of the opportunity to link work completed in the planning phase with the work to be completed during the environmental review process.

Florida has a prescribed five-step process for moving transit projects from concept to construction. Early planning and Project Development encompasses the first three steps: Planning and Community Support, Alternatives Screening, and PD&E. Public

involvement is an important component of all five steps to include diverse viewpoints and values in the entire process.

- **Step 1 (Planning and Community Support)** includes systems planning, such as local or regional LRTPs, Transit Development Plans or other regional transportation plans. Projects are general, with little more information than potential corridor, termini, project type (e.g., premium transit), and the project's expected impact on mobility at the countywide or regional level. During this step, the Efficient Transportation Decision Making (ETDM) process is initiated to identify potential issues and resources of concern as well as potential avoidance and mitigation opportunities. It is important to note that FTA is not a member of the Environmental Technical Advisory Team (ETAT) and does not require use of ETDM. The grant applicant and project sponsor should use the results of ETDM screening to assist with FTA consultation regarding the **NEPA** review process.
- **Step 2 (Programming and Alternatives)** includes data collection, ridership assessment, ETDM Programming Screen and alternative evaluation using the Transit Corridor Alternatives Review (TCAR) process. This step also includes continued agency and public coordination. This step typically involves refining the purpose and need of the project, defining the general travel corridor and recommended transit mode and technology, evaluating corridor alternatives, and describing the environmental setting including any anticipated environmental impacts and recommended mitigation. Most importantly, when considering FTA funding, this step identifies partner agency roles and responsibilities as well as general order of magnitude costs for construction, operations and maintenance. This step terminates with a **NEPA** COA Determination and if the project pursues a CIG, a Request to Enter Project Development to FTA. This step is explained in detail in the [Transit Concept and Alternatives Review Guidance](#).
- **Step 3 (PD&E Study)** combines project development and detailed environmental analysis to comply with state and federal environmental laws. During PD&E, FDOT performs sufficient engineering (at least 30 percent design), conducts environmental analysis, and continues public involvement activities, as well as prepares necessary studies and reports consistent with either FTA or State Environmental Impact Report (SEIR) requirements to advance the project into design and construction. During PD&E, FDOT refines the alternatives identified in the Step 2; further defines potential impacts to natural, physical, cultural, and community resources; and, documents compliance with state and federal environmental laws. [Section 14.3.3](#) details the procedures for completing a **NEPA** document. If the project pursues a CIG, this step terminates with selection of a LPA and a Request to Enter Engineering to FTA.
- **Steps 4 and 5 (Design, Construction and Operations)** take the LPA into design (or the FTA engineering), construction, and operations.

Planning activities are accomplished in Steps 1 and 2, and are summarized in [Section 14.3.1](#). This chapter focuses on Step 3, which is the completion of PD&E and how that



process fulfills the FTA requirements for Project Development in the context of the CIG program. FTA projects receiving funding through other FTA formula grants and discretionary programs are subject to **NEPA** and the PD&E process with coordination with FTA as the Lead Agency.

### **14.3.1 Planning and Community Support**

Early planning activities are typically accomplished at the local level. Needs for transit investments are identified through long-range planning process and TDPs. Through these early planning activities an understanding of public support is garnered through community outreach related to long range plans or planning studies conducted by MPOs/TPOs or transit providers. This section highlights activities that are considered early planning, transit systems planning, operational analyses, and identification of potential funding.

#### **14.3.1.1 Transit Systems Planning**

Transit agencies most often conduct regional transportation planning studies or systems planning to identify broad transportation needs and deficiencies. The MPO/TPO and the District Office of Modal Development may choose to participate in these studies. An essential component of the systems planning analysis is to identify future travel demands and complete an analysis to identify demand and potential regional connections between modes and regional centers. The analysis typically results in identifying numerous corridors within the region where the transportation network is not currently meeting travel demand or will not meet future travel demand.

#### **14.3.1.2 Operational Analyses**

FDOT requires transit agencies to prepare a 10-year TDP, which is intended to support the development of an effective State multi-modal transportation system. One requirement of the TDP is for transit agencies to examine their transit operations at the systems planning level. Information in these documents can highlight service needs, unmet demand, needed operational adjustments, and quality of service considerations. Together, the travel market analysis and the operational analysis can help to define the project study area, transit mode, and transit alignment alternatives for further analysis. Once transportation needs are identified through systems planning, it is recommended that a travel market analysis be completed for individual corridors to understand where people travel most frequently. The agency leading the travel market analysis should consult with the transit agency for information from the TDP and any operational analyses to help inform the travel market analysis. If the travel market analysis reveals that a major transit project is necessary to meet the forecast travel demand, then a decision should be made regarding the primary project sponsor and the source of funding.

#### **14.3.1.3 Potential Funding Source Identification**

The anticipated costs as well as availability of local, state, and/or federal funding sources should be identified during the planning and community support phase. The FDOT Work

Program, State Transportation Improvement Program (STIP), and LRTP CFP should be updated to reflect anticipated costs and funding sources for the proposed action. Most federal funding sources do not fund 100 percent (100%) of the total construction costs for the project. Therefore, state and/or local funds are required, not only to meet grant application requirements, but also to be competitive with other grant applicants from across the country.

FTA is typically the Lead Agency in the development of transit projects funded with FTA funds. There are three categories of FTA funding programs: Formula, Discretionary, and CIG. Generally, funding from Formula programs is allocated to pay for transit operating and maintenance costs; therefore, these funds are rarely used for advancing construction for a new transit project. Funding from FTA's Discretionary programs is allocated through a competitive process with detailed evaluation criteria used for comparison purposes. The CIG program is comprised of discretionary grants (New Starts, Small Starts and Core Capacity), which are discussed separately in this chapter as they have distinctive requirements including legislatively directed multi-year, multi-step processes with FTA project evaluation, and ratings required at specific points. Additional guidance for the requirements for FTA's formula and discretionary grant programs should be obtained from the FTA Region IV office. A link for FTA Region IV's website is provided in the [Section 14.5](#).

Once a potential FTA funding source is identified, the grant applicant should contact FTA Region IV to review the program requirements and confirm that the project could potentially meet those requirements. Consideration for the operating and maintenance funds for the proposed project must be included in grant requests, and funding options for the operation of the proposed project should be discussed during the planning and community support phase.

Project sponsors should consult with FTA Region IV staff to determine the reasonableness of seeking FTA funding for construction or vehicle acquisition and coordinate on identifying the appropriate Lead Agency.

### **14.3.2 Transit Corridor Alternatives Review Study**

Once a need and a potential project are identified in the Planning phase, the project is advanced to a TCAR study. This study begins to shape the details of a project to be carried forward to PD&E. The following sections describe transit concept development and alternatives screening process which is part of TCAR study.

#### **14.3.2.1 Coordination with Partners and Lead Agency**

Early coordination with the public, agencies, partners, special interest groups, and elected officials is crucial to obtaining feedback and information to support local planning work. Public involvement activities during this stage should be documented for inclusion in the **NEPA** document to capture local decision making in the overall process. Local study partners should discuss the transit study costs, planning requirements, capital costs, potential environmental impacts, ROW needs, operating costs, potential funding sources,

and agency responsibilities. This early planning work gives the Lead Agency, and other project partners, an opportunity to understand regional needs and the project purpose prior to the CIG Project Development process. Coordination with the MPO/TPO and transit providers is also important to incorporate available data, reflect existing conditions, understand existing and planned transit services, examine technical inputs, and generate support for the project.

Establishment of the project's purpose and need, corresponding goals, objectives, and preliminary evaluation measures should be defined during planning and should be reviewed by local partners and the Lead Agency. The roles and responsibilities of local partners should be established through a MOU or transit service agreements, as appropriate. Local partners may have access to considerable data and forecasting models that will be necessary to conduct certain steps.

As soon as practical, the project sponsor should schedule meetings with FDOT staff to discuss the appropriate environmental documentation requirements, designation of the Lead Agency, and grant programs. Most federal funding programs only contribute a portion of construction costs with the balance typically provided by state, local, and private funds. Operating and maintaining the system is typically a local responsibility. These funding decisions will influence the parameters of the proposed action as well as the planning and CIG Project Development processes beginning in their earliest stages.

FTA encourages the use of early project scoping (not **NEPA** scoping) in conjunction with early planning work as a way of securely linking the transportation planning and **NEPA** processes. **NEPA** scoping is discussed in [Section 14.3.3.4.2](#). Early project scoping is appropriate during the Planning phase when there are several alternatives and alignments under consideration. Project sponsors, who are considering early project scoping during planning, should notify FTA Region IV staff and develop an early project scoping notice for publication in the **Federal Register (FR)** as well as early project scoping announcements locally in newspapers, project websites, and other media. Early project scoping activities can include public meetings, newspaper advertisements, and meetings with interested federal, state, tribal, and local agencies. The initial **Public Involvement Plan (PIP)** can also be developed; however, it does not need to be as formal as the **Coordination Plan** (see [Section 14.3.3.4.4](#)) developed during Project Development.

### 14.3.2.2 Alternatives Screening

Alternatives screening performed during planning combines best transit corridor planning practices with the information needed to prepare the letter for FTA to request entry into Project Development. The purpose of the alternatives screening is to gather information and conduct early evaluations of transit alternatives, including transit modes and alignments to streamline the process so that project sponsors can complete the Project Development process within the two-year timeframe established by FTA for New Starts and Core Capacity projects. If the District Office of Modal Development leads the planning, then close coordination with the transit operator, MPO/TPO, and affected jurisdictions is required. In addition, the District Offices and other project sponsors should

contact FDOT's Transit Office and OEM and discuss the study methods and assumptions throughout the process. FTA may also have tools or preferred methods for analyses to support the concept development and alternatives screening.

Transit projects that are advanced without FTA funds for construction or vehicle acquisition are not required to coordinate with FTA. Transit projects that are funded by other federal funds should follow the FDOT PD&E process. Project sponsors of non-federally funded projects should continue to coordinate with FDOT because a SEIR or Project Environmental Impact Report (PEIR) may be required to fulfill environmental review requirements. For more information about state, local, or privately funded project delivery, see [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#). The number of alternatives to be evaluated in a SEIR is determined by FDOT and shall include a No-Build Alternative. However, if more than one alternative is evaluated in the SEIR, a study conducted during planning must also follow the best corridor transit planning practices and FTA's environmental streamlining practices. This requirement is especially important for transit projects, since future legislation could introduce new grant programs or make changes to current grant programs that would make FTA funding or other federal funding more attractive for the project.

The alternatives screening includes an assessment of various public transportation or multimodal alternatives to address transportation problems in a corridor or subarea. The alternatives screening produces a Recommended Alternative(s). The Recommended Alternative(s) is carried into Project Development and the environmental review process. The selection of the LPA is the result of the **NEPA** process and is recorded in the FTA-issued CE, EA with FONSI, or Final Environmental Impact Statement (FEIS)/ROD. The results of the alternatives screening link to the **NEPA** process to ensure the Project Development phase is completed within the required two-year timeframe. The Planning Screen should be conducted during the alternatives screening phase in accordance with the [ETDM Manual, Topic No. 650-000-002](#) to assess initial environmental impacts of the alternatives considered and document possible mitigation strategies. The Planning Screen should be conducted using the ETDM Environmental Screening Tool (EST) discussed in the next section. The project study area, conceptual alternatives, environmental issues to be addressed, and travel market analysis may be brought forward for use to document the alternatives screening and inform the ETDM Planning Screen.

Detailed information and agency comments gathered through the EST can be used to inform the FTA or other Lead Agency about resource agency comments and concerns, anticipated impacts in support of the COA determination, and early project scoping. FDOT's Work Program and production schedule should also incorporate the timeline for advancing the proposed action and any related planning or engineering activities. Continuous stakeholder engagement and input is needed throughout the alternatives screening phase to identify community preferences, goals, needs, and to generate support for the project.

The final step during the alternatives screening phase is selection of the Recommended Alternative. Although there are no requirements that the MPO/TPO (urbanized areas)

adopt the Recommended Alternative, it is advised that the project sponsor seek a resolution of support of the Recommended Alternative from the MPO/TPO or Regional Planning Council, and affected local governments. This documentation can be included in the request to enter Project Development to demonstrate local support for the proposed action. The result of the alternatives screening inform the preparation of an application letter to FTA requesting entry into the CIG Project Development phase. [Section 14.3.2.6](#) explains the process for requesting entry into Project Development.

### **14.3.2.3 Environmental Screening Tool**

The EST is an internet-based interactive database and mapping application that integrates a geo-relational database of ETDM projects, Geographic Information System (GIS) data layers, automated and standardized GIS-based environmental screening analysis application, as well as numerous tools for data entry, review, and reporting. The EST brings together information about a project and provides analytical and visualization tools that help synthesize and communicate project information. It provides a single point of reference where stakeholders have access to the same information to assess potential environmental impacts of the project.

The EST efficiently manages early interaction with agencies and affected communities through two ETDM screening events (Planning Screen and the Programming Screen), which are completed and then incorporated into the transportation planning process. The Planning Screen occurs when considering projects for inclusion or prioritization within the LRTP. The Programming Screen supports development of FDOT's Work Program. For transit projects, it is recommended that non-FDOT project sponsors, such as MPO's or transit agencies, use the Planning Screen to gather project information as well as agency comments. Alternatively, a non-FDOT project sponsor can use the Area of Interest (AOI) tool in the EST to generate GIS environmental information on the proposed project and coordinate with agencies and other interested parties using other methods. For FDOT-led transit projects the District can follow the normal ETDM Planning Screen process.

For FTA-led projects, direct consultation with FTA Region IV staff concerning the environmental review process is necessary in addition to completion of the EST. Data obtained from ETDM screening provides information to assist with FTA consultation and discussions concerning the environmental review process, including the preliminary purpose and need, environmental resource information to support FTA's COA determination, and identification of cooperating and participating agencies. FTA does not require the use of the EST; however, the ETDM screening information can be repackaged and submitted to FTA to meet the requirements for requesting entry into Project Development. See [ETDM Manual, Topic No. 650-000-002](#) (Chapter 2, ETDM Process and Chapter 3, Planning Screen) for details.

### **14.3.2.4 Determine NEPA Class of Action**

As discussed in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#), the COA determination identifies the level of documentation required for a project. A COA determination is primarily driven by the nature of the federal action and

the context where it occurs. The COA determination is made in consultation with the Lead Agency for all projects with a federal action requirement. FTA is typically the Lead Agency for federally funded transit projects and makes the COA decision. FTA, FRA, Federal Aviation Administration (FAA), USCG, or the USACE may serve as the Lead Agency for transit projects that receive federal funding or that require an action from one of these agencies because of project implementation.

Prior to making a COA determination, FTA grant applicant and project sponsor should provide the FTA Region IV with a project initiation package which will include project information and maps, anticipated federal approvals, and any additional information that the project sponsor considers important for initiating a project. See ***FTA Project Initiation and Determining NEPA Class of Action*** for further guidance.

When an FTA grant applicant identifies a project concept that is not listed as a CE under ***23 CFR § 771.118(c)***, the FTA grant applicant should notify FTA Region IV staff and provide the following information on the proposed project to support the request for the CE determination:

1. Project description;
2. Summary of prior planning work;
3. The summary of the alternatives screening;
4. Final draft purpose and need or a statement of need;
5. Maps or figures showing the location of the project, project termini, proposed station locations and sizes, and proposed vehicle storage and maintenance facility location;
6. Information from the ***Programming Screen Summary Report*** concerning any known environmental issues and constraints, but not the entire report; and,
7. Information describing other known project features such as bridge structures.

FTA will make the COA determination for all FTA-led projects. Project sponsors should request written correspondence for all COA determinations from FTA. Any documentation related to determining the ***NEPA*** COA should be included in the environmental review files and may be uploaded to the EST.

#### **14.3.2.5 Linking Prior Planning Work with NEPA**

Per ***23 CFR Part 450*** and ***23 U.S.C. § 168***, linking the transportation planning and the ***NEPA*** process is encouraged. This is particularly important for requesting entry into the Project Development phase for New Starts, Core Capacity, or Small Starts projects. Prior to providing information sufficient for the Associate Administrator of FTA's Office of Planning and Environment to determine whether the project is ready to enter the Project Development phase, the project sponsor of a New Starts, Core Capacity, or Small Starts

project should conduct local planning studies and/or feasibility studies. The project sponsor may initiate the environmental review process to gather the information required to request entry into Project Development. In Florida, project sponsors have two tools to ensure that all transportation planning work is securely linked to the environmental review process for the project: the TCAR study and the ETDM process.

The TCAR process is explained in detail in the [Transit Concept and Alternatives Review Guidance](#). The ETDM process connects the planning phase with the PD&E phase, which consists of the environmental review process and the Project Development phase for FTA New Starts, Core Capacity, and Small Starts projects. The ETDM process carries forward planning products, previous analyses, and decisions supporting transportation project implementation during subsequent project development phases and is fully consistent with the streamlining objectives prescribed in the current funding legislation.

#### **14.3.2.6 Requesting Entry into Project Development**

Project sponsors who want to enter the Project Development phase as a New Starts, Core Capacity, or Small Starts project should submit a letter to the Associate Administrator for FTA's Office of Planning and Environment. This can be submitted upon completion of the planning activities. The application letter should be succinct with only two (2) to five (5) pages to summarize the pertinent information developed through the TCAR process. Coordination with FTA Region IV staff is highly recommended prior to preparing this information to ensure the guidance has not changed. The letter should include the following information or attachments:

1. The name of the study sponsor, any partners involved in the study, and the roles and responsibilities of each;
2. Identification of a project manager and other key staff that will perform the Project Development work;
3. A brief description and clear map of the corridor being studied including its length and key activity centers;
4. The transportation problem in the corridor or a statement of purpose and need;
5. Identification of a proposed project if one is known and alternatives to that project if any are being considered;
6. Identification of a preliminary cost estimate for the project, if available;
7. Identification of whether the project will be a New Starts, Core Capacity, or Small Starts project;
8. A brief description of current levels of transit service in the corridor, including a listing of the existing transit routes in the corridor, their frequency, and existing ridership;

9. Copies of prior planning studies done in the corridor. Project sponsors should submit the summary of the planning process in addition to other studies to fulfill this requirement;
10. The anticipated cost of Project Development;
11. Identification of the funding available and committed to conduct the Project Development work;
12. Documentation demonstrating commitment of funds for the Project Development work (e.g. Board resolutions, adopted budgets, approved Local Government Capital Improvement Programs, approved Transportation Improvement Programs (TIP) or LRTP CFPs, and letters of commitment);
13. An anticipated timeline for completing the following activities (ensure the schedule demonstrates the ability to complete the Project Development work within two (2) years for New Starts and Core Capacity projects):
  - a. Compliance with **NEPA** and related environmental laws;
  - b. Selection of a LPA;
  - c. Adoption of the LPA in the LRTP CFP;
  - d. Completion of the activities required to obtain a project rating under the evaluation criteria outlined in the Law;
  - e. Completion of the readiness requirements for entry into Engineering (for New Starts and Core Capacity projects only);
  - f. Anticipated receipt of a construction grant agreement from FTA; and
  - g. Anticipated start of revenue service.

FTA has 45 days to respond in writing to the request. The response may indicate that the proposed project is accepted into Project Development or that additional information is required.

FTA requires that the Project Development phase be completed within two (2) years from the time that FTA approves entry into the Project Development for New Starts and Core Capacity projects only. FDOT encourages Small Starts project sponsors to also complete their Project Development within two (2) years. The more certainty that exists about a project, in terms of its potential impacts and benefits, community support, and implementation challenges, the more likely it is that the **NEPA** document and other Project Development activities can be completed within the two-year timeframe. Project sponsors should be aware that any activities undertaken prior to a project entering Project Development are not covered by automatic pre-award authority and will not be eligible for future reimbursement from the CIG program should a construction grant be awarded in



the future. The following must be completed during the two-year timeframe:

1. Complete **NEPA** and obtain FTA approval of the **NEPA** document;
2. Identify the LPA in the final **NEPA** decision document (CE, FONSI, FEIS/ROD or ROD);
3. Adopt the LPA as part of the cost feasible component of the LRTP;
4. Complete at least 30 percent design and engineering; and
5. Assemble information for FTA to evaluate and rate the project.

FTA advises the project sponsors to be cautious about the timing for entry into Project Development. Project sponsors should request entry into Project Development only when they have sufficient project planning information to complete **NEPA** within the two-year time frame.

If the project sponsor cannot complete Project Development for New Starts and Core Capacity projects, a written request for an extension of Project Development addressed to the FTA Associate Administrator for Planning and Environment can be requested. The extension request should contain an explanation of the reasons for extension and a revised estimated schedule for completing the Project Development activities. FTA will consider extensions requests on a case-by-case basis. If a Project Development extension is not granted by FTA, the project will automatically be withdrawn from Project Development. Any work performed after withdrawal from Project Description and prior to re-entry into Engineering would not be covered by pre-award authority and would be ineligible for reimbursement at a future date should FTA ultimately award a construction grant agreement.

### **14.3.3 FTA Project Development/NEPA**

This section discusses the requirements of **NEPA** documents for transit projects with FTA as the Lead Agency. The extent of environmental analysis and review will depend on the scope and complexity of the proposed project and the associated environmental impacts. FTA's environmental impact regulations, codified in **23 CFR Part 771**, classifies the most common projects according to the different levels of environmental analysis required. To ensure that the environmental analysis counts towards the local match for federal funds, the **NEPA** process should not begin until after the project receives approval from FTA to proceed with FTA Project Development. Environmental work performed prior to FTA's approval should be limited to the extent sufficient to present to FTA for determination of the COA.

#### **14.3.3.1 Evaluation of Environmental Impacts**

It is important for project sponsors and **NEPA** practitioners to review this section before drafting the **NEPA** document. Project sponsors and **NEPA** practitioners should also refer

to the most recent FTA guidance to ensure that evaluation criteria meet FTA's expectations for environmental review. Project sponsors and **NEPA** practitioners should be aware of the FTA Office of Environmental Programs Standard Operating Procedures which contains guidance that implement **NEPA** and other federal environmental laws in transit projects. These procedures also address FTA's environmental impact and related regulations (**23 CFR Part 771**), statutory provisions that affect the implementation of **NEPA** for transit projects, and other guidance and executive orders that are mandated, recommended or suggested as best practices. See **FTA Standard Operating Procedures for Managing the Environmental Review Process** for more details.

Furthermore, it is highly advisable that the project sponsor and FTA grant applicant discuss the scope and proposed methodology for **NEPA** documents with the FTA Region IV office prior to conducting any environmental analysis. In most cases, ETDM Screening will provide information to support the evaluation of environmental impacts in the **NEPA** document.

Each FTA region has its own CE form, the project sponsor is responsible for making sure that the FTA Region IV CE form is used for the project (see [Figure 14-6](#)).

The following sections highlight the environmental areas where FTA requires evaluation methodologies and techniques that are different from those of the [PD&E Manual](#) equivalent analysis chapters.

#### 14.3.3.1.1 Noise

For FTA analysis, project sponsors should refer to the **Transit Noise and Vibration Impact Assessment Manual, Report No. 0123, September 2018**. The manual contains procedures for assessing noise and vibration impacts of proposed transit projects for different stages of project development and different levels of analysis.

FTA noise analysis consists of three levels depending on the type and scale of the proposed transit project, the phase of project development, and the environmental setting/existing conditions. The **Transit Noise and Vibration Impact Assessment Handbook** specifies the technical content of each of the three levels:

1. Noise Screening Procedure – identifies noise-sensitive land uses near the project that may have the potential to be impacted by the project, and if present, determines the study area and appropriate noise analysis option.
2. General Noise Assessment – examines potentially impacted areas identified in the screening step by examining the location and estimated severity of noise impacts. For many smaller projects, this assessment may be sufficient to define impacts and determine whether noise mitigation is necessary. It provides the appropriate level of detail needed to compare alternative modes and alignments. If an assessment is needed to inform the decision on transit mode and general alignment in a corridor, the General Noise Assessment procedures should be

used, and not the Detailed Noise Analysis, which requires more detailed information.

3. Detailed Noise Analysis – quantifies impacts through an in-depth analysis usually only performed for a single alternative and usually documented in the FEIS. A Detailed Noise Analysis may be warranted as part of the development of an EA if there are potentially severe impacts due to the proximity of noise-sensitive land uses.

The FTA noise criterion is determined depending on the land use category. Category 1 is high sensitivity land use and it includes land where quiet is an essential element of its intended purpose. Example land uses include preserved land for serenity and quiet, outdoor amphitheaters and concert pavilions, national historic landmarks with considerable outdoor use, recording studios and concert halls. Category 2 is residential land use and it includes all residential land use and buildings where people normally sleep such as hospitals, and hotels. Category 3 is institutional land use and it includes institutional land uses with primarily daytime and evening use. Example institutional land uses include schools, libraries, theaters, and churches where it is important to avoid interference with such activities as speech, meditation, and concentration on reading material. For further information on noise impact criteria and methods for determining impact under the three levels of analysis, see Chapter 4 of the ***FTA Transit Noise and Vibration Impact Assessment Manual***.

#### **14.3.3.1.2 Ground Borne Vibration and Noise**

FTA requires that a ground-borne vibration and noise impact assessment be conducted for transit rail projects. For FTA analysis, project sponsors should refer to the ***Transit Noise and Vibration Impact Assessment Manual, Report No. 0123, September 2018***. Vibration is the motion of the ground transmitted into a building that can be described in terms of displacement velocity or acceleration. Ground-borne noise (GBN) is also assessed for transit rail and freight rail projects that use tunnels. GBN is a form of low-frequency noise that radiates from building walls and ceilings due to vibration caused by transit rail or freight rail operations. Because airborne noise typically masks GBN for above ground (at-grade or elevated) transit systems, GBN is only assessed for operations in a tunnel where airborne noise is not a factor or near noise-sensitive locations such as recording studios that are well insulated from airborne noise. Vibration and GBN are assessed by comparing the levels predicted to be generated by a project with the appropriate criteria.

Ground-borne vibration and GBN criteria used by FTA consider the sensitivity of the receiver by land use category. Category 1 is high sensitive land use, and includes buildings where vibration levels, including those below the threshold of human annoyance, would interfere with operations within the building. Examples include buildings where vibration-sensitive research and manufacturing is conducted, hospitals with vibration-sensitive equipment, and universities conducting physical research operations. Category 2 is residential land use, and includes all residential land use and buildings where people sleep, such as hotels and hospitals. Category 3 is institutional

land use, and includes institutions and offices that have vibration-sensitive equipment and have the potential for activity interference such as schools, churches, and doctors' office. Additionally, there is a special buildings land use which includes special-use facilities that are very sensitive to vibration and noise that are not included in any of the three categories and require special consideration.

Three levels of ground-borne vibration and GBN analysis may be employed depending on the type and scale of the proposed transit project, the phase of project development, and the environmental setting/existing conditions. The technical content of the three levels is specified in the ***Transit Noise and Impact Assessment Manual***, and include the following:

1. Vibration Screening Procedure - identifies the potential for ground-borne vibration and GBN impact from transit projects. This procedure uses simplified assumptions and considers the type of project and the presence or absence of vibration-sensitive land uses within a screening distance that has been developed to identify most potential vibration impacts. If no vibration-sensitive land uses are present within the defined screening distance, then no further vibration assessment is necessary.
2. General Assessment - identifies and estimates the severity of vibration and GBN impacts identified in the Screening Procedure. It uses generalized information likely to be available at an early stage in the project development process and during the development of most environmental documents. It provides the appropriate level of detail needed to compare alternative modes and alignments.
3. Detailed Analysis - quantifies impacts through an in-depth analysis usually only performed for a single alternative and usually documented in the FEIS.

For further information on FTA's vibration and GBN impact criteria see Chapter 6 of the ***FTA Transit Noise and Vibration Impact Assessment Manual***.

#### **14.3.3.1.3 Air Quality**

Transit projects funded by federal funds must meet the requirements of the ***Clean Air Act*** and the ***1990 Clean Air Act Amendments***. Project-level air quality analysis is performed as part of the ***NEPA*** process to identify and disclose project-related impacts, and to evaluate possible mitigation for these impacts. The FTA ***Categorical Exclusion Checklist*** does not include an air quality impact category for a comprehensive air quality impact discussion for the FTA-funded project. Rather, the checklist includes separate impact categories for carbon monoxide (CO) hot spots and particulate matter (PM) hot spots at levels of PM<sub>2.5</sub> and PM<sub>10</sub>. Project sponsors should contact the FTA Region IV office to discuss the emissions modeling or "hot-spot" analysis requirements for the transit mode included in each project alternative.

#### **14.3.3.1.4 Transportation Impacts**

Transit projects are influenced by and influence the overall transportation network and as such, effects on traffic, parking and transit need to be considered at a minimum in an EA and an EIS. The level of analysis is dependent on the project type and the relationship to the transportation network. For example, in-road running bus service may directly impact traffic flows, whereas fixed guideway systems may impact traffic near major transit stop locations. The methodology for assessing impacts will vary by project and should be coordinated with FDOT and FTA based on project type. Traffic analysis may include traffic modeling or simulation using industry accepted software.

A major element in understanding transportation impacts is determining ridership for the proposed transit project. The assumptions from the operations analysis are used to develop ridership forecast. Ridership data is needed in the documentation required for the CIG program and can be estimated using FTA's Simplified Trips-on-Project Software (STOPS). Projects can be modeled as stand-alone projects or in relation to a larger system. For more information on assessing transportation impacts and accessing the STOPS model, visit FTA's website. Technical assistance on the STOPS model is available through FTA.

#### **14.3.3.1.5 Safety and Security**

Safety and security are concerns with all transit projects and should be addressed in the environmental document so that the public is aware that they have been considered in the development of a project. Specifically, projects should be evaluated to identify potential pedestrian and traffic hazards, as well as user and employee security issues. The focus should be on the transit stop locations, operation and maintenance facilities and station areas. Where adverse impacts are identified, mitigation measures should be considered and discussed. Depending on the project size and type, particularly those with major transit stations, this section may require discussion of safety features within the stations.

#### **14.3.3.1.6 Historic Resources**

FTA uses the same guidance included in the *PD&E Manual* for these resources. For further information, see [Part 2, Chapter 8, Archeological and Historical Resources](#).

#### **14.3.3.1.7 Archaeological Resources**

FTA uses the same guidance included in the *PD&E Manual* for these resources. For further information, see [Part 2, Chapter 8, Archeological and Historical Resources](#).

#### **14.3.3.1.8 Wetlands**

FTA uses the same guidance included in the *PD&E Manual* for these resources. For further information, see [Part 2, Chapter 9, Wetlands and Other Surface Waters](#).

### 14.3.3.1.9 Ecologically Sensitive Areas and Endangered Species

FTA uses the same guidance included in the *PD&E Manual* for the impact evaluations for these resources. For further information, see [Part 2, Chapter 16, Protected Species and Habitat](#). Because the FTA *Categorical Exclusion Checklist* does not include separate impact categories to evaluate potential impacts to essential fish habitat and coastal barrier resources, these resources may be simultaneously discussed under the “Ecologically-Sensitive Areas and Endangered Species” and the “Water Quality, Wild and Scenic Rivers, Navigable Waterways, and Coastal Zones” sections of the CE. For further information, see [Part 2, Chapter 17, Essential Fish Habitat](#) and [Part 2, Chapter 15, Coastal Barrier Resources](#).

### 14.3.3.1.10 Water Quality, Wild and Scenic Rivers, Navigable Waterways, and Coastal Zone Management

FTA uses the same guidance included in the *PD&E Manual* for these resources. For further information, see [Part 2, Chapter 11, Water Resources](#), [Part 2, Chapter 12, Wild and Scenic Rivers](#), and [Part 2, Chapter 14, Coastal Zone Consistency](#). Since the FTA *Categorical Exclusion Checklist* does not include separate impact categories to evaluate potential impacts to essential fish habitat and coastal barrier resources, these resources may be simultaneously discussed under the Ecologically-Sensitive Areas and Endangered Species and the Water Quality, Wild and Scenic Rivers, Navigable Waterways, and Coastal Zones sections of the CE. For further information, see [Part 2, Chapter 17, Essential Fish Habitat](#) and [Part 2, Chapter 15, Coastal Barrier Resources](#).

Pursuant to **23 CFR 650 Subpart H**, FTA can determine that a project is exempt from a USCG permit whenever the proposed construction, reconstruction, rehabilitation, or replacement of the federally-aided or assisted project is over waters:

1. Which are not used or are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and,
2. Which are not tidal; or,
3. If tidal, are used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

In order for FTA to determine that a project is exempt from a USCG navigational permit, the project sponsor must provide the following information on the determination form:

1. Three (3) photographs taken at the proposed bridge site: one looking upstream, one looking downstream, and one looking along the alignment centerline across the bridge site.

2. Provide name of waterway including: (1) mileage along waterway measured from mouth to confluence; or (2) tributary of (name of river) at mile \_\_\_\_.
3. Geographical location including: road number, city, county, and state.
4. Section, Township, and Range, if applicable.
5. Whether waters are tidally influenced at the proposed bridge site and the range of tide.
6. Whether the waters are used to transport interstate or foreign commerce, and indicate:
  - a. If these waters are susceptible to use in their natural condition or by reasonable improvement as a means to support interstate or foreign commerce.
  - b. If there are any planned waterway improvements to permit larger vessels to navigate based on coordination with the USACE.
7. Whether there are any downstream or upstream natural or manmade obstructions, bridges, dams, weirs, etc.
  - a. If obstruction exists, provide upstream/downstream location with relation to the proposed bridge.
  - b. Provide a photograph of the bridge from the waterway showing channel spans.
8. Names and addresses/locations of marinas, marine repair facilities, public boat ramps, private piers/docks, along waterway within one half-mile of site.
9. Location map and plans (if available) for the proposed bridge, including intended or desired vertical clearances above mean high water and intended or desired mean low water and horizontal clearance normal to axis of waterway.
10. Description of the navigational clearances provided by the existing bridge(s).
11. Description of waterway characteristics at the bridge site(s), including width at mean high and mean low water, depth at mean high and mean low water, and currents.
12. Description of the type, size, and number of vessels using the waterway; and, when applicable, the number of documented bridge openings required to serve waterborne traffic. This includes the vertical clearance requirement for the known tallest vessel using the waterway, a representative photograph of vessels using the waterway, and the length of the largest type vessel using the waterway. If the types or dimensions of vessels using the waterways are not known, coordinate

with the USCG to determine if that agency has any of this information and document the results of the coordination efforts.

13. Description of any bridge-related boating accidents.
14. Description of the potential impacts of the project on navigation including effects during the construction period.
15. The need for navigational lighting or signals or special notices to mariners for the proposed bridge and its construction activity.

If FTA cannot determine that the project is exempt from a USCG permit, coordination with the USCG will be needed prior to approval of the **NEPA** document.

### 14.3.3.2 Categorical Exclusions

The definitions of categorical exclusion (CE) is found in **40 CFR § 1508.4** and **23 CFR Part 771**. FTA has not delegated its authority to make CE determination to FDOT. For CE determinations, FTA Region IV will review and approve the CE checklist and associated documentation. Pursuant to **40 CFR § 1508.4**, **23 CFR Part 771**, and FTA guidance, there are two general types of CEs: (1) those actions that only need a record in the project file that confirms the action fits the CE description and normally do not require additional approval by FTA; and, (2) those additional actions that require FTA's approval, as applicable, after consideration of documentation demonstrating that CE criteria are satisfied. Generally, CEs are flexible documents that can vary based on the level of coordination and documentation needed to support the determination.

For a project to be classified as a CE, it must meet the definition for CEs contained in **40 CFR § 1508.4**, and meet certain criteria contained in **23 CFR § 771.118**. The criteria must be met and documented as appropriate before a CE determination can be made. It must be sufficiently evident that the proposed action will not involve significant environmental impacts such as:

1. Induce significant impacts to planned growth or land use for the area;
2. Require the relocation of significant numbers of people or businesses;
3. Have a significant impact on any natural, cultural, recreational, historic, or other resources;
4. Involve significant air, noise, or water quality impacts;
5. Have significant impacts on travel patterns; or,
6. Have significant impacts either individually or cumulatively.

**Title 23 CFR § 771.118(b)** provides that in unusual circumstances a project normally classified as a CE will require coordination with or a finding from FTA to determine if the



CE classification is appropriate. These unusual circumstances may include:

1. Significant environmental impacts;
2. Substantial controversy on environmental grounds;
3. Significant impact on properties protected by **Section 4(f)** of **USDOT Act** or **Section 106** of the **National Historic Preservation Act**; or,
4. Inconsistency with any federal, state, or local law, requirement, or administrative determination relating to environmental aspects of the action.

The FTA Region IV **Categorical Exclusion Checklist**, provided in [Figure 14-6](#) is used to determine if documentation for a proposed CE submittal is needed. It is advisable to check with the FTA Region IV office prior to using the checklist to ensure the most recent version is obtained. Documentation of the results of any analysis or coordination should be placed in the project files and may be attached with the CE checklist. This documentation may include any supporting documents and/or technical reports required to substantiate the findings discussed in the CE checklist. For CE projects, the level of detail required to support the determination depends upon the magnitude of environmental impacts and the context. Since projects approved with CEs are generally minor in nature and have less than significant direct impacts, indirect, and cumulative impacts assessments will generally not be necessary. There may be exceptions, which can be evaluated on a case-by-case basis. The actions identified in **23 CFR § 771.118(c)** normally do not require any further **NEPA** approvals and are identified as CEs listed in FTA guidance. These actions include:

#### **Utility and Similar Appurtenance Actions**

1. Acquisition, installation, operation, evaluation, replacement, and improvement of discrete utilities and similar appurtenances (existing and new) within or adjacent to existing transportation ROW, such as: utility poles, underground wiring, cables, and information systems; and power substations and utility transfer stations.

#### **Pedestrian or Bicycle Action**

2. Acquisition, construction, maintenance, rehabilitation, and improvement or limited expansion of stand-alone recreation, pedestrian, or bicycle facilities, such as a multiuse pathway, lane, trail, or pedestrian bridge; and transit plaza amenities.

#### **Environmental Mitigation or Stewardship Activity**

3. Activities designed to mitigate environmental harm that cause no harm themselves or to maintain and enhance environmental quality and site aesthetics, and employ construction best management practices, such as: noise mitigation activities; rehabilitation of public transportation buildings, structures, or facilities; retrofitting for energy or other resource conservation; and landscaping or re-vegetation.

## **Planning and Administration Activity**

4. Planning and administrative activities which do not involve or lead directly to construction, such as: training, technical assistance and research; promulgation of rules, regulations, directives, or program guidance; approval of project concepts; engineering; and operating assistance to transit authorities to continue existing service or increase service to meet routine demand.

## **Action Promoting Safety, Security, Accessibility**

5. Activities, including repairs, replacements, and rehabilitations, designed to promote transportation safety, security, accessibility, and effective communication within or adjacent to existing ROW, such as: the deployment of Intelligent Transportation System (ITS) and its components; installation and improvement of safety and communications equipment, including hazard elimination and mitigation; installation of passenger amenities and traffic signals; and retrofitting existing transportation vehicles, facilities or structures, or upgrading to current standards.

## **Acquisition or Transfer of Real Property Interest**

6. Acquisition or transfer of an interest in real property that is not within or adjacent to recognized environmentally sensitive areas (e.g., wetlands, non-urban parks, wildlife management areas) and does not result in a substantial change in the functional use of the property or in substantial displacements, such as: acquisition for scenic easements or historic sites for the purpose of preserving the site. This CE extends only to acquisitions and transfers that will not limit the evaluation of alternatives for future FTA-assisted projects that make use of the acquired or transferred property.

## **Acquisition or Maintenance of Vehicles/Equipment**

7. Acquisition, installation, rehabilitation, replacement, and maintenance of vehicles or equipment, within or accommodated by existing facilities, that do not result in a change in functional use of the facilities, such as: equipment to be located within existing facilities and with no substantial off-site impacts; and vehicles, including buses, rail cars, trolley cars, ferry boats and people movers that can be accommodated by existing facilities or by new facilities that qualify for a CE.

## **Maintenance, Rehabilitation, or Reconstruction of Facilities**

8. Maintenance, rehabilitation, and reconstruction of facilities that occupy substantially the same geographic footprint and do not result in a change in functional use, such as: improvements to bridges, tunnels, storage yards, buildings, stations, and terminals; construction of platform extensions, passing track, and retaining walls; and improvements to tracks and railbeds.

## Assembly or Construction of Facilities

9. Assembly or construction of facilities that are consistent with existing land use and zoning requirements (including floodplain regulations) and uses primarily land disturbed for transportation use, such as: buildings and associated structures; bus transfer stations or intermodal centers; busways and streetcar lines or other transit investments within areas of ROW occupied by the physical footprint of the existing facility or otherwise maintained or used for transportation operations; and parking facilities.

## Joint Development of Facilities

10. Development of facilities for transit and non-transit purposes, located on, above, or adjacent to existing transit facilities, that are not part of a larger transportation project and do not substantially enlarge such facilities, such as: police facilities, daycare facilities, public service facilities, amenities, and commercial, retail, and residential development.

## Emergency Response Actions

11. The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President of the United States pursuant to the ***Robert T. Stafford Act (42 U.S.C. § 5121 et. seq.)***:
  - a. Emergency repairs under ***49 U.S.C. § 5324***; and
  - b. The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action:
    - i. Occurs within the existing ROW and in a manner, that substantially conforms to the pre-existing design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and
    - ii. Is commenced within a two-year period beginning on the date of the declaration.

## Action within Existing Operational ROW

12. Projects, as defined in ***23 U.S.C. § 101***, which would take place entirely within the existing operational ROW. Existing operational ROW refers to ROW that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of

the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of ROW that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational ROW.

### **Action with Limited Federal Funding**

#### 13. Federally-funded projects:

- a. That receive less than \$5,000,000 of federal funds; or
- b. With a total estimated cost of not more than \$30,000,000 and federal funds comprising less than 15 percent (15%) of the total estimated project cost.

### **Bridge Removal and Related Activities**

14. Bridge removal and bridge removal related activities, such as in-channel work, disposal of materials and debris in accordance with applicable regulations, and transportation facility realignment.

### **Preventative Maintenance of Culverts/Channels**

15. Preventative maintenance, including safety treatments, to culverts and channels within and adjacent to transportation ROW to prevent damage to the transportation facility and adjoining property, plus any necessary channel work, such as restoring, replacing, reconstructing, and rehabilitating culverts or drainage pipes; and expanding existing culverts and drainage pipes.

### **Geotechnical and Other Similar Investigations**

16. Localized geotechnical and other investigations to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archaeological investigations for archaeology resources or similar survey; and wetland surveys.

Additional actions listed in **23 CFR § 771.118(d)** require the preparation of documentation to demonstrate the CE criteria are satisfied and significant environmental effects will not result. The Documented CE is determined to be sufficient in coordination with and when approved by FTA. Examples of such actions include but are not limited to:

## Highway Modernization

1. Modernization of a highway by resurfacing, restoring, rehabilitating, or reconstructing shoulders or auxiliary lanes (e.g., lanes for parking, weaving, turning, climbing).

## Bridge Replacement or Rail Grade Separation

2. Bridge replacement or the construction of grade separation to replace existing at-grade railroad crossings.

## Hardship or Protective Property Acquisition

3. Acquisition of ROW for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the **NEPA** process. No Project Development on such land may proceed until the **NEPA** process has been completed.
  - a. Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document based on health, safety, or financial reasons that remaining in the property poses an undue hardship compared to others.
  - b. Protective acquisition is done to prevent imminent development of a parcel which may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

## Acquisition of ROW

4. Acquisition of ROW. No Project Development on the acquired ROW may proceed until the **NEPA** process for such Project Development, including the consideration of alternatives, has been completed.

## Reserved for Future Use

5. This CE example is reserved for future use per FHWA and FTA joint final rule published on January 13, 2014.

## Facility Modernization

6. Facility modernization through construction or replacement of existing components.

## Modern Facility Realignment for Rail Safety Purposes

7. Minor transportation facility realignment for rail safety reasons, such as improving vertical and horizontal alignment of railroad crossings, and improving sight distance at railroad crossings.

## Facility Modernization/Expansion Outside Existing ROW

8. Modernization or minor expansions of transit structures and facilities outside of existing ROW, such as bridges, stations, or railyards.

For CE projects, coordination with resource agencies may need to take place to verify the finding that there is no potential to significantly impact relevant environmental resources. A Preliminary Environmental Discussion (PED) can be used to provide the project information to the ETAT members (see [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)). Coordination and documentation is also important because it may affect environmental permitting (e.g., Water Management District permits). Coordination with FTA may also be required to make findings under concurrent laws (such as the **Endangered Species Act, Section 106 of the Historic Preservation Act** and **Section 4(f)**), prior to finalizing the COA determination (see [Section 14.5](#)).

The environmental review/PD&E process is considered complete when FTA approves and issues a signed CE. The grant applicant should note approval of all CEs in FTA's Transit Award Management System (TrAMS). The signed CE reflects FTA's environmental decision and does not commit FTA to awarding a grant for a project. Prior to approving a CE, FTA Region IV staff will confirm the project is a candidate to receive FTA funding, could receive an award from one of FTA's programs, or is programmed for federal funding by the MPO/TPO in the LRTP CFP. The timeframe required for FTA to review and approve the CE will vary depending on the complexity of the project but generally, the project sponsor should expect the review to be less than that required for EAs and EISs.

For CEs, the project sponsor should prepare a **Public Involvement Plan (PIP)** to outline the process for community input into the decision-making process; however, FTA does not require CE documentation to be made available for an advertised public and agency review period. However, project sponsors may choose to publish a notice in the local newspaper that FTA has approved a CE for a transit project. The advertisement also serves as a notice of opportunity for the public to request to hold a public hearing (see [Part 1, Chapter 11, Public Involvement](#)).

### 14.3.3.3 Environmental Assessment

FTA requires an EA be prepared when the significance of environmental impacts associated with a project's activities is unknown or not clearly established [**23 CFR § 771.115 and 23 CFR § 771.119(a)**]. According to FTA guidance, the project sponsor should prepare an EA for any action that is not a CE but does not clearly require the preparation of an EIS. Based on the degree of environmental impacts as discussed in the EA, FTA may issue a FONSI. Alternatively, if a project's EA concludes that there is the potential for significant impacts because of its implementation, FTA requires that the project sponsor prepare an EIS.

An EA should be concise and include information on the purpose and need for the project, the alternatives considered, the environmental impacts, and the agency and public coordination that occurred. The format for an FTA-led EA is very similar to that provided in [Part 1, Chapter 6, Environmental Assessment](#). After informal scoping for an EA (if conducted) or project review by Regional staff (see **FTA SOP No. 7, Scoping, Section 4.2**), FTA recommends the project sponsor prepare an annotated outline for review, revision, and approval by FTA Regional IV staff. The Region IV staff should provide direction to the project sponsor on key environmental issues and how these issues will be addressed during the review process.

For FTA-led EAs, there are several additional environmental disciplines that should be addressed if relevant to the project, including Economic Development, Safety and Security, and Vibration and GBN. Resources for which the potential impact is insignificant should be mentioned briefly. These resources are typically summarized at the beginning of the document and in a section titled "Resources of No Concern." Technical reports or studies that support the findings included in the EA, but which are not significant, should be incorporated by reference.

#### 14.3.3.3.1 Public and Agency Review Requirements

FTA will review and approve the EA prior to releasing the EA and the supporting technical reports for public and agency review. FTA Region IV approval of the EA will be in the form of the Regional Administrator's signature on the document. Once approved the FTA Region IV staff will send an electronic copy of the EA to the project sponsor, this should then be attached to the document before the public and agency review period. The public and agency review period for an EA is typically 30 days, but depending on the complexity of the project, the project sponsor and FTA may agree to a longer public and agency review period. During this time, a public hearing may be held. Per FTA requirements as outlined in **23 CFR § 771.119(e)**, the public hearing will be held after a notice to the public and agencies of no less than 15 days prior to a public hearing. The public hearing is the official public forum through which the public and elected officials express their concerns, opinions, comments, or support regarding the project. The schedule and process for the public and agency review period and the public hearing for the EA should be outlined in the **PIP**.

Distribution and notice of the approved EA is governed by **23 CFR § 771.119(d)-(h)**.

FTA's methods for providing public and agency access and review for the EA include:

1. Publication on the project website;
2. Electronic distribution on a Compact Disk (CD); and,
3. Hardcopy delivery to interested agencies and placement of hardcopies in public viewing places, such as the project sponsor's office, the FTA Regional IV Office, and at the public hearing location, and may be available at other public institutions, such as public libraries or other local government offices in the project area.

The project sponsor should publish a notice of availability in local newspapers and on the project sponsor's website, noting 1) where the public can access the document; 2) the 30-day review period; 3) where comments should be sent; and 4) public meeting details.

#### **14.3.3.3.2 Finding of No Significant Impact**

After the public hearing for the EA, FTA may determine that the proposed project will not have significant environmental impacts and will not require the preparation of an EIS. A FONSI is a final decision document for an EA. The FONSI does not commit FTA to awarding a grant for a project. Prior to issuing a FONSI, FTA Region IV staff will confirm the project is a candidate to receive FTA funding, could receive an award from one of FTA's programs, or is programmed for federal funding by the MPO/TPO in their LRTP CFP.

The FONSI serves the following purposes:

1. Briefly describes the LPA;
2. Rationale used to select the LPA from the alternatives considered;
3. Summarizes all environmental impacts and findings associated with the LPA including a statement of findings on all relevant impact disciplines and environmental laws (e.g., **Section 106**, **Section 4(f)**, wetlands, floodplains, coastal zone consistency);
4. Summarizes specific mitigation measures that will be incorporated into the LPA to reduce environmental impacts to less than a significant magnitude; and,
5. Includes an attachment of the summary of comments received during the public and agency review period and public hearing for the EA.

Once completed, the FONSI is attached to the EA, which may be updated to respond to comments received during the public and agency review period, and along with the public hearing transcript and a cover letter, is submitted by the project sponsor to FTA for approval. FTA conducts a document review for compliance with its rules and regulations. Once the FONSI is approved, the FTA Region IV office will send an electronic copy of the FONSI to the project sponsor who should then issue an notice of availability for the FONSI



which will announce locally that the environmental review process is complete for the project. The EA and FONSI should be posted on the project website and be maintained until the project is open and operating. A formal **Notice of Availability (NOA)** (i.e., a notice published in the **FR**) is not required for EAs.

#### 14.3.3.4 Environmental Impact Statement

When a project's actions are likely to cause a significant environmental impact, FTA requires that the project sponsor complete the EIS process, which consists of a substantial technical evaluation and public comment. An EIS is conducted to evaluate the project's reasonable alternatives, specify the significant social, economic, and environmental impacts of the proposed action, and designate methods to avoid or mitigate these impacts. For additional guidance, review the **FTA Managing Content, Review, and Distribution of Environmental Impact Statements**.

The principal components of an EIS include the following (see [Figure 14-7](#)):

1. Purpose of and need for the proposed action;
2. Alternatives considered, including the Build Alternatives and No-Build alternative for the proposed action;
3. Transportation Analysis;
4. Community and Social Analysis;
5. Physical and Environmental Analysis (the built and natural environments);
6. Indirect and Cumulative Impacts;
7. Environmental Justice;
8. **Section 4(f)** Analysis;
9. Consultation and Coordination;
10. Financial Considerations (particularly important for New Starts, Core Capacity, and Small Starts projects); and,
11. Evaluation of Alternatives.

Refer also to [Part 1, Chapter 8, Draft Environmental Impact Statement](#) for principal components for a DEIS.

An EIS must be signed by the FTA Regional Administrator and the authorized official of the project sponsor and/or cooperating agency. The approved EIS is then concurrently filed by FTA with the U.S. Environmental Protection Agency (EPA) and distributed to federal and state agencies for review.

The EIS is written for use by the public as well as professional staff; and the information should be presented in a logical and reader-friendly format. It documents the study process and those issues that influenced decisions. It is commensurate with the complexity of the project but should be concise, where possible. Supporting technical reports or memoranda should be incorporated by reference. To improve the reader-friendly nature of the report, consider developing a document that has several volumes where the first volume contains a concise description of the required items listed above and more detailed information about specific resources or issues are provided in subsequent volumes.

#### 14.3.3.4.1 Notice of Intent

The EIS process begins with the publication of a **Notice of Intent (NOI)** to prepare an EIS in the **FR**. The project sponsor also announces the intent to prepare an EIS in local newspapers, project websites, and other media. The **NOI** presents the draft purpose and need, a tentative list of alternatives considered, potential environmental impacts, lists the dates and locations of **NEPA** scoping meetings, addresses where comments can be sent via mail or electronic format, and contact information for representatives at the project sponsor's and the Lead Agency's offices. The **NOI** officially initiates the **NEPA** scoping period and is prepared by the project sponsor in accordance with procedures in [Part 1, Chapter 8, Draft Environmental Impact Statement](#) and [Part 1, Chapter 11, Public Involvement](#). When completed, the **NOI** is forwarded to the FTA Region IV office for publication in the **FR**. [Part 1, Chapter 8, Draft Environmental Impact Statement](#) provides a sample transmittal letter for an **NOI**.

#### 14.3.3.4.2 NEPA Scoping

**NEPA** scoping (scoping) is a formal process for projects requiring an EIS. **NEPA** scoping is required and described in **40 CFR § 1501.7**. According to **23 CFR Part 771**, scoping should begin early in the Project Development process to identify potentially significant environmental impacts and alternatives to avoid or minimize impacts are identified for further evaluation in the **NEPA** document. Impacts that can be deemed inconsequential at this stage in the process should be identified as not needing further evaluation or only requiring limited evaluation (e.g. coastal zone management for inland area projects or prime farmland for project in a dense urban environment), thereby keeping the **NEPA** document focused on impacts of significance. **NEPA** scoping usually targets affected governmental agencies and public interest groups and organizations with specific knowledge about a project study area. Issues identified in the ETDM screening process are used for **NEPA** scoping.

The objectives of **NEPA** scoping are to:

1. Determine the set of alternatives that will be examined in the Draft Environmental Impact Statement (DEIS);
2. Give interested agencies and the public an opportunity to comment on the scope of the analysis and raise issues that should be addressed in the DEIS;

3. Promote efficiency by assembling cooperating agencies, determining related environmental requirements, scheduling concurrent reviews, and setting milestones in the process; and,
4. Reduce the overall processing time by ensuring that the DEIS adequately addresses all relevant issues and minimize the possibility that comments will raise new issues to be evaluated or require supplemental documents.

**NEPA** scoping may include a formal scoping meeting held early in the PD&E process. To determine if a **NEPA** scoping meeting should be held, comments from the ETDM screening and coordination with FTA should be considered. **NEPA** scoping meetings, like other public meetings, fall under **Florida's Sunshine Law**. At a minimum, notification to the public must be provided in the **Florida Administrative Register** as well as the project sponsor agency's public website. Requirements for providing notice for **NEPA** scoping meetings can be found in [Part 1, Chapter 11, Public Involvement](#).

#### 14.3.3.4.3 Annotated Outline

After the scoping process, Regional IV staff should guide project sponsors to prepare an annotated outline of the EIS for FTA review and approval. The Annotated Outline guides the development of the **NEPA** document. The annotated outline helps define and prioritize the impact areas for further consideration and provides key information on document development (e.g., chapter content, identification of maps and other graphics, page number goals). To accomplish these purposes, annotated outlines should: 1) focus the discussion on major issues to be treated [**40 CFR § 1501.7(a)(2) and (3)**]; 2) set goals for conciseness and clarity by setting page limits [**40 CFR § 1501.7(b)(1)**], limiting descriptive passages to only what is necessary to understand the nature of the issues (**40 CFR § 1502.15**), avoiding duplication of discussions in different sections (**40 CFR § 1502.16**), and incorporating information by reference where possible (**40 CFR § 1502.21**); and 3) set schedules, as appropriate, for the **NEPA** process (**40 CFR § 1501.8**).

#### 14.3.3.4.4 Coordination Plan

A **Coordination Plan** provides the communication protocol and schedule for coordination among the FTA, the project sponsor, other federal resource agencies, participating and cooperating agencies, stakeholders, and the public during the process of preparing an EIS and EA. The **Coordination Plan** should include dates and locations for public hearings, as required by **23 CFR § 771.123(h)** and **Section 339.155, F.S.**, should also be included. The main goal of the **Coordination Plan** is to expedite and improve the environmental review process by clearly establishing agency roles, responsibilities, and expectations regarding participation in and comment on the environmental review process for a project (see [Section 14.2.1](#)). The **Coordination Plan** satisfies the federal requirements of **Section 6002 of SAFETEA-LU**, as amended and continued by **Moving Ahead For Progress in the 21<sup>st</sup> Century Act (MAP-21)** and **Fixing America's Surface Transportation Act, (FAST Act)**, and codified in **23 U.S.C § 139(g)(1)**.

The **Coordination Plan** differs from the **PIP**, which identifies potentially affected people in a community and defines the outreach methods and schedules for seeking their input (see [Part 1, Chapter 11, Public Involvement](#)). The **PIP** is developed for all transportation projects for which a Type 2 CE, EA, EIS, SEIR, or PEIR is prepared, whereas the **Coordination Plan** is developed for projects for which an EIS or EA is prepared with FTA as the Lead Agency. The **PIP** for an EIS or EA is a component of the **Coordination Plan** and may be incorporated by reference into the **Coordination Plan**.

#### 14.3.3.4.5 Draft Environmental Impact Statement

A DEIS is prepared to document the project's reasonable alternatives, discuss the significant social, economic, and environmental impacts of the proposed action, and designate methods to avoid or mitigate these impacts. The outline of the DEIS should closely follow the principal EIS components as presented in [Section 14.3.3.4](#) and in [Figure 14-7](#).

A DEIS must be signed by the FTA Region IV Administrator and the authorized official of the project sponsor and/or cooperating agency. The approved DEIS is then concurrently filed by FTA with U.S. EPA and distributed by the project sponsor to federal and state agencies for review. In addition, the project sponsor should place an advertisement in a local newspaper stating that a DEIS has been approved and where it is available for public review (see [Part 1, Chapter 11, Public Involvement](#)). The same advertisement may include a notice of public hearing for the DEIS.

The DEIS is written for use by the public as well as professional staff at interested agencies; therefore, the information should be presented in a logical and reader-friendly format. It documents the study process and those issues that influenced decisions. It is commensurate with the complexity of the project but should be concise where possible. Supporting technical reports or memoranda should be incorporated by reference and included as a second volume appended to the main document. This may be accomplished by providing electronic CDs attached to the inside cover the DEIS document.

#### 14.3.3.4.6 Public and Agency Review Requirements

Once a DEIS has been completed and signed by FTA Region IV Regional Administrator, a **NOA** is published in the **FR** by FTA and advertised through local media by the project sponsor to solicit public and agency review of the DEIS. The DEIS is circulated to those agencies with jurisdiction by law, parties that have expressed an interest, either through the **NEPA** scoping process or in response to the **NOA**, and other entities potentially affected by any of the alternatives. Per FTA requirements as outlined in **23 CFR § 771.123 (h)** and **(i)**: the DEIS shall be available to the public both at the public meeting as well as 15 days in advance of the public meeting; and, the **FR** notice shall establish a period of not fewer than 45 days nor more than 60 days to return comments on the DEIS. The public hearing for the DEIS must also be conducted to comply with **Section 339.155(5), F.S.** (see [Part 1, Chapter 11, Public Involvement](#)).

#### **14.3.3.4.7 Final Environmental Impact Statement**

Following the public hearing for the DEIS, the project sponsor will prepare an FEIS. To the extent possible, the FEIS should document compliance with all applicable environmental laws and Executive Orders and will provide a response to all substantive comments received during the public and agency review period. The FEIS should clearly identify the preferred alternative, which includes the alignment, preferred locations of stations, maintenance facilities, and other associated structures. The FEIS will undergo a legal sufficiency review by FTA Region IV counsel prior to approval by the Regional Administrator. The project sponsor should make every reasonable effort to resolve interagency disagreements on actions before submitting the FEIS to FTA Region IV staff, as this can delay approval of the FEIS. If significant issues remain unresolved, the FEIS should identify those issues and the consultations and other efforts being made to resolve them (see [Part 1, Chapter 9, Final Environmental Impact Statement](#)). FTA typically does not advertise a public and agency review period for a FEIS. However, if the project sponsor prefers a review period, then the FTA or other Lead Agency will upload a copy of the FEIS to U.S. EPA's "e-NEPA" website for publication in the *FR* for a 30-day comment period.

#### **14.3.3.4.8 Record of Decision**

Following completion of the FEIS, the FTA or other Lead Agency may issue a ROD. **Title 23 USC § 139** directs the use of a combined FEIS and ROD (FEIS/ROD) as the final project decision to the maximum extent practicable. If a combined FEIS/ROD is not possible, the ROD will be issued after the review period on the FEIS. All substantive comments received during the 30-day wait period following completion of the FEIS should be addressed in the ROD. The ROD is a concise report that states FTA's determination that *NEPA* has been completed for the project. The ROD describes the FTA decision, identifies alternatives that were considered, identifies the LPA, the rationale for selecting the LPA from the alternatives considered, and summarizes specific mitigation measures that will be incorporated into the LPA. FTA has very specific language it prefers to use for a ROD. The project sponsor should coordinate with FTA Region IV staff for confirmation of language that should be used in the ROD, including the **Limitation on Claims** notice language.

#### **14.3.3.4.9 Accelerated Decision-Making for Environmental Impact Statements**

**Title 40 CFR § 1503.4(c)** and **Title 23 USC § 139** allow for the preparation of an FEIS by attaching errata sheets to the DEIS if certain conditions are met. To the maximum extent practicable, and unless certain conditions exist, FTA should develop a single document that combines the FEIS and ROD.

##### **FEIS Errata Sheet**

Under **Title 23 USC § 139**, FTA may direct project sponsors to use errata sheets attached to a DEIS in lieu of rewriting the entire DEIS document if:

1. Comments received on the DEIS are minor; and
2. FTA's responses to those comments are limited to factual corrections or explanations of why the comments do not warrant further response.

When applying this provision, FTA must make both the errata sheets and the DEIS available for public and agency review to the same extent as a traditional FEIS. The errata sheets and the information required in an FEIS are attached to the DEIS for submittal to FTA as the FEIS. This document will undergo legal sufficiency review required by **23 CFR § 771.125**.

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

1. A list and explanation of:
  - a. The factual corrections made to the DEIS with references to the relevant page numbers in the DEIS, citing the sources, authorities, or reasons that support the position of the agency; and
  - b. The DEIS comments and the reasoning why the DEIS comments do not warrant additional response by the agency, citing the sources, authorities, or reasons that support the position of the Lead Agency;
2. If appropriate, an indication of the specific circumstances that would trigger the agency's environmental reassessment or further response, particularly information that could lead to re-evaluation or a supplemental environmental impact statement; and
3. A web address or other indication of where a copy of the DEIS may be obtained.

### **Combined FEIS and ROD Documents**

Traditionally, FEIS and ROD documents are issued as separate documents with a minimum 30-day period between the FEIS and ROD. **Title 23 USC § 139** directs FTA, to the maximum extent practicable, to combine the FEIS and ROD 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 and that bear on the proposed action or the impacts of the proposed action.

### **Application of Both FEIS Errata Sheet and Combined FEIS and ROD Documents**

FTA may use the errata sheet and combined FEIS/ROD provisions together so long as the conditions of both **Title 40 CFR § 1503.4(c)** and **Title 23 USC § 139** are met. When

both provisions are used together, the final **NEPA** document would consist of a DEIS, errata sheets, responses to DEIS comments, and the ROD.

### **14.3.3.5 Sufficient Engineering and Design Work**

During Project Development, FTA requires that at a minimum the project sponsor to complete sufficient engineering and design work (equivalent to 30 percent design effort) which include construction, real estate, and operating cost estimates as well as a summary of the scope and risks associated with the project. However, FTA encourages project sponsors to complete as much engineering and design work on the LPA if needed to improve the reliability of the project cost, scope, and schedule because FTA intends to lock in the CIG amount at the level requested with entry into Engineering. The **FTA Oversight Procedure No. 51, Readiness to Enter Engineering** and the **Final Interim Policy Guidance Federal Transit Administration Capital Investment Grant Program** describe the recommended procedure including a list of engineering and design elements that should be completed prior to FTA's approval for entry to Engineering. Project sponsors should work closely with FTA Region IV staff when preparing this information.

### **14.3.3.6 Request Entry into Engineering**

Project sponsors who want to enter the Engineering phase as a New Starts or Core Capacity project should submit a letter to the Associate Administrator for FTA's Office of Planning and Environment upon completion of the Project Development phase. Coordination with FTA Region IV staff is highly recommended prior to preparing this information to ensure the guidance has not changed. This process serves as an application for funding.

The project sponsor request for entry into Engineering should include the information contained in the **Final Interim Policy Guidance Federal Transit Administration Capital Investment Grant Program**. FTA will use the information provided by the project sponsor to develop ratings for the project justification and local financial commitment criteria. FTA will work with the project sponsor to assess the strengths and weaknesses of alternatives still under consideration and provide technical assistance on how to meet the requirements to enter the Engineering phase. Technical assistance may include workshops or other methods focused on the readiness requirements to enter the Engineering phase. Formal oversight will generally begin at the completion of **NEPA** and will be designed for each project sponsor based on how far the project has advanced in conceptual design work, the complexity of the project, and the project sponsor's capability to undertake engineering and construction.

### **14.3.3.7 Environmental Re-Evaluation**

A **NEPA** re-evaluation may be necessary if there have been changes to the project design or project boundaries, or changes to laws, regulations, or policies that may affect the environmental review process during Engineering or Construction phase. Decisions about whether a new or supplemental **NEPA** document is required should be made in consultation with the FTA Region IV office. An **Environmental Re-Evaluation**

**Consultation Worksheet** is provided in [Figure 14-8](#). Project sponsors should consult with FTA Region IV staff to verify that the latest version of the **Environmental Re-Evaluation Consultation Worksheet** is used.

## 14.4 FTA FUNDING PROGRAMS

The environmental review process is largely dictated by the funding source being used to develop transit projects. Therefore, understanding the funding programs provides guidance in delivering projects that are compliant with **NEPA** but also provide supportive information to submit grant applications to FTA. The **FAST Act** provides a long-term funding strategy for transportation improvements nationwide. This Act clarifies, modifies, and updates past transportation legislations including **MAP-21**. Guidance on implementing changes as a result of **FAST Act** will be developed by transportation authorities under the U.S. DOT. As guidance becomes available, this chapter will be updated with references as applicable. The modifications to the grant programs in the **FAST Act** are reflected in this chapter.

When seeking FTA funding, FTA will be the Lead Agency in the development of transit projects. There are three categories of FTA funding programs: Formula, Discretionary, and CIG. Generally, funding from Formula programs is allocated to pay for transit operating and maintenance costs; therefore, these funds are rarely used for advancing construction for a new transit project. Funding from FTA's Discretionary programs is allocated through a competitive process with detailed evaluation criteria used for comparison purposes. The CIG program discretionary grants are discussed separately in this chapter as they have distinctive requirements including legislatively directed multi-year, multi-step processes with FTA project evaluation and ratings required at specific points. Additional guidance for the requirements for FTA's formula and discretionary grant programs should be obtained from the FTA Region IV office. A link for FTA Region IV's website is provided in the [Section 14.5](#).

The sections below discuss FTA's CIG program, Formula Programs, Discretionary Programs in more detail. If another federal funding source is being pursued, the appropriate program requirements should also be reviewed throughout the planning and PD&E processes.

### 14.4.1 Capital Investment Grant Program

Funding legislation outlines a detailed process that proposed transit construction projects must go through to be eligible for and receive discretionary CIG program funding from FTA. It establishes three categories of eligible projects under the CIG program, New Starts, Small Starts, and Core Capacity projects. Each type of project has a unique set of requirements although many similarities exist among them. Project sponsors interested in pursuing funding for an eligible project under the CIG program should contact FTA Region IV to obtain guidance for requirements beyond those specific to the environmental review process. The processes for both the New Starts and Core Capacity programs are similar. Each consists of a Project Development and an Engineering phase, and both require an initial and final FTA evaluation, rating, and approval. By law, a project must



receive at least a Medium overall rating on the required evaluation criteria to be eligible for entry into the Engineering phase. The final FTA evaluation and rating may result in a Full Funding Grant Agreement (FFGA) so that the grant applicant may proceed with project construction ([Figures 14-2](#) and [14-3](#)). FFGAs can only be executed by the FTA after a New Start project has advanced into Engineering. See **FTA Circular 9300.1B** for more guidance on the administration of the CIG Program

The process for the Small Starts program consists of a Project Development phase and requires only one FTA evaluation, Medium overall rating, and approval that may result in a Small Starts Construction Grant Agreement (SSGA), where the grant applicant may proceed with project construction (see [Figure 14-4](#)).

#### **14.4.1.1 New Starts**

FTA's New Starts Program provides funding to support new locally planned and operated fixed guideway systems or extensions to existing fixed guideway systems. Eligible projects can include, but are not limited to, heavy rail transit (HRT), light rail transit (LRT), fixed guideway Bus Rapid Transit (BRT), commuter rail, aerial cable transit (ACT), passenger ferries, or the extension of any of these existing systems. Potential New Starts projects are evaluated and rated based on specific FTA criteria, which establish the justification for the project and determine the degree of local financial commitment ([Figure 14-5](#)). To be eligible for the New Starts Program, a project's total cost must be greater than or equal to \$300 million and/or the amount of New Starts funding sought must be greater than \$100 million. It should be noted that if the federal share request is 50% or less and the rating is Medium, the rating for Financial Commitment gets bumped up one level. The Project Development phase for New Starts projects includes completion of the environmental review process with FTA's approval of a CE, FONSI, or ROD as prepared by the project sponsor. The Project Development phase also includes the selection of a LPA for the project as documented in the final CE, FONSI, or ROD and the adoption of the LPA into the MPO/TPO's LRTP CFP. The Engineering phase includes completion of engineering and final design of the LPA. The final phase is the grant agreement phase where grant applicants may receive a FFGA.

#### **14.4.1.2 Core Capacity**

Core Capacity projects are also eligible for **Section 5309** funds. Core Capacity projects are substantial, corridor-based investments to existing fixed guideway systems that are "at capacity" today or will be within the next five (5) years. An additional eligibility requirement is that the Core Capacity project must increase the overall capacity of the existing, fixed guideway system by at least ten percent (10%). Examples of activities that could be considered include: the acquisition of real property or ROW, double tracking, signalization improvements, expanding system platforms, and the acquisition of rolling stock for added capacity. Funding may not be applied to project elements designed to maintain a State of Good Repair (SOGR) and may not be used to improve general station facilities, parking, or the acquisition of rolling stock alone. The process for Core Capacity improvement projects is similar to that of New Starts projects in that it consists of the

Project Development and Engineering phases prior to receiving an FFGA ([Figures 14-2](#) and [14-3](#)).

### 14.4.1.3 Small Starts

In addition to the New Starts and Core Capacity Programs, FTA also administers a Small Starts Program. Small Starts projects are typically smaller in size and scope than New Starts and Core Capacity projects. As such, the Small Starts process contains only one legislatively directed FTA evaluation, rating, and approval (as shown in [Figure 14-4](#)). It also consists of only one phase, Project Development, prior to being eligible to receive an SSGA. To be eligible for the Small Starts Program, a project's total cost must be less than \$300 million and the amount of Small Starts funding sought must be less than \$100 million. Projects eligible for Small Starts funding include new fixed guideway systems and extensions that meet the funding eligibility requirements, including fixed guideway BRT. Also eligible are corridor-based BRT projects that represent a substantial investment in a defined corridor but do not fully operate within exclusive ROW or travel lanes, but do have other features including defined stations, transit signal priority (TSP), and short headway, bi-directional service for a substantial part weekdays.

### 14.4.1.4 Programs of Interrelated Projects

This is a funding combination of two or more projects receiving New Starts, Small Starts or Core Capacity funds that have logical connectivity. The maximum share of CIG funds is 80%, and total federal funds for the Program of Interrelated Projects may not exceed 80%. Non-federal funds committed to a project in the Program of Interrelated projects may be used as a match for any other project in the program provided the federal share does not exceed 80%.

## 14.4.2 Formula Programs

Funding is available from FTA's Formula programs for a variety of activities that may require the preparation of a **NEPA** document. The formulas used to determine the funding available varies by program and specific requirements apply. A partial list of Formula program funds is provided below. Refer to FTA's website for additional program funding sources and grant requirements.

1. **Bus and Bus Facilities (Section 5339)** – for the purchase or rehabilitation of vehicles and related equipment and construction of bus-related facilities.
2. **State of Good Repair Grants (SOGR) (Section 5337)** – for the repair and upgrade of existing rail transit systems and high-intensity bus systems that utilize high occupancy vehicle lanes, including BRT.
3. **Urbanized Area Formula Grants (Section 5307)** – for areas with populations of 50,000 or greater, these funds allow for the implementation of capital projects, planning, Job Access and Reverse Commute (JARC) projects, and operating funds in certain circumstances.

4. **Formula Grants for Rural Areas (Section 5311)** – for the same activities covered by the Urbanized Area Formula Grants but for areas with populations less than 50,000.
5. **Enhanced Mobility of Seniors and Individuals with Disabilities (Section 5310)** – for capital projects and other activities that enhance the mobility of seniors and persons with disabilities.

### 14.4.3 Discretionary Programs

Funding is available from FTA's Discretionary programs for a variety of activities that may require the preparation of a **NEPA** document. The funding available varies by program and specific requirements apply and many of the current discretionary grants are for planning activities only and as such most may not be used for project construction, and therefore not require **NEPA** documentation. A partial list of Discretionary program funds is provided below. Refer to FTA's website for additional program funding sources and grant requirements.

1. **Mobility Services for All Americans (MSAA) Deployment Planning Projects** – funds for ITS to coordinate deployment of on-demand public transportation systems, such as paratransit for people with mobility issues.
2. **Innovative Safety, Resiliency, and All-Hazards Emergency Response and Recovery Demonstration** – funds innovative research and demonstration projects that develop and showcase promising technologies, methods, practices, and techniques that improve the operational safety, infrastructure resilience, and all-hazards emergency response and recovery capacities of transit agencies. All-hazards may include natural disasters, terrorist acts, hazardous materials releases, structural failures involving the transit system, and civil unrest.
3. **Low or No Emissions Vehicle Deployment Program** – funds capital acquisitions and leases of zero-emission and low-emission transit buses, including acquisition, construction, and leasing of required supporting facilities such as recharging, refueling, and maintenance facilities.
4. **Innovative Public Transportation Workforce Development Program** – funds innovative public transportation workforce development models and programs of regional and national significance, which invest in America's economic growth and promote ladders of opportunity for all Americans.
5. **Prior Year Section 5309 Bus and Bus Facilities Program (Ladders of Opportunity Initiative)** – funds may be used to purchase, replace, or rehabilitate transit buses and vans as well as to modernize or construct bus facilities (such as maintenance facilities and intermodal facilities) in urban, suburban, and rural communities.

6. **Section 20005(b) Pilot Program for Transit-Oriented Development Planning** – funds efforts to integrate land use and transportation planning with a transit capital investment that will seek funding through the FTA’s CIG program.
7. **Passenger Ferry Grant Program** – funds public ferry systems in urbanized areas. Funds are awarded based on factors such as the age and condition of existing ferry boats, terminals and related infrastructure; benefits to riders, such as increased reliability; project readiness; and connectivity to other modes of transportation.
8. **Tribal Transit Program** – funds transit projects for federally recognized Indian Tribes or Alaska Native villages, groups, or communities as identified by the U.S. Department of Interior (DOI), Bureau of Indian Affairs (BIA).

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## **14.6 HISTORY**

7/10/2008, 9/01/2016, 6/14/2017: NEPA Assignment, 1/14/2019



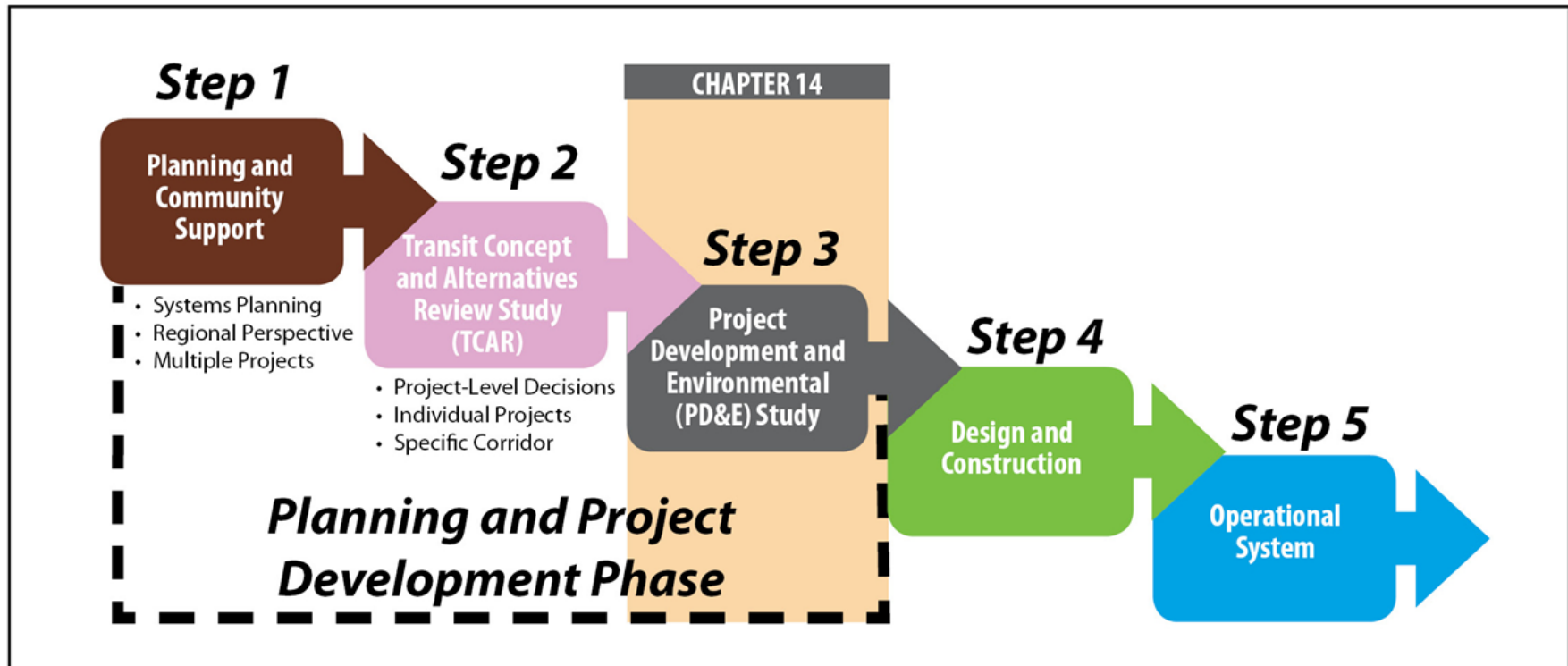
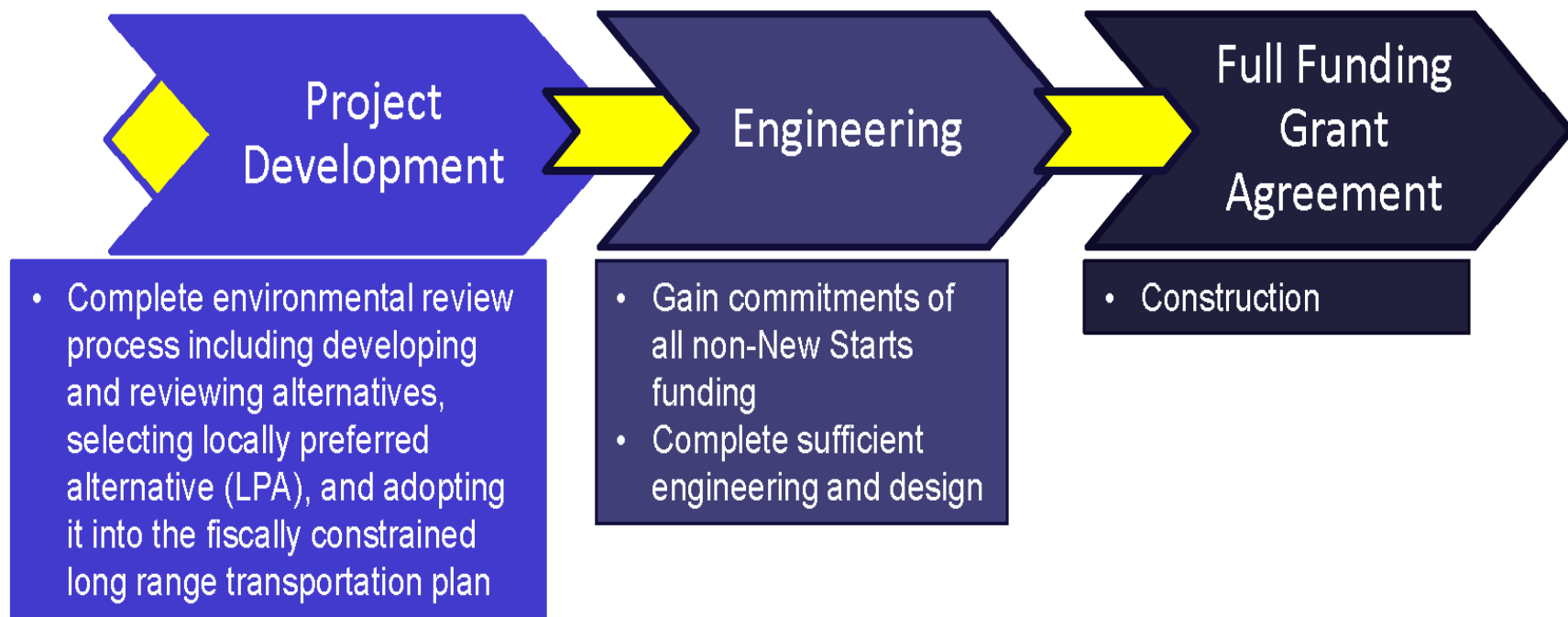


Figure 14-1 Transit Planning and Development Phase



**Legend**

 = FTA approval

 = FTA evaluation, rating, and approval

**Figure 14-2 New Starts Development Process**

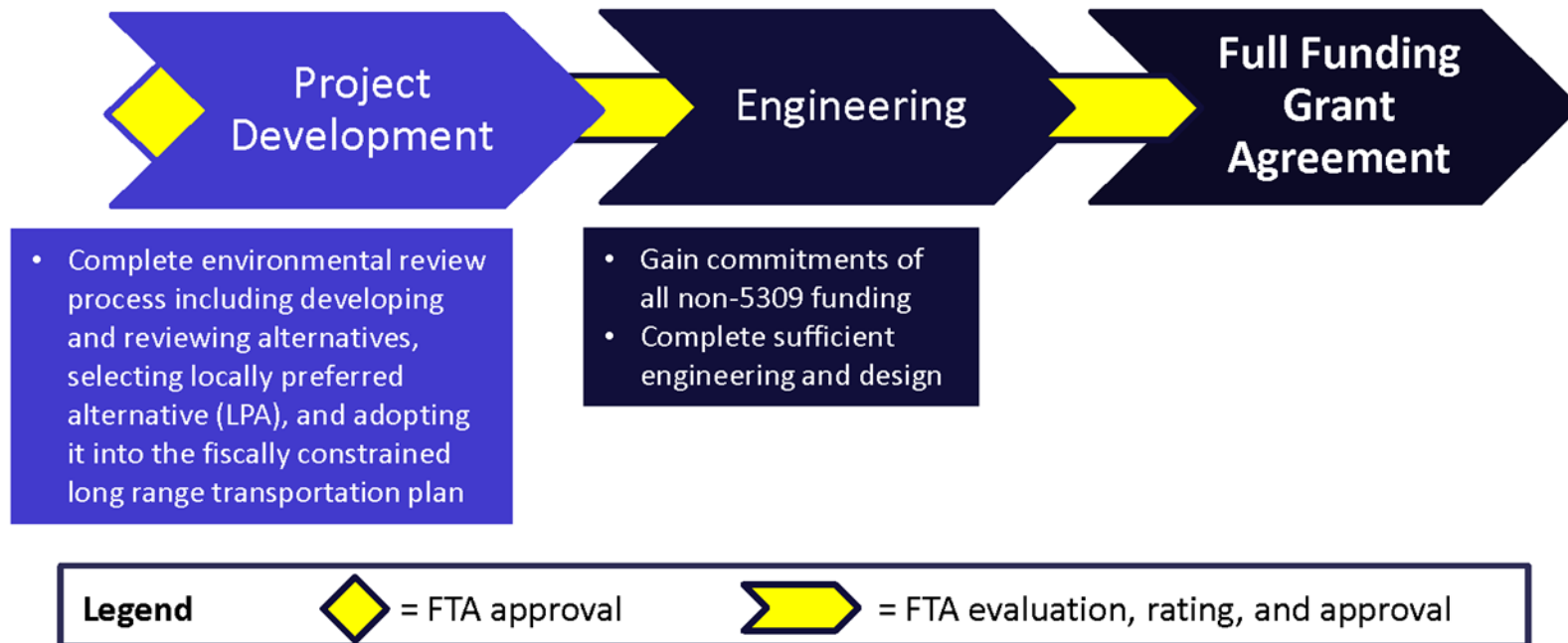
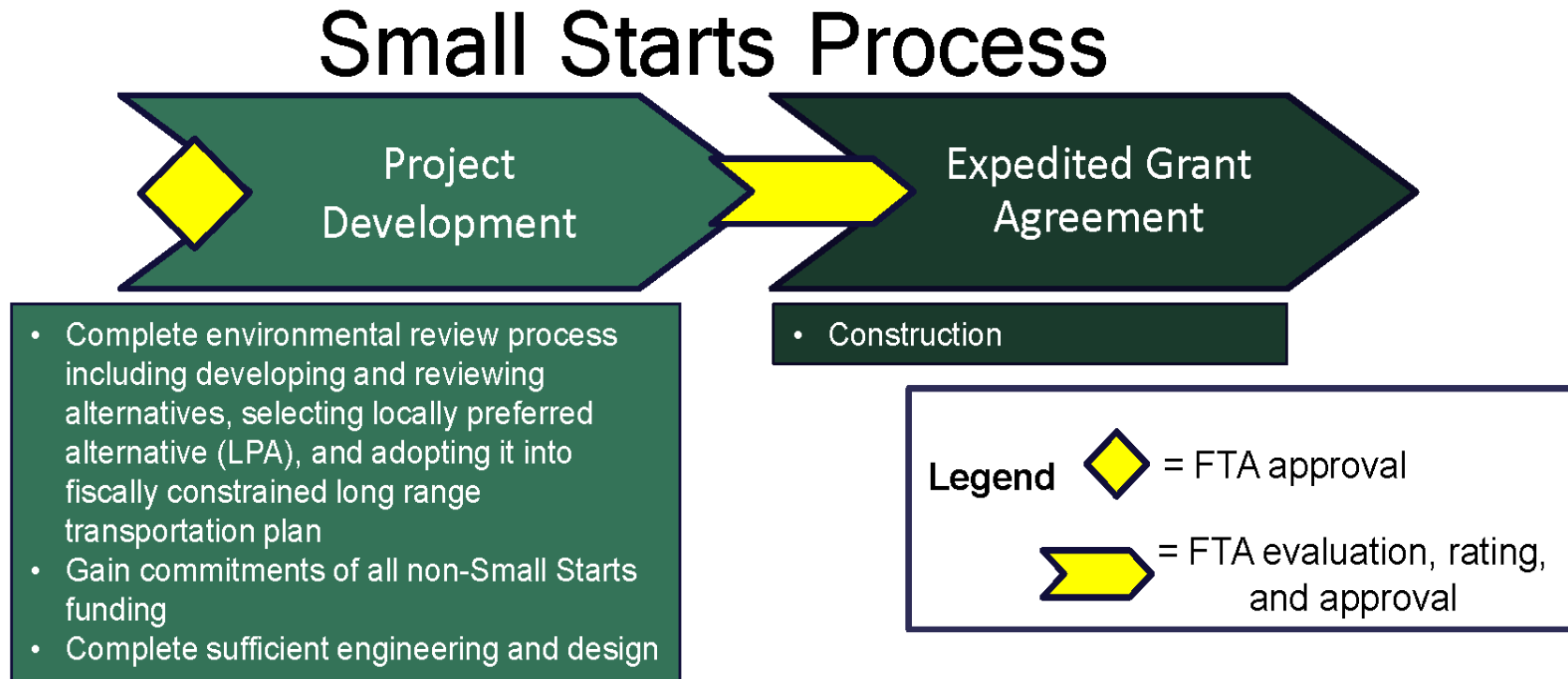


Figure 14-3 Core Capacity Development Process



**Figure 14-4 Small Starts Development Process**

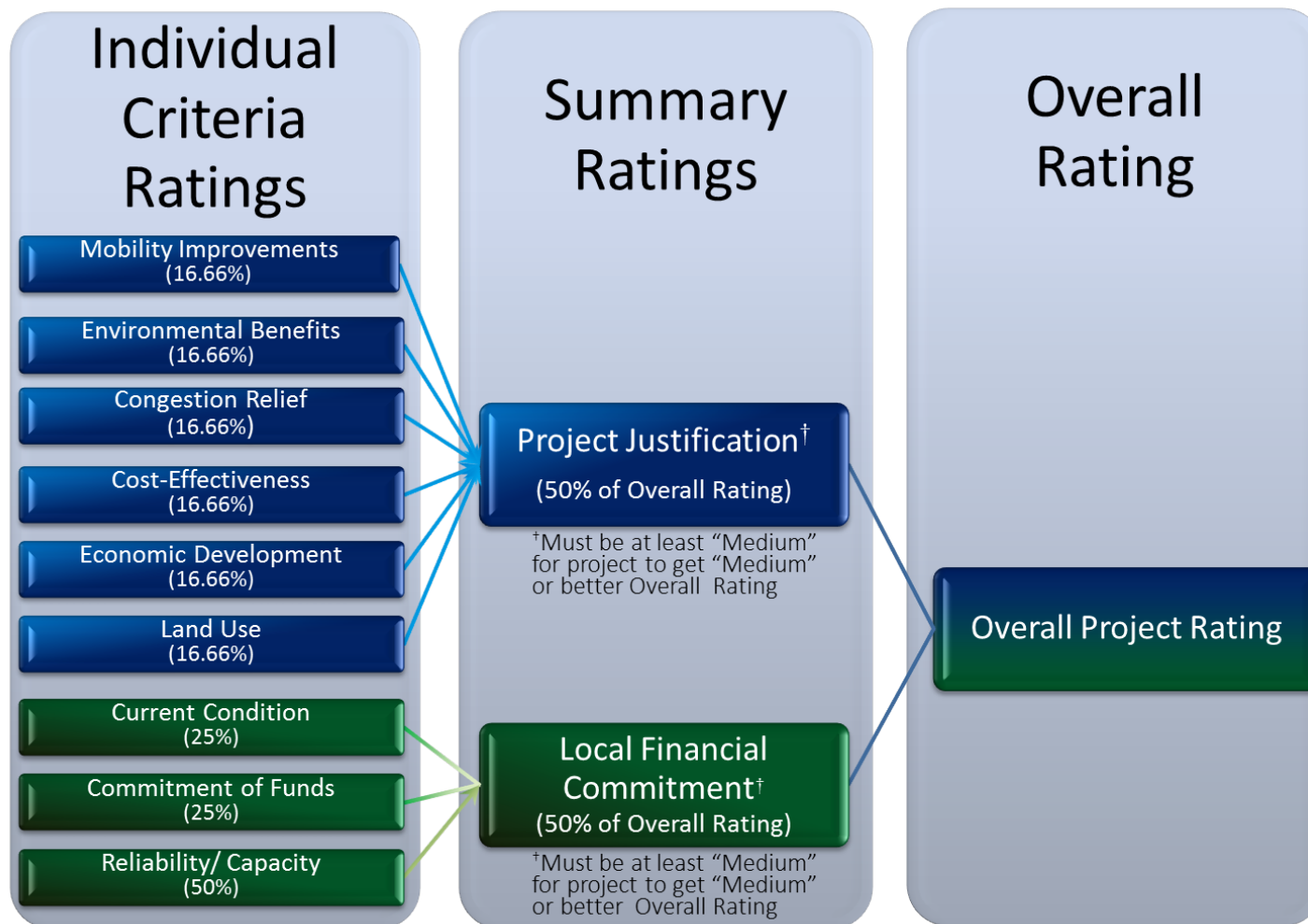


Figure 14-5 New Starts, Core Capacity, and Small Starts Project Evaluation and Rating

Date \_\_\_\_\_

Grant Applicant/Project Sponsor \_\_\_\_\_

Project Name \_\_\_\_\_

City, County, State \_\_\_\_\_

[NOTE: Pursuant to 40 C.F.R. § 1506.5, applicants or applicants' contractors may prepare NEPA documents for submittal to federal agencies. However, the applicant is responsible for submitting accurate and complete documentation to FTA. Please prepare a separate transmittal letter or statement to accompany the CE verifying that you have reviewed the information contained in the document when you transmit it to FTA. The transmittal should include the following statement: "in submitting the (project name) categorical exclusion (CE) to the FTA, the applicant (insert name/agency info) affirms that it has reviewed and supports the information presented documenting the proposed action as meeting the criteria for a CE in accordance with 23 CFR Part 771.118 (d)(# - insert appropriate number here), or 23 CFR Part 771.117(d)(# - insert appropriate # here \*NOTE: 771.117 CEs are only applicable to FTA/FHWA CEs. FTA-only CEs are now included 771.118). Following independent review and verification by FTA, applicant (insert DOT name/info) requests that it be notified of the acceptability of its submission". PLEASE DELETE THE HIGHLIGHTED INFORMATION IN THIS NOTE AND ALL HIGHLIGHTED INFORMATION BELOW BEFORE SUBMITTAL TO FTA. THE HIGHLIGHTED INFORMATION BELOW IS ONLY MEANT TO ASSIST THE APPLICANT WITH INFORMATION TO INCLUDE AS PART OF THE DOCUMENTATION, NOT SERVE AS LANGUAGE TO BE USED.]

### INFORMATION REQUIRED FOR PROBABLE CATEGORICAL EXCLUSION

(SECTION 771.118(d)(# - insert appropriate #. If a joint FTA/FHWA DCE, then include appropriate reference to 771.117(d)(#) instead of 771.118)

     A. **DETAILED PROJECT DESCRIPTION AND PURPOSE AND NEED:** Describe type of project and transit nexus (include applicable FTA Transit Programs supported by this project). This description should include the proposed use, property size, parcel history, ownership information, acreage, and previous and current planning studies and/or environmental evaluations.

- Include a brief discussion summarizing the need and purpose for the project (e.g., congestion, state of good repair).
- Explain in common language how implementation of the project will address the project need, and its proposed use. Include a complete description of the project components such as length of the project in feet or miles, property size, history, ownership information (land management authority), acreage, and document previously conducted studies if applicable.
- Include as many specifics as possible such as number of buses, cars, employees using the facility.

     B. **LOCATION (INCLUDING ADDRESS):** Attach a project location map or site map, which identifies the land uses and resources on the site and the adjacent or nearby land uses and resources. This is used to determine the probability of impact on sensitive receptors (such as schools, hospitals, residences) and on protected resources (rivers, streams, wetlands, historic properties, parks and recreation areas). This must include adjacent parcels.

Figure 14-6 FTA Region IV Categorical Exclusion Checklist

- The project limits must be clearly marked. Include all streets and features specifically called out in the “project description.” If the project work occurs at more than one location, include those locations on the map, as well as on adjacent parcels.

- Land use plans, and zoning maps can be obtained from the tax assessor, city, county, or metropolitan planning organizations.

\_\_\_\_ C. **METROPOLITAN PLANNING AND AIR QUALITY CONFORMITY:** Is the proposed project in a nonattainment area or maintenance area for National Ambient Air Quality Standards (NAAQS)? Is the proposed project included in the currently conforming LRTP/TIP either explicitly or in a grouping of projects or activities? If the proposed project is in a nonattainment or maintenance area, then project-level conformity must be demonstrated by including specific reference to project in the currently conforming LRTP/TIP (40 CFR 93.115-117). In carbon monoxide (CO) and particulate matter (PM 2.5 and PM10) nonattainment and maintenance areas, additional analysis called “hot spot” analysis, may be required to determine if the project has localized air quality impacts (See Sections D and E below). If the project is not located within MPO boundaries, then indicate in narrative response.

- Refer to the non-attainment/maintenance area maps at: <http://epa.gov/airquality/greenbk/index.html> to determine if the project is located in an area that meets all National Ambient Air Quality Standards.

\_\_\_\_ D. **CO HOT SPOTS:** If there are serious traffic impacts at any affected intersection, and if the area is a nonattainment or maintenance area for carbon monoxide (CO), then demonstrate that CO “hot spots” will not result from project implementation. In nonattainment areas, interagency concurrence (IAC) and documentation must be attached. If the proposed project is not in a nonattainment or maintenance area for CO, state in narrative response.

- Refer to the non-attainment/maintenance area maps at: <http://epa.gov/airquality/greenbk/index.html> to determine if the project is located in an area that meets all National Ambient Air Quality Standards.

\_\_\_\_ E. **PM2.5 AND PM10 HOT SPOTS:** If there are serious traffic impacts at any affected intersection, and if the area is a nonattainment or maintenance area for any particulate matter (PM2.5 or PM10), then demonstrate that PM2.5 or PM10 “hot spots” will not result. In nonattainment areas, interagency concurrence (IAC) and documentation must be attached. If the proposed project is not in a nonattainment or maintenance area for PM2.5 and PM10, state in narrative response.

- Refer to the non-attainment/maintenance area maps at: <http://epa.gov/airquality/greenbk/index.html> to determine if the project is located in an area that meets all National Ambient Air Quality Standards.

\_\_\_\_ F. **ZONING:** Description of zoning and land use and consistency with proposed project. Describe in narrative response why project is compatible with current land use and/or zoning. In cases where additional ordinances (such as overlay districts or design constraints) exist describe ordinance and explain project compatibility.

- Land use plans, and zoning maps can be obtained from the tax assessor, city, county, or metropolitan planning organizations. May provide a letter from appropriate city/county/town official.

**Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 2 of 9)**

- G. TRAFFIC IMPACTS:** Describe potential traffic impacts, including whether the existing roadways have adequate capacity to handle increased bus and other vehicular traffic. Also include description of ingress, egress and safety.
- Determine if the project will result in any construction-related impacts such as lane closures, detours, or dust abatement requirements. Briefly describe construction-related traffic impacts, and traffic control measures required to minimize impacts for construction. May provide a letter from the traffic engineer or other appropriate official verifying traffic impacts.
- H. CULTURAL RESOURCES:** Show resources on a project location map. Describe any cultural, historic, or archaeological resource that is located in the immediate vicinity of the proposed project and the impact of the project on the resource. FTA initiates all consultation per Section 106 of the National Historic Preservation Act (NHPA), following the applicant’s submittal of the Section 106 Worksheet to FTA. FTA then makes a “No Effect/No Historic Properties” or “No Historic Properties Affected” determination, if no historic resources or potential to affect resources exists. FTA then requests concurrence for this determination from the appropriate State Historic Preservation Office (SHPO) or Tribal Historic Preservation Office (THPO). The FTA Section 106 Worksheet and SHPO/THPO concurrence must be included as an attachment before NEPA approval.
- Note:** If an “Adverse Effect” determination is made as a result of the proposed project, rather than a “No Effect/No Historic Properties” or “No Historic Properties Affected” determination, then FTA may request a higher NEPA class of action to evaluate alternatives or mitigation measures to deter these adverse effects.
- For more about Section 106 consultations: <http://www.achp.gov/106summary.html>. If the project has potential effects to NRHP-eligible or listed projects, the Section 106 process must be followed: <http://www.achp.gov/regsflow/html>
  - Refer to the Section 106 consultation letter(s) and identify site eligibility. List each site in narrative. Attach consultation letters to checklist. If NO resources are present within the project’s area of potential effect (APE), attach the SHPO/THPO concurrence letter to checklist.
  - Projects involving modifications to historic buildings or structures should comply with the *Secretary of the Interior Standards for the Rehabilitation of Historic Structures*, which is available from the SHPO/THPO and <http://www.nps.gov/hps/TPS/tax/rhb/stand.htm>.
- I. NOISE:** Assess the noise impacts using the FTA Noise and Vibration Manual ([http://www.fta.dot.gov/documents/FTA\\_Noise\\_and\\_Vibration\\_Manual.pdf](http://www.fta.dot.gov/documents/FTA_Noise_and_Vibration_Manual.pdf)). The first level for noise assessment is “Screening.” Identify areas of potential impact for noise source types in Table 4-1. Compare the distance between the center of the proposed project and the nearest noise receptor to the screening distance for the type of project per the manual. If it is determined that none of the land uses are within the distances noted in Table 4-1, then no further noise analysis is needed. If one or more of the noise-sensitive land uses are within the screening distances noted in Table 4-1, as adjusted, then the potential for impacts exists and further analysis is needed. Identify locations for second level, “General Assessment.” Attach General Assessment with conclusions and any identified mitigation locations and summarize in the narrative response.
- J. VIBRATION:** Assess the vibration impacts using the FTA Noise and Vibration Manual

Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 3 of 9)



[http://www.fta.dot.gov/documents/FTA\\_Noise\\_and\\_Vibration\\_Manual.pdf](http://www.fta.dot.gov/documents/FTA_Noise_and_Vibration_Manual.pdf)). The first level for vibration assessment is “Screening.” Identify potential for vibration impact associated with project types in Table 9-1. If the proposed project involves new or relocated steel tracks, compare the distance between the center of the proposed project and the nearest vibration receptor to the screening distance for this type of project in FTA’s guidelines. If potential impacts exist, Table 9-2 identified locations for second level, “General Assessment.” Attach General Assessment with conclusions and any identified mitigation locations and summarize in the narrative response. Most projects that do not include steel-wheel trains do not cause significant vibration impacts. Any project that does not include some type of vehicle is not likely to cause vibration impacts. If the project does not involve rail transit or some type of vehicle, please state in narrative response.

     K. **ACQUISITIONS & RELOCATIONS REQUIRED:** Describe land acquisitions and displacements of residences and businesses. Include current use, ownership information and date of property acquisition (if applicable). If a structure is located on the property include the date of construction for that structure.

**Note:** If FTA funds are used to acquire property or the property is used as local match, then the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (<http://www.fhwa.dot.gov/realestate/ua/ualic.htm>) must be followed and documented. No offers or appraisals may occur prior to FTA’s approval of a NEPA evaluation.

     L. **HAZARDOUS MATERIALS:** If real property is to be acquired, has a Phase I site assessment to investigate the potential for contaminated soils and groundwater been performed? If a Phase II site assessment is recommended, has it been performed? What steps will be taken to ensure that the community in which the project is located is protected from contamination during construction and operation of the project? State the results of consultation with the appropriate State agency regarding the proposed remediation?

**Note:** It may be necessary to demonstrate that real property previously acquired and currently owned by the applicant is not contaminated prior to construction and use of FTA funds at the site. Certain liability concerns and cleanup considerations that may not be eligible for FTA funds may result.

- If there are any known hazardous materials sites or previous land uses with a potential for hazardous materials remaining within the project area or right-of-way, including existing structures have been previously painted, or road striping removed (RCRA <http://www.epa.gov/osw/inforesources/online/>), a Phase I/Phase II hazardous materials study must be performed.  
Map: <http://www.epa.gov/wastes/hazard/correctiveaction/eis/eimap.htm>
- The hazardous materials documentation should be attached or provided in narrative, including concurrence with the local/state agency clean-up or mitigation plan.

     M. **COMMUNITY DISRUPTION AND ENVIRONMENTAL JUSTICE ANALYSIS:** Provide a socioeconomic profile (and socioeconomic census map) of the affected community. Describe the impacts of the proposed project on the community. Identify any community resources that would be affected and the nature of the effect. Identify any minority and/or low income communities on a project location map. Describe any disproportionate and adverse effects to minority and/or low-

**Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 4 of 9)**

income communities as a result of the proposed project (Executive Order 12898). If minority and/or low income populations do not exist within the proposed project area, provide narrative and census map documentation (<http://www.fhwa.dot.gov/environment/ej2.htm>).

**Note:** Environmental Justice populations are minority and/or low income populations. Minority means a person who is Black, Hispanic, Asian American, American Indian, or Alaskan Native. Low-income means a person whose household income is at or below the Department of Health and Human Services poverty guidelines. Environmental Justice is not a measurable impact. Rather, Environmental Justice analysis focuses on the presence of Environmental Justice populations and evaluates disproportionately high and adverse impacts to these populations as compared to a reference population, considers alternatives, conducts public involvement, and develops mitigation efforts. A disproportionately high and adverse effect pertains to significant individual or cumulative effects. Common impacts to Environmental Justice populations include, but are not limited to, potential changes in ambient air quality and water quality, noise, vibration, and construction. These may occur during construction or during operation of the facility and may be temporary or permanent. When these impacts are disproportionate relative to the other populations within the proposed project area, then further evaluations and possible mitigation measures are necessary.

- If this project will have NO effects to the community or its population, document in narrative.
- Determine if any temporary, adverse, or permanent effects on any businesses, residents, or landowners will occur as a result of this project. This could include effects to access, relocations, and neighborhood continuity. If effects will occur, determine if there are any protected populations. These populations include:
  - Minorities – refer to census tables for correct categories
  - Low-income –population whose median household income is at or below the US Department of Health and Human Services poverty guidelines
  - Age, gender, and disability
- To determine if any of the above populations are present in the project area, find the census tract and block groups for the project area, which can be found with the property address, on the US Census website:  
[http://factfinder.census.gov/jsp/saff/SAFFInfo.jsp?\\_pageId=gn7\\_maps](http://factfinder.census.gov/jsp/saff/SAFFInfo.jsp?_pageId=gn7_maps)  
[http://factfinder.census.gov/servlet/DatasetMainPageServlet?\\_program=DEC&\\_submenuId=datasets\\_0&\\_lang=en](http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=DEC&_submenuId=datasets_0&_lang=en)  
The EPA's EJ View tool is also useful for evaluating project sites for Environmental Justice:  
<http://epamap14.epa.gov/ejmap/entry.html>

N. **USE OF SECTION 4(F) RESOURCES:** Show parks, recreational areas, and/or wildlife/waterfowl refuges on a project location map. If the activities and current and intended uses of these resources will be affected by the proposed project, state how and determine the amount of property to be used. If the proposed project is not located in or in the vicinity of these resources, then state in the narrative response.

**Note:** FTA will determine if the proposed project will result in direct, temporary, or constructive use of the resources. Section 4(f) impacts require further evaluations, including an alternatives analysis to measure adverse effects. FTA may request an Environmental Assessment (EA) as the appropriate NEPA class of action to

Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 5 of 9)

**evaluate alternatives and consider mitigation or avoidance measures to deter these adverse effects.**

- Based on the definitions of use outlined in 23 CFR § 774, determine if the project will result in an actual (direct), temporary, or constructive (proximity impacts) use of the Section 4(f) resource. Locate Section 4(f) properties on project vicinity map. <http://www.section4f.com/home.htm>

**O. IMPACTS ON WETLANDS: Show wetlands on a project location map. Describe the proposed project's impact to on-site and adjacent wetlands. If the project impacts wetlands, please provide documentation of coordination efforts/applications for permits from the appropriate U.S. Army Corps of Engineers (USACE) office, as well as, minimization and mitigation efforts. If no wetlands are present or if the proposed project will not impact any wetland areas, please state and provide documentation.**

- Determine if wetlands or other Jurisdictional Waters of the US are present in the project area: <http://www.fhwa.dot.gov/hep/23cfr777.htm> Locate wetlands, streams, and/or open waters on project vicinity map.
- If wetlands or other jurisdictional waters of the US are impacted, a Section 404 Permit may be required. [http://www.epa.gov/wetlands/pdf/reg\\_authority\\_pr.pdf](http://www.epa.gov/wetlands/pdf/reg_authority_pr.pdf). If waters have been delineated ([http://www.usace.army.mil/cecw/pages/reg\\_supp.aspx](http://www.usace.army.mil/cecw/pages/reg_supp.aspx)) and determined to be under the jurisdiction of the Army Corps of Engineers, include the Corps File Number (or attach Nationwide Permit (NWP)), or state in narrative if waters are NOT under Corps jurisdiction.
- Include any state requirements.
- Determine if the wetland(s) will be avoided by the project, if no mitigation is necessary for avoidance, explain how/why the area will be avoided (for example: at bottom of slope where no work will occur.) Include all applicable mitigation measures specific to the wetland (s) including mitigation necessary for avoidance.

**P. FLOODPLAIN IMPACTS: Show floodplain areas on a project location map. Is the proposed project located within the 100-year or 500-year floodplain? If so, address possible flooding of the proposed project site and flooding induced by proposed project due to fill and reduction of the floodplain capacity. In addition, please provide documentation on how project will be designed to restore floodplain capacity. If project is not located in the 100- year or 500-year floodplain, please state and provide documentation.**

- Determine if the project is within a 100-year floodplain. Review FEMA 100-year FIRMs on the FEMA website: [http://msc.fema.gov/webapp/wcs/storeservlet/info?storeId=10001&catalogId=10001&langId=-1&content=firmetteHelp\\_0&title=FIRMette%20Tutoria](http://msc.fema.gov/webapp/wcs/storeservlet/info?storeId=10001&catalogId=10001&langId=-1&content=firmetteHelp_0&title=FIRMette%20Tutoria)
- Include all floodplain FIRM numbers that occur in the project area and the effective or revision date for each FIRM. Include the FEMA FIRM numbers for the project area, even if the 100-year floodplain has not been delineated.
- If a determination cannot be made whether or not the project is within a 100-year floodplain, contact the county flood control district or the local floodplain manager for assistance.
- If the project is within a floodplain, determine if the floodplain will be impacted by the project. Impacts typically occur when topography within the floodplain is substantially modified either by

**Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 6 of 9)**

placement or removal of materials within the floodplain. If the project will impact a 100-year floodplain, provide an explanation of project impacts in the narrative. Additionally, follow the requirements of 23 CFR Part 650(A).

**Q. IMPACTS ON LOCAL WATER QUALITY, WILD AND SCENIC RIVERS, NAVIGABLE WATERWAYS, AND COASTAL ZONES: If any of these are implicated, provide detailed analysis of potential impacts and provide documentation of coordination tasks with appropriate agencies.**

- **Water Quality:** Determine if project area is in a sole-source aquifer, if not document in narrative: <http://cfpub.epa.gov/safewater/sourcewater/sourcewater.cfm?action=SSA>. Refer to the current EPA/FHWA MOU regarding the Sole Source Aquifer review pursuant to Section 1424(e) of the Safe Drinking Water Act to determine if an EPA review is required: <http://ceq.hss.doe.gov/nepa/regs/sdwa.html>. FTA must notify the EPA of all projects located in a sole source aquifer that do not require a Safe Drinking Water Act Section 1424(e) review by the EPA. Include any mitigation measures required by the state or EPA.
- **Water Quality:** Determine if appropriate NPDES permits are applicable as a result of ground disturbance. How will stormwater be treated during and after construction? How will wastewater from bus washing facilities be treated?
- **Wild and Scenic River:** Determine if a recommendation for listing, or designated, Wild and or Scenic River is present in the vicinity: <http://www.rivers.gov/wildriverslist.html>. Note on CE if NO Rivers are present, and if project is located near a river and it will NOT be impacted.
- If a designated wild and scenic river, or a river recommended for listing, occurs within the project area, insert the name of the river. If the project will affect the river, determine if the project will have an adverse effect on the river as outlined in Guide for Identifying Potential Adverse Effects: <http://environment.fhwa.dot.gov/guidebook/vol1/doc15c.pdf>. Coordinate with the agency responsible for managing the river. After coordination is complete, describe the potential impacts to the river, explain why the effects are not adverse, and include information on the agency coordination/concurrence (for example: NPS) with the effect determination.
- Mitigation to minimize effects to rivers designated—or recommended for designation—to the Wild and Scenic River System must be developed in coordination with FTA and the agency responsible for managing the river prior to submittal of the environmental document.
- **Navigable Water and Coastal Zones:** State in narrative if Waters are present within the project area, but will not be impacted (for example, will be avoided by construction). If waters are impacted, indicate the location on a project map.

**R. IMPACTS ON ECOLOGICALLY-SENSITIVE AREAS AND ENDANGERED SPECIES: Describe any natural areas (large wooded/forested parcels, prairies, wetlands, rivers, lakes, streams, designated wildlife or waterfowl refuges, and geological formations) on or near the proposed project area. If present, state the results of consultation with the appropriate state-level department of natural resources and U.S. Fish and Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS) for the potential impacts to these natural areas and on any threatened and endangered plant, animal and invertebrate species that may be affected.**

**Note:** FTA will initiate all Section 7 interagency consultation with USFWS and/or NMFS. The applicant must notify FTA immediately, if after state-level coordination, protected natural areas or species will experience potential adverse effects as a result of the proposed project.

**Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 7 of 9)**

- <http://www.fws.gov/Endangered/>
- [http://www.fws.gov/ecos/ajax/tess\\_public/pub/stateOccurrence.jsp](http://www.fws.gov/ecos/ajax/tess_public/pub/stateOccurrence.jsp). States will have their own list of protected and endangered species. Document what species are listed in the project area, and attach FWS and state documentation, as well as any measures taken to protect sensitive biological resources. This includes discussion with the state addressing their concerns, and how mitigation measures were addressed (for example: nesting boxes for migratory bird species attached to bus barn.) Migratory Bird Treaty Act, <http://www.fws.gov/pacific/migratorybirds/mbta.htm>.
- If project vicinity is on tribal lands, the Tribal governments should be consulted for sensitive biological resources, and concurrence or directives should be included with CE documentation.

\_\_\_\_ S.        **IMPACTS ON SAFETY AND SECURITY:** Describe the measures that would need to be taken to provide for the safe and secure operation of the project after its construction.

\_\_\_\_ T.        **IMPACTS CAUSED BY CONSTRUCTION:** Describe the construction plan and identify impacts due to construction noise, utility disruption, debris and soil disposal, invasive plant species, air and water quality, safety and security, and disruptions of traffic and access to property. If applicable, please include any National Pollutant Discharge Elimination System best practice measures (<http://cfpub.epa.gov/NPDES/>).

\_\_\_\_ U.        **PERMITS/VARIANCES/COMMITMENTS REQUIRED:** Please indicate and describe if any of the following will be required for project implementation: U.S. Coast Guard Permit; Forest Service/USACE Land; Clean Water Act Section 404 Permit; Tennessee Valley Authority Permit; Stream Buffer Variance; Coastal Zone Management Coordination; NPDES; Cemetery Permit; and other permits and commitments as required by local and/or state governments. If required, describe the appropriate stage (before, during or after construction).

- NPDES Permit is required if project vicinity in a unique or impaired watershed. Include the name of the water and coordinate with EPA and relevant state agency to identify applicable best management practices, and add the mitigation to narrative, and concurrence if appropriate: [http://iaspub.epa.gov/waters10/attains\\_nation\\_cv.control?p\\_report\\_type=T#imp\\_water\\_by\\_state](http://iaspub.epa.gov/waters10/attains_nation_cv.control?p_report_type=T#imp_water_by_state).

**Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 8 of 9)**

The action described above meets the criteria for a NEPA categorical exclusion (CE) in accordance with 23 CFR Part 771.118(d) ( -insert # here, as appropriate- or include appropriate reference to 771.117(d)(#) for joint FTA/FHWA DCE).

\_\_\_\_\_  
Primary Applicant's Environmental Reviewer

\_\_\_\_\_  
Date

Agency: \_\_\_\_\_

\_\_\_\_\_  
Secondary Applicant's Environmental Reviewer

\_\_\_\_\_  
Date

Agency: \_\_\_\_\_

\_\_\_\_\_  
Federal Transit Administration

\_\_\_\_\_  
Date

**Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 9 of 9)**

## **Volume I: Environmental Impact Statement**

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Signature Page  
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- d) Project Need
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- c) Traffic Conditions
- d) Pedestrians and Bicycles
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## **Figure 14-7 Environmental Impact Statement Outline**

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### **Figure 14-7 Environmental Impact Statement Outline (Page 2 of 3)**



## Chapter 8 - Section 4(f) Evaluation

- a) Introduction and Regulatory Overview
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## Chapter 9 - Consultation and Coordination

- a) Community Engagement Approach
- b) Summary of Community Engagement Activities
- c) Agency Coordination
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## Chapter 10 - Financial Considerations

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- c) Sources of Funding

## Chapter 11 - Evaluation of Alternatives

- a) Evaluation Framework and Methodology
- b) Key Differentiators for Alternatives
- c) Locally Preferred Alternative
- d) Next Steps

Appendix A: List of Recipients

Appendix B: List of Preparers

Appendix C: Sources and References

Appendix D: Agency Correspondence

Appendix E: Conceptual Drawings

**Volume II: Supporting Technical Reports (list reports only and include copies on a CD attached to inside cover of EIS)**

**Figure 14-7 Environmental Impact Statement Outline (Page 3 of 3)**

## ENVIRONMENTAL RE-EVALUATION CONSULTATION

**Note:** The purpose of this worksheet is to assist sponsoring agencies in gathering and organizing materials for re-evaluations required under the National Environmental Policy Act (NEPA). It is designed to provide FTA with information needed to do a re-evaluation. In lieu of the worksheet, the sponsoring agency may submit the same information in a different format. Submission of the worksheet by itself does not meet NEPA requirements. **FTA must concur in writing** with its determination and/or the sponsoring agency's NEPA recommendation. Contact the FTA Region 4 Planner if you have any questions regarding this worksheet. We strongly encourage you to contact us to discuss your project changes before you fill out this worksheet.

<i>For Agency Use</i>	
<i>Date Received:</i>	
<i>Recommendation by Planner or Engineer:</i> <input type="checkbox"/> <i>Accept</i> <input type="checkbox"/> <i>Return for Revisions</i> <input type="checkbox"/> <i>Not Eligible</i>	<i>Reviewed By:</i> <i>Date:</i>
<i>Comments:</i>	
<i>Concurrence by Regional Counsel:</i> <input type="checkbox"/> <i>Accept Recommendation</i> <input type="checkbox"/> <i>Return with Comments</i>	<i>Reviewed By:</i> <i>Date:</i>
<i>Comments:</i>	
<i>Concurrence by Approving Official:</i>	<i>Date:</i>

Please answer the following questions, fill out the impact chart and attach project area and site maps. Using a site map from the previously approved NEPA document, show project changes using a different color. Include additional site maps to help reviewer understand project changes.

<b>PROJECT TITLE</b>
----------------------

<b>LIST CURRENT, APPROVED ENVIRONMENTAL DOCUMENTS (e.g. EIS/ROD, EA/FONSI, BA, RE-EVALUATION, etc.) If Re-evaluation, briefly describe.</b>		
<b>Title:</b>	<b>Date:</b>	<b>Type and Date of Last Federal Action</b>
<b>Title:</b>	<b>Date:</b>	<b>Type and Date of Last Federal Action</b>
<b>Title:</b>	<b>Date:</b>	<b>Type and Date of Last Federal Action</b>

**Figure 14-8 Environmental Re-Evaluation Consultation Worksheet**

**HAS THE MOST CURRENT AND OTHER PERTINENT APPROVED ENVIRONMENTAL DOCUMENTS BEEN RE-READ TO COMPARE PROPOSED PROJECT CHANGES?**

**NO (STOP! The most current approved environmental document MUST be re-read prior to completing a re-evaluation.)**

**YES NAME:            DATE:**

**IS THE PROJECT CURRENTLY UNDER       DESIGN    OR     CONSTRUCTION?**

**REASON FOR RE-EVALUATION**

**DESCRIPTION OF PROJECT CHANGES OR NEW INFORMATION**

**HAVE ANY NEW OR REVISED LAWS OR REGULATIONS BEEN ISSUED SINCE APPROVAL OF THE LAST ENVIRONMENTAL DOCUMENT THAT AFFECTS THIS PROJECT? If yes, please explain.**

**NO**  
 **YES**

**WILL THE NEW INFORMATION HAVE THE POTENTIAL TO CAUSE A CHANGE IN THE DETERMINATION OF IMPACTS FROM WHAT WAS DESCRIBED IN THE ORIGINAL ENVIRONMENTAL DOCUMENT FOR ANY OF THE AREAS LISTED BELOW? For each impact category, please indicate whether there will be a change in impacts. For all categories with a change, continue to the table at the end of this worksheet and provide detailed descriptions of the impacts as initially disclosed, new impacts and a discussion of the changes. The change in impact may be beneficial or adverse.**

---

<b>Transportation</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
<b>Land Use and Economics</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
<b>Acquisitions, Displacements, &amp; Relocations</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
<b>Neighborhoods &amp; Populations (Social)</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
<b>Visual Resources &amp; Aesthetics</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
<b>Air Quality</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
<b>Noise &amp; Vibration</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
<b>Ecosystems (Vegetation &amp; Wildlife)</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>

**Figure 14-8 Environmental Re-Evaluation Consultation Worksheet (Page 2 of 7)**

Water Resources	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Energy & Natural Resources	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Geology & Soils	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Hazardous Materials	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Public Services	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Utilities	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Historic, Cultural & Archaeological Resources	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Parklands & Recreation	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Construction	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Secondary and Cumulative	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**Will the changed conditions or new information result in revised documentation or determination under the following federal regulations?**

Endangered Species Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Magnuson-Stevens Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Farmland Preservation Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 404-Clean Water Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Floodplain Management Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Hazardous Materials	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 106 National Historic Preservation Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Uniform Relocation Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 4(f) Lands	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 6(f) Lands	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Wild & Scenic Rivers	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Coastal Barriers	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Coastal Zone	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Sole Source Aquifer	<input type="checkbox"/> Yes	<input type="checkbox"/> No
National Scenic Byways	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Other	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If you checked yes to any of these, describe how the changes impact compliance and any actions needed to ensure compliance of the new project:

Will these changes or new information likely result in substantial public controversy?

Yes    No

**Comments:**

**Figure 14-8 Environmental Re-Evaluation Consultation Worksheet (Page 3 of 7)**

**COMMENTS:**

**CONCLUSIONS AND RECOMMENDATIONS:**

**LIST OF ATTACHMENTS:**

**SUBMITTED BY:**

By signing this, I certify that to the best of my knowledge this document is complete and accurate.

Name	Date
Title	

Submit two paper copies of this form, attachments, and a transmittal letter recommending a NEPA finding to the address below. Or you may submit one electronic version to the appropriate FTA Region 4 Planner. When the document is approved, FTA may request additional copies.

Federal Transit Administration, Region 4  
230 Peachtree Street, Suite 800  
Atlanta, GA 30303-1512

phone: (404) 865-5600  
fax: (404) 865-5605

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts
Sample—Water Resources/Impervious Surface/	Initial design included 0.60 acres of new impervious surface for the parking lot.	Modified design changes the striping pattern and results in 0.75 acres of new impervious surface.	The new design results in 0.15 more impervious surface than initially planned.
Transportation			
Land Use and Economics			
Acquisitions, Displacements, & Relocations			
Neighborhoods & Populations (Social)			
Visual Resources & Aesthetics			
Air Quality			

**Figure 14-8 Environmental Re-Evaluation Consultation Worksheet (Page 5 of 7)**

<b>Noise &amp; Vibration</b>			
<b>Ecosystems (Vegetation &amp; Wildlife)</b>			
<b>Water Resources</b>			
<b>Energy &amp; Natural Resources</b>			
<b>Geology &amp; Soils</b>			
<b>Hazardous Materials</b>			

**Figure 14-8 Environmental Re-Evaluation Consultation Worksheet (Page 6 of 7)**

<b>Public Services</b>			
<b>Utilities</b>			
<b>Historic, Cultural &amp; Archaeological Resources</b>			
<b>Parklands &amp; Recreation</b>			
<b>Construction</b>			
<b>Secondary and Cumulative</b>			
<b>Other</b>			

**Figure 14-8 Environmental Re-Evaluation Consultation Worksheet (Page 7 of 7)**



## **PART 1, CHAPTER 15**

### **PROJECT FILE AND RECORDS MANAGEMENT**

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## PART 1, CHAPTER 15

# PROJECT FILE AND RECORDS MANAGEMENT

### 15.1 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).

FDOT maintains its Project Development and Environment (PD&E) files in accordance with FDOT's [Procedure No. 050-020-025, Records Management](#). For documents pertaining to FDOT's assumption of responsibilities under the **NEPA** Assignment Program, FDOT complies with the requirements of **FHWA Records Disposition Manual (Field Offices) Chapter 4** and **FHWA Order No. 1324.1B, issued July 29, 2013**, and retains appropriate files mapped to the Department of State **Retention and Disposal Schedule GS1-SL(167)**.

FDOT's Electronic Document Management System (EDMS), as defined in FDOT's [Information Technology Resource User's Manual, Topic No. 325-000-002](#) (Chapters 12 and 13) serves as the environmental file of record for **NEPA** actions, including those under the **NEPA** Assignment Program. The EDMS stores and archives files, provides backup and disaster recover while maintaining document access and managing records to appropriate retention and disposal schedules. When the files are imported into the EDMS, they are reviewed, published to the archive, and made available to other FDOT computer applications.

To support PD&E recordkeeping and retention responsibilities, the StateWide Environmental Project Tracker (SWEPT) application is used in conjunction with EDMS. SWEPT is an interactive web site that supports activities during FDOT's Document Review Process. SWEPT provides an interface to the EDMS that is integrated with the document review work flow. This gives easy access to the environmental project record throughout the environmental review process. When files are uploaded to SWEPT, they are attributed according to EDMS standards, placed in the appropriate group and type and associated with the required retention and disposal schedule. When an

Environmental Document is approved in SWEPT, it is imported into the EDMS with associated supporting documentation.

## 15.2 PROCEDURE

### 15.2.1 Project File

In preparing a PD&E Study, FDOT determines how to manage its project files, as long as the procedures satisfy FDOT record-keeping and retention requirements and meets or exceeds FHWA record-keeping and retention requirements for federal projects. FDOT project files are also available consistent with Florida and federal public records laws.

A project file refers to the files maintained by the project team to support development of the PD&E Study and resulting **NEPA** decision or approval. Documents maintained in the project file for each PD&E project include, but are not limited to, letters, technical reports, correspondence, emails, comments, responses, meeting minutes, studies, computer modeling reports. The project file should include information FDOT considered or presented which was reasonably available during the process, including documentation of contrary opinions or conflicting data and resolution of issues or concerns raised and any resolution made in response.

### 15.2.2 Administrative Record

The Administrative Record (AR) is FDOT's official record of the **NEPA** decision making process and refers to documents from the project file that are submitted to the court during **NEPA** litigation. The AR is established when a lawsuit is filed, and the court requests the records. The AR includes all documents and materials directly or indirectly considered or relied upon by FDOT when making decisions in the environmental review process. This includes decision documents, as well as documents generated or received by FDOT during the environmental review.

The AR for PD&E projects is created from the project files, which are uploaded and stored in SWEPT. When files are initially uploaded in SWEPT, they are categorized as: AR, project file only, or attorney work product (considered privileged). When an AR is required, the Project Manager uses the Administrative Record tool on SWEPT to identify and confirm which documents comprise the AR. The Project Manager also uses the Administrative Record tool to request approval from the Office of General Counsel (OGC) to create and distribute the record.

For more information on ARs, please see the ***American Association of State Highway Transportation Officials (AASHTO) Practitioner's Handbook, Maintaining a Project File and Preparing an Administrative Record for A NEPA Study.***

### 15.2.3 Records Management

The project file shall be maintained electronically within SWEPT. The PD&E Project Manager is responsible for maintaining an accurate and up-to-date project file in SWEPT. The PD&E project team members may assist by uploading files and managing files. When files are uploaded to SWEPT, they are attributed according to EDMS standards, mapped to the appropriate group and type and retention and disposal schedule ([Section 15.2.4](#)).

Environmental Documents and their supporting files are imported into the EDMS with associated project file records upon final document approval. When the files are imported into EDMS, they are reviewed by OEM Technology Resources Coordinator and made available through EDMS according to the Environmental EDMS protocols established in the ***EEDMS QA/QC Process for the Office of Environmental Management***.

### 15.2.4 File Naming Convention

All documents uploaded into SWEPT and imported into the EDMS follow an established naming convention. The document name is formed by concatenating project and document information, as follows:

- a. FM#-COA-District-Documents Type Abbreviation-Documents subtype Abbreviation-Date;

**Example:** 43257425201-CE1-D4-Approved\_Type\_1\_Categorical\_Exclusion\_Checklist-2016-0802.pdf

**or**

- b. FM#-COA-District-Documents name-Date

**Example:** 43257425201-CE1-D4-USFWSSection7InformalConsultationLetter-2015-0619.pdf

Naming convention specifications are:

- a. FM# = The full Financial Management Number (FM#) (at least item number and item segment, and phase type, phase group and sequence number if provided, with dashes removed.)
- b. COA = Abbreviated Class of Action:
  - CE1 = Type 1 Categorical Exclusion
  - CE2 = Type 2 Categorical Exclusion
  - SEIR = State Environmental Impact Report
  - EA = Environmental Assessment

- EIS = Environmental Impact Statement
- c. District = Abbreviated District number or FTE for Turnpike: D1, D2,...FTE
- d. Document Type (and subtype) = can relate to higher level group of information to support a project. For instance, a **Natural Resources Evaluation (NRE)** is a technical report to support a particular COA. And a subtype of that report could be data, correspondence, concurrence request, concurrence.
- e. Document\_Name = The original file name, minus extension (apply this before the date), with spaces replaced by underscores
- f. Date = Date the document was created or represents (or in the case of correspondence, the date when it was sent), formatted as YYYY-MMDD. If the document being uploaded was published or made available on March 10, 2016, but not uploaded until May 15, 2016, the March 10, 2016 date is the correct date to represent the document in SWEPT naming convention. SWEPT provides a date picker to select that date on upload.

### 15.2.5 Retention

For documents pertaining to FDOT's assumption of responsibilities under the **NEPA** Assignment Program, records are retained in accordance with [Procedure No. 050-020-025, Records Management](#) and **Retention and Disposal Schedule GS1-SL(167)**. For Significant Transportation Projects, as defined in **FHWA Order No. 1324B**, records will be stored permanently. For other projects, records are retained in SWEPT and EDMS for at least five fiscal years following completion of construction of the last project segment or last project action if the project stops before construction. Project completion is tracked and the records archived as follows:

- a. Work Program tracks completion through a "Closed Financial Projects" report.
- b. Financial Project Identification (FPID) Status 100 indicates the books have been reconciled between parties and the financial project is closed.

FPID or FM# is a unique 11-digit number assigned to track funding, schedule, and activities on a project. These 11 digits are defined as follows:

Item (6) Segment(1)Phase Group(1)-Phase Type(1)-Sequence(2)

**Example:** 407085-1-32-04

- c. Work program tracks PD&E projects (parent record) with subordinate FPIDs (other item segment FMs for design or construction phases) through a "Related Items" report. SWEPT obtains this information from the Work Program through a web service.

- d. SWEPT maintains list of PD&E FM#s and related FM#s (through users and/or through the related items report provided by Work Program).
- e. Once all associated FMs (related items) have reached status 100, based on the related items report provided by Work Program, SWEPT begins a 5-year countdown to meet data management requirements (projects identified as Significant Highway Projects will be retained permanently).
- f. After 5 years of related FMs reaching status, SWEPT provides notification to the SWEPT helpdesk that records have reached their retention schedule and updates EDMS export records to purge the project records.
- g. SWEPT sends information to EDMS marking the documents obsolete and indicating records are to be purged.
- h. EDMS sends a confirmation email to the SWEPT helpdesk that the identified records have been updated to obsolete.

Information associated with draft Environmental Documents (not approved) shall be retained until obsolete, superseded, or administrative value is lost as determined by the FDOT Project Manager, in consultation with the OGC.

### 15.3 REFERENCES

AASHTO. 2016. Maintaining a Project File and Preparing an Administrative Record for A NEPA Study. <http://environment.transportation.org/pdf/programs/ph01-2.pdf>

FHWA. 2013. FHWA Records Disposition Manual (Field Offices) Chapter 4. <http://www.fhwa.dot.gov/legisregs/directives/orders/envi-reg.cfm>

FHWA. 2013. FHWA Order No. 1324.1B, issued July 29, 2013. <https://www.fhwa.dot.gov/legisregs/directives/orders/13241b.cfm>

FDOT. 2010. Records Retention and Disposal Schedule

FDOT. Records Management, Procedure No. 050-020-025. <http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/?viewBy=0&procType=pr>

FDOT. 2016. EEDMS QA/QC Process Office of Environmental Management

FDOT. 2016. StateWide Environmental Project Tracking website. <https://www.fl-etat.org/est/swept/>

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>

National Environmental Policy Act (NEPA) of 1969

## **15.4 HISTORY**

6/14/2017: NEPA Assignment, 1/14/2019

## **PART 1 CHAPTER 16**

# **UNITED STATES COAST GUARD PROJECTS AND NAVIGATION**

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## **PART 1, CHAPTER 16 UNITED STATES COAST GUARD PROJECTS AND NAVIGATION**

### **16.1 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).

This chapter outlines the environmental review process for projects in which a United States Coast Guard (USCG) permit is required. The process varies depending on whether the USCG or the FDOT is the lead agency.

#### **16.1.1 Legislative Authority**

Laws relating to the protection, preservation and safety of navigable waterways are found in **Section 9 of the Rivers and Harbors Appropriation Act of 1899**, as amended, **33 U.S.C. § 401 and § 403**; the Act of March 23, 1906, as amended, **33 U.S.C. § 491**; the Act of June 21, 1940, as amended, (**Truman-Hobbs Act**) **33 U.S.C. §§ 511-523**; the **General Bridge Act of 1946**, as amended, **33 U.S.C. § 525**; the **International Bridge Act of 1972**, **33 U.S.C. § 535**; and the **Ports and Waterways Safety Act of 1972**, as amended by the **Port and Tanker Safety Act of 1978**, **33 U.S.C. §§ 1221-1225 (USCG, 2004)**.

Under the authorities delegated to the Commandant of the USCG by the Secretary of the U.S. Department of Homeland Security (USDHS), it is the USCG's duty and responsibility to ensure that navigable waters of the United States are preserved, while balancing competing needs of land and waterborne modes of transportation. The USCG has an obligation to ensure a bridge's final permitted design does not impinge upon the "reasonable needs of navigation" for that specific waterway, while serving the needs of land transportation.

When the USCG was transferred from the U.S. Department of the Treasury to the US Department of Transportation (USDOT) in 1967, it assumed from the U.S. Army Corps of Engineers (USACE) the assigned duty to issue bridge permits. The USCG was transferred from the USDOT to the USDHS in 2003, preserving its previously assigned duties. The Secretary of USDHS delegated this authority to the Commandant, USCG, on 28 February 2003, by **Department of Homeland Security Delegation Number: 0170.1 (USCG, 2004)**.

Bridge permits and permit amendments are the USCG documents approving the location and design plans of bridges. A USCG bridge permit is commonly referred to as a **Section 9** permit because permitting authority historically relied on **Section 9 of the Rivers and Harbors Appropriation Act of 1899**. Currently, the authority primarily relies upon the **General Bridge Act of 1946**. Consistent with the **Rivers and Harbors Appropriation Act**, the **General Bridge Act** requires USCG approval to construct a new bridge or reconstruct/modify an existing bridge over navigable waters.

The USCG has jurisdiction over “navigable waters” of the United States, as defined in **33 Code of Federal Regulations (CFR) § 2.36** as well as by specific congressional and judicial designations. There are two USCG Districts with jurisdiction in Florida. The USCG Seventh District, located in Miami, issues bridge permits for projects in FDOT Districts 1, 2, 4, 5, 6 and 7. The USCG Eighth District, located in New Orleans, issues bridge permits for projects in FDOT District 3. For Turnpike projects, the applicable USCG District is based upon the location of the project within the USCG District boundaries.

All bridges across waterways that support nighttime navigation are required to display navigational lights in accordance with **33 CFR Part 118**. The approval of navigational lights and other required signals must be obtained prior to any construction from the USCG District Commander (Bridge Office). The USCG may exempt bridges over waterways with no significant nighttime navigation from the lighting or other signal requirements. Design plans for navigational lighting should be separate from the design plans for the bridge when submitting a USCG bridge permit application. The bridge navigational lighting plan requires a separate application from the bridge permit application.

### **16.1.2 Permit Eligibility**

USCG bridge permits are required for construction of a new bridge or modification of an existing bridge over navigable waters. A USCG bridge permit is necessary if a bridge project includes any of the following:

1. The construction of a new bridge over navigable waters;
2. The modification of an existing bridge that increases the travel capacity of the bridge (i.e., adding a travel lane); or,

3. The modification of an existing bridge that would result in changes to navigation (i.e., changes to the horizontal or vertical clearances, fender systems)

Unless specifically declared otherwise by Congress, navigable waters are defined in **33 CFR § 2.36** to include the following:

- a. Territorial seas of the United States;
- b. Internal waters of the United States subject to tidal influence; and;
- c. Internal waters of the United States not subject to tidal influence:
  - 1) which are or have been used, or are or have been susceptible for use, by themselves or in connection with others, as highways for substantial interstate or foreign commerce, notwithstanding obstructions that require portages; or
  - 2) which a governmental or non-governmental body with expertise in waterway improvement determines, or has determined to be, capable of improvement at a reasonable cost (a favorable balance between cost and need) to provide, by themselves or in connection with others, highways for substantial interstate or foreign commerce.

### **16.1.3 Bridge Permit Exceptions and Exemptions**

Several types of projects involving bridges do not require a USCG permit but may still require USCG authorization or notification. This may include 1) bridge removal (USCG notification required), 2) retaining all or part of a bridge over navigable water for purposes other than transportation (USACE notification required), and 3) repairing or replacing worn or obsolete parts on an existing bridge where the modification would not result in changes to navigation (e.g., projects involving bridge maintenance, painting, pile jackets, spall repairs).

The ***Coast Guard Bridge Permitting*** document states that most infrastructure repairs do not require a USCG permit as long as they do not affect navigation clearances or bridge configuration. In addition, emergency repairs or replacement of severely deteriorated or damaged bridges or construction of new temporary bridges to meet emergency land transportation requirements may be authorized by the USCG without formal permit action. Authorization under these circumstances is limited to the minimum period required to return the bridge to normal operation.

There are three types of exemptions from a USCG bridge permit, these include **1982 Coast Guard Authorization Act (CGAA) (PL 97-322, Title 1, Oct. 15, 1982, 96 Stat. 1581)**, Advance Approval Waterways, and **Title 23 U.S.C. 144(c)**.

### **16.1.3.1 1982 Coast Guard Authorization Act**

**Section 107 of the CGAA of 1982, 33 U.S.C. § 525(b)**, exempts bridge projects from bridge permits when the bridge project crosses non-tidal waters which are not used, and susceptible to use in their natural condition, or susceptible to use by reasonable improvement as a means to transport interstate or foreign commerce.

### **16.1.3.2 Advance Approval Waterways**

There may be instances where bridges are proposed to be built across waterways which are deemed navigable in law but not traversed by any vessel larger than small motorboats (e.g., logs, log rafts, kayaks, canoes, rowboats, and outboard johnboats). The term “small motorboats” does not include sailing or cabin cruiser crafts. In these cases, the clearances provided for high water stages will be considered adequate to meet the reasonable needs of navigation.

In these circumstances, the USCG can issue an Advance Approval Authorization in accordance with **33 CFR § 115.70**. Each potential candidate bridge/waterway crossing is evaluated by the USCG on a case by case basis to determine if an Advance Approval may be appropriate.

### **16.1.3.3 Title 23 U.S.C. § 144(c)**

The **Surface Transportation Assistance (STA) Act of 1978** amended **Section 144 of Title 23, U.S.C.** and was enacted to reduce paperwork and related costs in the execution of the USCGs bridge permit programs. For FHWA funded or eligible projects, FHWA has the responsibility under **23 U.S.C § 144** and **23 CFR § 650.805** to determine whether a bridge project receiving federal assistance under **Title 23, U.S.C.**, meets the exemption criteria for USCG Administration purposes. Though FHWA maintains authority for **23 U.S.C § 144(c)**, such waterways fall under USCG jurisdiction and are covered in the **2014 Memorandum of Agreement (MOA) between USCG and FHWA**. FHWA agreed that USCG will have an informative and effectual role in the determination process. The FHWA determination is preliminary and USCG input on navigability and commerce is influential to FHWA’s determination. Therefore, before such FHWA determinations are made, FHWA consults with the USCG to obtain concurrence with the determination. Upon consultation by the FHWA, the USCG will timely concur or not concur so as to not delay project advancement.

A USCG permit is not required if FHWA determines that the proposed construction, reconstruction, rehabilitation, or replacement of the federally aided or assisted bridge is over waters:

- 1) Which are not used or are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce and
- 2) Which are
  - (i) not tidal, or
  - (ii) if tidal, used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

FDOT assesses the need for a USCG permit, or navigation lights or signals for proposed bridges. If uncertain whether the waterway is susceptible to improvement for navigation, is tidal, or is considered navigable, or if the types of vessels using the waterway are unknown, FDOT consults with the appropriate USCG or FHWA depending on project location.

Early coordination takes place between FDOT and the USCG (without FHWA) for federal projects under jurisdiction of the USCG Seventh District, with USCG making the decision through the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) for projects that qualify for screening. For federal projects in the USCG Eighth District, FHWA makes this preliminary determination in coordination with USCG.

For bridge crossings of waterways with navigational traffic where FDOT believes that a USCG permit may not be required, the FDOT provides supporting information early to enable the USCG/FHWA to make a determination that a permit is not required and that proposed navigational clearances are reasonable.

Since construction in waters exempt from a USCG permit may be subject to other USCG authorizations, such as approval of navigation lights and signals and timely notice to local mariners of waterway changes, the USCG should be notified whenever the proposed action may substantially affect local navigation.

The ***Title 23 U.S.C. § 144(c)*** exemption is only applicable to FHWA funded or eligible projects in which FDOT is the lead agency (***NEPA*** Assignment).

#### **16.1.4 Synchronizing Federal Agency Reviews**

The USCG, through their bridge permitting process, is required to ensure that all environmental considerations are given careful attention. As such, these considerations, including ***NEPA*** documents [Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS)] and any related ***Clean Water Act-Section 401 Water Quality Certification*** and ***Section 404*** permits must be submitted to USCG.

Actions taken by federal agencies require an evaluation under **NEPA**, as detailed in the Council on Environmental Quality (CEQ) Regulations [**40 CFR §§ 1500-1508**], **DOT Order 5610.1C**, applicable parts of the operating agencies' directives (e.g., **Federal-Aid Highway Program Manual (FHPM) 7-7-2** and **Commandant Instruction 5090.1**), and other federal environmental statutes and orders. The CEQ regulations strongly encourage that a single agency (lead agency) be designated to handle the **NEPA** responsibility where related actions by several federal agencies are to be taken. The lead agency, in such instances, assumes the responsibility for consultation with other agencies, coordinating necessary environmental study evaluations, and preparation of any **NEPA**-related determination or document for review by the cooperating federal agencies prior to making it available for public review.

In accordance with the **1986 MOU between the USCG and FHWA**, when a highway section requires an action by both FHWA and USCG, the FHWA will normally serve as the Lead Federal Agency for the preparation and processing of environmental documents (**FHWA, 1986**). In this instance, FDOT will serve as the Lead Federal Agency pursuant to the **NEPA Assignment MOU** as discussed in [Section 16.2.1](#).

Early and ongoing coordination with the USCG is vital to an integrated permitting and **NEPA** process. The bridge permit application and approval process are very much connected to other environmental reviews. Section 1 of the **Coast Guard Bridge Permit Application Guide (BPAG)** details how the USCG permitting process and **NEPA** compliance can be coordinated, including project initiation, navigational clearance determination, **NEPA** decision-making, and permitting decision. Enclosure 2 of the **Bridge Administration Manual** includes a table that details procedures for projects which require a bridge permit. The table in Enclosure 2 shows the timing of FHWA/State activities along with USCG activities and is helpful in identifying where coordination with the USCG falls within the **NEPA** process.

In addition to the **Bridge Administration Manual** and **BPAG**, the **2015 Red Book (Synchronizing Environmental Reviews for Transportation and Other Infrastructure Projects)** was developed by FHWA in cooperation with USACE, USCG, Federal Railroad Administration (FRA), Federal Transit Administration (FTA), Environmental Protection Agency (EPA), United States Fish and Wildlife Service (USFWS), and National Oceanic and Atmospheric Administration (NOAA). This guidance was crafted to function as a how-to for synchronizing federal regulatory reviews.

In 2014, USCG and FHWA entered an MOA to coordinate and improve bridge planning and permitting. The purpose of the **2014 MOA between USCG and FHWA** is to “expedite and coordinate the planning, environmental review, and decision-making” for bridge permits primarily by:

1. Determining which bridge design concepts unreasonably obstruct navigation as soon as practicable and prior to or concurrent with the **NEPA** scoping process (in the Planning phase) in order to inform project alternatives to be evaluated;

2. Preparing a coordinated Environmental Document that satisfies both USCG and FHWA (FDOT) **NEPA** requirements and results in a shared, or joint environmental impact decision documents where practicable and concurrent environmental impact decision documents at all other times; and
3. Concurrently conducting the environmental evaluation and processing of the bridge permit application materials, wherever possible.

The MOA also details actions that can be taken by each agency at each stage in the planning process and guidance for issue resolution. In addition, the USCG, FHWA, FTA, and FRA entered a MOU in 2014 with the same goal of improving the bridge permitting process.

### 16.1.5 Lead Agency Options

In this chapter, the term Lead Agency is the title used for the agency that is responsible for approval of the Environmental Document. The lead agency is determined early in the project development process and may include any of the following scenarios. These scenarios apply only if the project requires a USCG permit.

1. **FDOT as Lead Agency for FHWA Funded or Eligible Projects**- If the project is a FHWA federal action, FDOT is the lead agency and prepares a **NEPA** document for the project (**NEPA** Assignment). This document is later adopted by USCG as their **NEPA** documentation. See [Section 16.2.1](#). The USCG serves as a Cooperating Agency for these projects.
2. **United States Coast Guard as Lead Agency** - If the project is funded by FDOT and for purposes of this chapter, does not require FHWA or OEM **NEPA** action pursuant to **23 U.S.C. § 327** (state funded), the USCG may be the lead agency. This is determined after early coordination with USCG. In this case FDOT prepares a **NEPA** document for USCG signature. See [Section 16.2.2](#).
3. **FDOT as Lead Agency for State Funded Projects** - If the project is state funded, the FDOT may be the lead agency. This is determined after coordination with USCG. In this case FDOT prepares a State Environmental Impact Report (SEIR) or Non-Major State Action (NMSA) including adequate information for the USCG to use in preparation of their **NEPA** document. See [Section 16.2.3](#).

According to **40 CFR § 1506**, an agency may adopt a draft or final EIS or a portion of the document if it meets the standards for an EIS. A Cooperating Agency may adopt an EIS without recirculating it. The **2014 MOA between USCG and FHWA** states that the USCG will adopt an FHWA **NEPA** document if the bridge's environmental impacts are adequately addressed. Therefore, through **NEPA** Assignment, USCG may adopt an FDOT Environmental Document for a federal action.



## 16.1.6 Process Overview

The USCG bridge permit application and approval process (detailed in the **BPAG**) is very much connected to other environmental reviews. The process is initiated when FDOT contacts the USCG to discuss the proposed bridge project.

The first step, regardless of the lead agency, is determining whether the project may require a USCG permit. First, the project is reviewed to determine if it is going to cross a waterbody. Then, the determination that the water body is navigable is made. This process is different depending on the lead agency and which USCG District jurisdiction the project falls under. During project initiation, the USCG also reviews the proposed project purpose and need statement.

The USCG may request a **Navigation Impact Report** to further define the bridge clearance height. **Navigation Impact Reports** are typically required for the construction of new bridges on waterways without any existing bridges downstream, and for replacement of a movable bridge with a fixed bridge structure. The information needed to complete the report includes navigation data on the subject waterway, as well as information on the types of vessels using the waterway, clearances, information on obstructions, and information on properties adjacent to the bridge and waterway in the project location. When required, a **Navigation Impact Report** should be prepared during alternatives development.

Throughout the Project Development and Environment (PD&E) phase, coordination with the USCG is continued. The USCG is invited to scoping meetings and provides guidance on USCG requirements for the Environmental Document, as applicable. After the Environmental Document is drafted, the USCG cross-checks the document against the requirements identified in the project plan/**BPAG**; evaluates design alternatives for consistency with the preliminary navigation determination; and provides comments. When the Environmental Document is finalized, the USCG prepares a **NEPA** decision document for approval in conjunction with FDOT's **NEPA** document. The USCG completes **NEPA** to support issuance of their federal permit.

The permit is typically applied for during the Design phase, with FDOT as the applicant. At the time of permit application, the USCG determines if additional information is required to complete the review. If so, the USCG will notify the FDOT in writing of application deficiencies. After the FDOT submits the required information, the USCG will notify the FDOT that the application is complete. An application is considered complete when all required documents are received and are found sufficient to make a decision on the application.

The USCG issues a **Public Notice (PN)** for the proposed project when sufficient information has been received. The application does not need to be complete for the USCG to issue a **PN**. The USCG responds to navigation-related public comments and sends non-navigation related comments to FDOT to be addressed. The USCG consults with and obtains comments from state and federal agencies with jurisdiction or special expertise concerning environmental or navigational impacts. Such agencies include but

are not limited to the National Marine Fisheries Service (NMFS), USFWS, State Historic Preservation Officer (SHPO), and EPA. FDOT conducts this consultation with the USFWS for projects in which FDOT is the lead federal agency per agreement with [ESA Lead Agency Consultation Correspondence](#). Comments are generally obtained through direct coordination with affected agencies, responses to the *PN*, and the *Local Notice to Mariners*. For more information on the public notices required for USCG projects see the *Bridge Administration Manual*.

After it has been determined that consultations under all applicable environmental laws have been completed, the USCG makes a permit recommendation and if appropriate, issues the bridge permit. If the project is considered a 'headquarters action' (typically an EA or EIS requiring a bridge permit), the application is sent to USCG headquarters for decision where the District Commander's recommendation may be accepted or rejected, and a bridge permit may be issued or denied. USCG headquarters review typically adds at least two weeks to the USCG bridge permit review process.

USCG bridge permits specify that the permit becomes null and void unless construction of the bridge is commenced and completed by certain dates. This time period is usually three to five years, respectively, from the date of the permit issuance. Longer construction times can be requested and substantiated with good reasons.

References listed in [Section 16.3](#) include hyperlinks to information sources that identify details regarding the USCG permit review process, required components of permit applications, and the locations and contact information of regional USCG offices.

## 16.2 PROCEDURE

### 16.2.1 FDOT as Lead Agency for FHWA Funded or Eligible Projects

Detailed evaluations are generally not warranted for transportation projects not qualifying for screening in the EST. These projects advance straight to the Design phase. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for clarification on projects that qualify for screening. Projects that do not require screening, based on analysis, have no significant effects.

For these types of projects, if it is uncertain whether the waterway is susceptible to improvement for navigation, is tidal, or is considered navigable, or if the types of vessels using the waterway are unknown, FDOT coordinates with the USCG or FHWA depending on project location. For projects located in USCG District 7, this coordination may take place by directly contacting the USCG. For projects located in USCG District 8, the District follows the coordination process with FHWA outlined in [Section 16.2.1.1](#).

For projects that do not require EST screening, decisions and conditions should be documented in the project file, summarized in the *NEPA* Document, and addressed through incorporation into the final design plans. Documentation in the *NEPA* Document is as follows:

**Type 1 Categorical Exclusion (Type 1 CE)** - Minimal documentation on navigational effects is required for a Type 1 CE. In the ***Type 1 Categorical Exclusion Checklist, Number 3. Bridge permits required from the USCG*** check either “no waterway crossing”, “No USCG bridge permit required”, or “USCG bridge permit”. If a USCG bridge permit is not needed, document the rationale on how this determination was made in the comment box. If it is identified that a USCG bridge permit is needed, the District must contact OEM. If the project is listed in **23 CFR § 771.117(c)(26, 27, or 28)** or listed in **23 CFR § 771.117(d)** it will not meet the criteria of **23 CFR § 771.117(e)** and cannot proceed as a Type 1 CE. Further guidance on preparing a ***Type 1 Categorical Exclusion Checklist*** is found in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#).

**Type 2 Categorical Exclusions** - Some Type 2 CEs may not require screening through the EST. See [Section 16.2.1.2.2](#) for guidance on documenting Type 2 CEs.

As discussed in [Section 16.1.4](#), the USCG has entered into an MOU with FHWA, FTA, and FRA, as well as an MOA with FHWA to coordinate and improve bridge planning and permitting. For FHWA funded or eligible projects that qualify for screening in the EST, the conditions in the **2014 MOA between USCG and FHWA** are met in the following process. This process is also outlined in [Figure 16-1](#).

### 16.2.1.1 Efficient Transportation Decision Making Screening

During the Planning phase, a preliminary permitting exemption determination may be made. The USCG may also request a **Navigation Impact Report** for the project.

#### USCG Seventh District

For FDOT projects under the jurisdiction of the USCG Seventh District, this preliminary determination is conducted through ETDM screening events for qualifying projects. The USCG has designated Environmental Technical Advisory Team (ETAT) members that participate in the ETDM screening events. The ETAT are involved in early coordination meetings and may attend site visits if necessary.

During the planning or programming screen, a separate Notice of Waterway Crossing email is sent through the EST to USCG Seventh District ETAT members that includes project information and an interactive list of places where the project intersects with bridges (which is linked to map and street views of each intersection). Through these links the ETAT access the EST and can select whether the intersection with a bridge is within their jurisdiction or not. The USCG may request a **Bridge Project Questionnaire** ([Figure 16-2](#)) to help them determine whether a bridge permit is required.

If the USCG selects no in the EST, it is documented as “not in USCG Jurisdiction” and further coordination with USCG is not needed, unless new unassigned crossings are later included in the project.

If the USCG selects yes, they are then given the opportunity to identify if a permit and/or lighting plan is required or add additional comments. If no permit is required, the USCG is able to choose the type of exemption that is applicable ([Section 16.1.3](#)). This exemption is documented in the EST and no further coordination with USCG is needed unless new unassigned crossings are later included in the project. If a permit is not needed, but a lighting plan is, it is documented in the EST.

If it is in the USCG's jurisdiction and a permit is required, it is documented that a permit is required and the USCG is automatically added as a Cooperating Agency. If a lighting plan is required, this will also be documented in the EST.

The results of this input are included with the general project information in the planning or programming screen summary report. USCG comments may be included in the Navigation section of the report as well as a summary by the District. The designation of USCG as a Cooperating Agency is also documented in the summary report. For more information on how this takes place in the EST see the [ETDM USCG Resources Enhancements in the EST](#).

### **USCG Eighth District**

District 3 documents any coordination with FHWA and the USCG by uploading coordination letters to the EST and may add a summary in the Navigation section of the planning or programming screen summary report. If available, the letter from the USCG should include the USCG's determination of jurisdiction, determination that a permit is or is not needed, and/or if a lighting plan is required. If a USCG permit is required, the USCG is added as a Cooperating Agency.

The designation of USCG as a Cooperating Agency is also documented in the summary report.

### **16.2.1.2 Project Development and Environment**

During the PD&E phase, coordination with the USCG is continued, regardless of the Class of Action (COA), as applicable. FDOT should coordinate with USCG as necessary to resolve issues and avoid unnecessary project delays.

If it has been determined that a USCG permit may be needed for a project in the USCG Eighth District, District 3 prepares a navigation package that includes a completed **Bridge Project Questionnaire** ([Figure 16-2](#)) and submits it to the OEM Project Delivery Coordinator (PDC). The PDC submits it to FHWA. FHWA makes a navigability determination and then submits it and the **Bridge Project Questionnaire** and coordinates with USCG. The questionnaire is prepared for bridge replacements or new bridges, but is not required for bridge repairs. If the project is for bridge repairs, the District follows the guidance in the **USCG October 17, 2017 letter** ([Figure 16-3](#)).

If the USCG requested a **Navigation Impact Report**, coordination with USCG is necessary to obtain preliminary minimum navigation clearances prior to the development/selection of viable alternatives in order to prevent advancement and study of alternatives which USCG would not be able to permit.

FDOT prepares a coordinated **NEPA** Document that satisfies both USCG and FHWA **NEPA** requirements and issues a shared or joint environmental impact determination. The **NEPA** document must include information that is acceptable for adoption by the USCG.

FDOT coordinates with USCG during preparation of the **NEPA** document and prepares necessary environmental documentation based on project analysis ([Section 16.2.1.2.1](#)). The **NEPA** document includes discussion of potential bridge impacts to the environment and the results of ongoing coordination with USCG. In the **NEPA** document USCG is provided with the documentation of navigational impacts and compliance with **NEPA** and other applicable federal environmental statutes, regulations, and executive orders, including coordination/consultation letters from federal and state resource and regulatory agencies.

During the preparation of the **NEPA** document for coastal bridge replacement projects, consideration may be given to using clean material for use as an artificial reef. This should be included in the coordination process with the regulatory and resource agencies as well as other stakeholders once it has been determined that demolition is the preferred alternative. Consideration will include, but will not be limited to, management, testing, storage, cost and/or transport of the material as well as permitting and agreements that may be necessary.

Preliminary environmental documentation is submitted to USCG for review, and as appropriate, FDOT responds to comments received on environmental aspects of highway bridges. To ensure the USCG can adopt the **NEPA** document for its bridge permit action, the **NEPA** document should adequately address all comments received from the USCG as a Cooperating Agency.

The **NEPA** document should include appropriate commitments per [Part 2, Chapter 22, Commitments](#).

[Part 2, Chapter 8, Archaeological and Historical Resources](#), provides guidance on which bridge projects require **Section 106 of the National Historic Preservation Act (NHPA)** compliance. For historic bridges requiring **Section 106 NHPA** compliance, FDOT copies USCG on SHPO concurrence letters or MOAs with SHPO and consulting parties.

FDOT also coordinates with USCG to determine if joint efforts for public notices, meetings and hearings would be appropriate. Where a combined Final Environmental Impact/Record of Decision (FEIS/ROD) is anticipated, FDOT notifies USCG and adjusts the review process of the FEIS/ROD accordingly.

The USCG will provide comment on the sufficiency of an Environmental Document (i.e., stating that the document satisfies USCG requirements to process a permit) and will provide preliminary navigation clearance determinations (e.g., stating that minimum navigation clearance for a particular location is XX vertical and XX horizontal) based on information on-hand from a navigation impact study or user input. See [Figure 16-4](#) for a sample letter from USCG. If a letter is received it should be referenced in the Environmental Document and uploaded into the StateWide Environmental Project Tracker (SWEPT).

Also, during the PD&E phase, FDOT may compile applicable environmental information for the bridge permit application. Permitting may be conducted during the PD&E phase, or later during the Design phase.

#### 16.2.1.2.1 Navigation Analysis

The navigation analysis should consider any potential impacts to navigation for proposed construction, reconstruction, rehabilitation, or replacement of federally-aided or assisted projects located over waters.

At the beginning of the PD&E phase, the District looks at the results of coordination with USCG documented in the **Final Programming Screen Summary Report** and reviews the project to make sure there are no additional crossings not identified in the screening. Information from the ETDM screening should be used to focus the analysis/impact assessment. The **Programming Screen Summary Report** should identify if the project is within USCG jurisdiction, if a permit and/or lighting plan is needed, or if an exemption and the exemption type ([Section 16.1.3](#)) has been identified. During PD&E, the District should also utilize USCG comments from the **Programming Screen Summary Report** to anticipate permitting needs.

If additional crossings have been identified since the ETDM screening, coordination with USCG is necessary to determine if a USCG permit is needed. Coordination with FHWA may be necessary for projects under the jurisdiction of the USCG Eighth District.

Pursuant to **23 CFR § 650.807(d)**, FDOT should accomplish sufficient preliminary design and consultation during PD&E to investigate bridge concepts, including the feasibility of any proposed movable bridges, the horizontal and vertical clearances that may be required, and other location considerations which may affect navigation. At least one fixed bridge alternative shall be included with any proposal for a movable bridge to provide a comparative analysis of engineering, social, economic and environmental benefit and impacts. Engineering decisions resulting from consultation with the USCG during PD&E are incorporated into the Environmental Document.

According to the **Bridge Administration Manual**, each alternative described in the Environmental Document should summarize the navigational impacts. This should include a description of the bridge alignment in relation to the current flow, the vertical

and horizontal clearances, the design vessel length, the beam and draft, the navigation traffic patterns (one-way or two-way vessel traffic), the wind and wave effect, the current speed and the direction, visibility, quality and spacing of aids to navigation near the bridge. The navigational information should be sufficiently complete so that the USCG can take final action without supplementing the Environmental Document.

#### **16.2.1.2.2 Documentation**

The results of FDOT's navigation analysis and USCG coordination is documented in the Environmental Document. The documentation for each type of Environmental Document is outlined below:

**Type 2 CE** – If the project is not in USCG jurisdiction, select “not applicable” for the USCG Bridge Permit in the Permits section of the ***Type 2 Categorical Exclusion Determination Form*** in SWEPT.

If the project is in USCG jurisdiction, select the appropriate status (to be acquired, application submitted, or permit received) for the USCG Bridge Permit in the Permits section of the ***Type 2 Categorical Exclusion Determination Form*** in SWEPT. Any analysis or coordination to determine USCG jurisdiction should be briefly summarized in the project description. The correspondence, letter for preliminary determination of navigational clearance (if applicable), and other documents developed should be added to the project file ([Part 1, Chapter 5, Type 2 Categorical Exclusion](#)) in SWEPT.

**Environmental Assessments (EAs) and Environmental Impact Statements (EISs)** – If there is no involvement with navigation, include any relevant coordination documents in the project file and state why there is no involvement. Discuss how this determination was made.

For projects within jurisdiction, and no USCG permit is needed, the Navigation section of the EA or EIS should discuss the navigation analysis and coordination with USCG and/or FHWA (USCG Eighth District).

For projects where a USCG permit is needed, coordination with the USCG and/or FHWA (USCG Eighth District) should be discussed in the Navigation section of the EA or EIS and the permit listed in the Anticipated Permits section.

Coordination emails, letters, letter for preliminary determination of navigational clearance, or other supporting information should be included in the Appendix.

#### **16.2.1.3 Design and Permitting**

During permitting, the District's role is as an applicant. This is the same, regardless of the lead agency for preparation of the **NEPA** document. Coordination with USCG during

permitting takes place to determine the requirements for a complete bridge permit application. FDOT submits the application for the USCG bridge permit as early as practicable and ensures that the documentation submitted to USCG with the permit application is complete, addresses navigational impacts, and is in compliance with **NEPA** and other required federal environmental statutes, regulations, and executive orders. This is to assist USCG in processing the permit application as quickly as possible. This should include coordination/concurrence letters from federal and state resource agencies, as appropriate. See [Part 1, Chapter 12, Environmental Permitting](#), and the [Permit Handbook](#) for guidance on preparing a USCG bridge permit application.

## 16.2.2 United States Coast Guard as Lead Agency

The USCG may serve as the lead agency for state funded projects when, through early coordination, it has been determined that FDOT will prepare a **NEPA** document for USCG signature in accordance with USCG guidance and procedures. See [Figure 16-5](#) for a flowchart of this process.

The USCG manual for the preparation of environmental documents (**Commandant Instruction 5090.1: U. S. Coast Guard Environmental Planning Policy**) (referred to as **COMDTINST 5090.1**) addresses the policy and responsibilities for USCG implementation of **NEPA** as well as other related laws and legislation. All USCG actions are required to be consistent with the procedures and intent of the **COMDTINST 5090.1**.

It is the USCG's responsibility to determine whether a project can be processed as a CE and to prepare a **Categorical Exclusion Determination (CED) Form** (provided in **Implementation of the National Environmental Policy Act, Department of Homeland Security Instruction Manual 023-01-001-01**). The USCG can adopt Environmental Documents of other federal agencies; however, **CEDs** prepared by other federal agencies cannot be adopted.

### 16.2.2.1 Efficient Transportation Decision Making Screening

When FDOT prepares the **NEPA** document for USCG, early coordination is necessary. When it has been determined that the USCG will be the lead agency, it is screened through the EST. This process is the same as discussed in [Section 16.2.1.1](#) for FDOT led projects located in the USCG Seventh District, the only difference being the USCG is identified as the lead agency, and the FDOT as the project sponsor.

For projects located in the USCG Eighth District, District 3 prepares a navigation package that includes a completed **Bridge Project Questionnaire** ([Figure 16-2](#)) and submits it to the USCG. The questionnaire is prepared for bridge replacements but is not required for bridge repairs. If the project is for bridge repairs, District 3 follows the guidance in the **USCG October 17, 2017 Letter** ([Figure 16-3](#)). If the USCG Eighth District determines the project is in their jurisdiction and a permit is required, District 3 documents it in the



EST. The USCG is identified as the lead agency, and the FDOT as the project sponsor. If a lighting plan is required, this will also be documented in the EST by District 3.

The results of this input are included in the Navigation section of the planning or programming screen summary report. The designation of USCG as the lead agency is also documented in the summary report.

### **16.2.2.2 Project Development and Environment**

During the PD&E phase, FDOT prepares a **NEPA** document to be accepted by USCG. The **COMDTINST 5090.1** and **Implementation of the National Environmental Policy Act, Department of Homeland Security Instruction Manual 023-01-001-01** provide guidance on preparing the **NEPA** document. The USCG is responsible for determining the COA and signing the final **NEPA** document. Additionally, the **BPAG** contains an environmental section which outlines applicable environmental constituents which are required to be covered in the **NEPA** document.

In some instances, an **Environmental Checklist** will need to be prepared. The **Environmental Checklist** is a tool to assist with project scoping, and is used by USCG to document the use of a CE. Its use ensures that any extraordinary circumstances that could affect the appropriateness of a CE are identified and considered when determining appropriate **NEPA** documentation. It can also be used by FDOT to help develop an EA or EIS for the USCG. Instructions on how to complete an **Environmental Checklist** are included in **COMDTPUB P16591** (the **BPAG**).

The **Environmental Checklist** facilitates the evaluation of the significance of potential environmental consequences by evaluating impacts in their context (i.e., local, state, regional, tribal, national, or international) and in their intensity by assessing whether the action is likely to involve public health or safety; and/or a site that includes or is near a unique characteristic of the geographic area.

**COMDTINST 5090.1** provides instruction for agency coordination and public involvement. It identifies who in the USCG will assume responsibility for maintaining USCG lead agency status. Most notably, it provides instruction on the necessary procedures and processes that the USCG must adhere to when approving an Environmental Document prepared by another agency. In order to reduce costs and processing time, CEQ regulations encourage agencies to adopt environmental documentation prepared by other agencies when possible; however, there can be complications based on differences between what types of actions qualify under certain document types. Further, the **COMDTINST 5090.1** describes the specific procedures to be followed for the adoption of Environmental Documents produced by other agencies.

Coordination with the USCG during the PD&E phase is needed to ensure the Environmental Document and associated public outreach is prepared and conducted in accordance with USCG standards. The documentation and public involvement

requirements may be different than for projects prepared for federal actions in which FDOT is the lead agency under **NEPA** assignment.

### 16.2.2.3 Design and Permitting

During permitting, the District's role is as an applicant, regardless of the lead agency for preparation of the **NEPA** document. Coordination with USCG during permitting takes place to determine the requirements for a complete bridge permit application. FDOT submits the application for the USCG bridge permit as early as practicable and ensures that the documentation submitted to USCG with the permit application is complete with respect to documenting navigational impacts as well as compliance with **NEPA** and other required federal environmental statutes, regulations, and executive orders. This is to assist USCG in processing the permit application as quickly as possible. This should include coordination/concurrence letters from federal and state resource agencies, as appropriate. See [Part 1, Chapter 12, Environmental Permitting](#), and the [Permit Handbook](#) for guidance on preparing a USCG bridge permit application.

### 16.2.3 Florida Department of Transportation as Lead Agency for State Funded Projects

If FDOT is identified as the lead agency when the project is state funded, FDOT prepares a State Environmental Impact Report (SEIR) or Non-Major State Action (NMSA) according to [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#). FDOT ensures that adequate information is included in the Environmental Document for the USCG to use in preparation of their **NEPA** document. See [Figure 16-6](#) for a process flowchart.

If the project does not qualify for screening through the EST, navigation issues and/or coordination with USCG is documented in an NMSA. Minimal documentation on navigational effects is required for NMSAs. The navigation results are recorded on the **Non-Major State Action Checklist**. Answer the question that asks "Will the project cause adverse impacts to navigation requiring a federal permit?". The answer should be no. If a USCG bridge permit is not needed, document the rationale on how this determination was made in the comment box. If the answer is yes, a SEIR is typically necessary as often these projects have other impacts that will not meet the NMSA criteria. Guidance on preparing the **Non-Major State Action Checklist** is found in [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

For these types of projects, if it is uncertain whether the waterway is susceptible to improvement for navigation, is tidal, or is considered navigable, or if the types of vessels using the waterway are unknown, FDOT coordinates directly with the USCG.

### 16.2.3.1 Efficient Transportation Decision Making Screening

If the project qualifies for screening through the EST, the process discussed in [Section 16.2.1.1](#) is followed for projects located in the USCG Seventh District.

If it has been determined that a USCG permit may be needed for a project in the USCG Eighth District, District 3 prepares a navigation package that includes a completed **Bridge Project Questionnaire** ([Figure 16-2](#)) and submits it to the USCG. The questionnaire is prepared for bridge replacements but is not required for bridge repairs. If the project is for bridge repairs, District 3 follows the guidance in the **USCG October 17, 2017 Letter** ([Figure 16-3](#)). If the USCG Eighth District determines the project is in their jurisdiction and a permit is required, District 3 documents it in the EST and the USCG is automatically added as a Cooperating Agency. If a lighting plan is required, this will also be documented in the EST by District 3.

The results of this input are included in the Navigation section of the planning or programming screen summary report. The designation of USCG as a Cooperating Agency is also documented in the summary report.

### 16.2.3.2 Project Development and Environment, Design, and Permitting

During the PD&E phase, coordination with the USCG is continued. FDOT should coordinate with USCG as necessary to resolve issues and avoid unnecessary project delays.

If the USCG requested a **Navigation Impact Report**, coordination with USCG is necessary to obtain preliminary minimum navigation clearances, prior to the development/selection of viable alternatives in order to prevent advancement and study of alternatives which USCG would not be able to permit.

FDOT prepares a SEIR and includes information that is acceptable for adoption by the USCG. FDOT consults with USCG during preparation of the SEIR and prepares necessary environmental documentation based on project analysis. See [Section 16.2.1.2.1](#) for guidance on conducting navigation analysis. The SEIR includes discussion of potential bridge impacts to the environment and a discussion of results of ongoing coordination with USCG. In the SEIR, USCG is provided with the documentation of navigational impacts and information they can use to comply with **NEPA** and other applicable federal environmental statutes, regulations, and executive orders, including coordination/consultation letters from federal and state resource and regulatory agencies.

During the preparation of SEIR coastal bridge replacement projects, consideration may be given to using clean material for use as an artificial reef. This should be included in the coordination process with the regulatory and resource agencies as well as other

stakeholders once it has been determined that demolition is the preferred alternative. Consideration will include, but will not be limited to, management, testing, storage, cost and/or transport of the material as well as permitting and agreements that may be necessary.

Preliminary environmental documentation is submitted to USCG for review, and as appropriate, FDOT responds to comments received on environmental aspects of highway bridges. To ensure the USCG can use the SEIR for its bridge permit action, the SEIR should adequately address all comments received from the USCG.

The SEIR should include appropriate commitments per [Part 2, Chapter 22, Commitments](#). For historic bridges requiring **Section 106 of the NHPA** compliance, FDOT copies USCG on SHPO concurrence letters or MOAs with SHPO and consulting parties.

FDOT also coordinates with USCG to determine if joint efforts for public notices, meetings and hearings would be appropriate. The USCG will provide comment on the sufficiency of the SEIR (i.e., stating that the document satisfies USCG requirements to process a permit) and will provide preliminary navigation clearance determinations (e.g., stating that minimum navigation clearance for a particular location is XX vertical and XX horizontal) based on information on-hand from a navigation impact study or user input. See [Figure 16-4](#) for a sample letter from the USCG. If a letter is received it should be referenced in the SEIR and uploaded into SWEPT.

Also, during the PD&E phase, FDOT may compile applicable environmental information for the bridge permit application. Permitting may be conducted during the PD&E phase or later during the Design phase.

During permitting, the District's role is as an applicant, regardless of whether the project is a federal action, or state funded. Coordination with USCG during permitting takes place to determine the requirements for a complete bridge permit application. FDOT submits the application for the USCG bridge permit as early as practicable and ensures that the documentation submitted to USCG with the permit application is complete, addresses navigational impacts, and is in compliance with other required environmental statutes, regulations, and orders. This is to assist USCG in processing the permit application as quickly as possible. This should include coordination/consultation letters from federal and state resource agencies, as appropriate. See [Part 1, Chapter 12, Environmental Permitting](#), and the [Permit Handbook](#) for guidance on preparing a USCG bridge permit application.

### 16.2.3.2.1 Documentation of State Environmental Impact Reports

If the project is not within USCG's jurisdiction, mark the column indicating "NoInv" on the **State Environmental Impact Report Form, Form No. 650-050-43**. No involvement

means navigation is not part of, or in any way involved with the project. If the "NoInv" column is marked, no supporting documentation is needed.

If the project is within USCG's jurisdiction, mark the applicable box in **Section 2.D.7. Navigation** based on the outcome of analysis and coordination.

If the navigation impact is substantial, mark the column "Yes" with an "X". The form should include a reference to the attachment containing supporting information. If the navigational impact is not substantial, mark the column "No" with an "X". Not substantial means navigation issues are present and considered as potentially involved with the project. The project impact may range from none to substantial. The form should include a reference to the attachment containing supporting information. If navigation is enhanced, mark the column "Enhance" with an "X". Enhance means the project has enhancements or benefits to navigation. The form should include a reference to the attachment containing supporting information.

Any analysis or coordination to determine USCG jurisdiction should be briefly summarized and included in the SEIR. The correspondence, letter for preliminary determination of navigational clearance (if applicable), and other documents developed should be contained in the project file in SWEPT and referenced in the SEIR. The SEIR must include items needed for permitting and be prepared so that USCG can use the information to prepare their own **NEPA** document.

Also check the box to indicate if a USCG bridge permit is needed or not and include the anticipated permit type in the Anticipated Permits section of the form. If needed, this determination can be explained in the Supporting Information space on the form and coordination emails or letters can be included in the project file. See [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#) for more information on preparing a SEIR.

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## **16.4 FORMS**

[State Environmental Impact Report Form, Form No. 650-050-43](#)



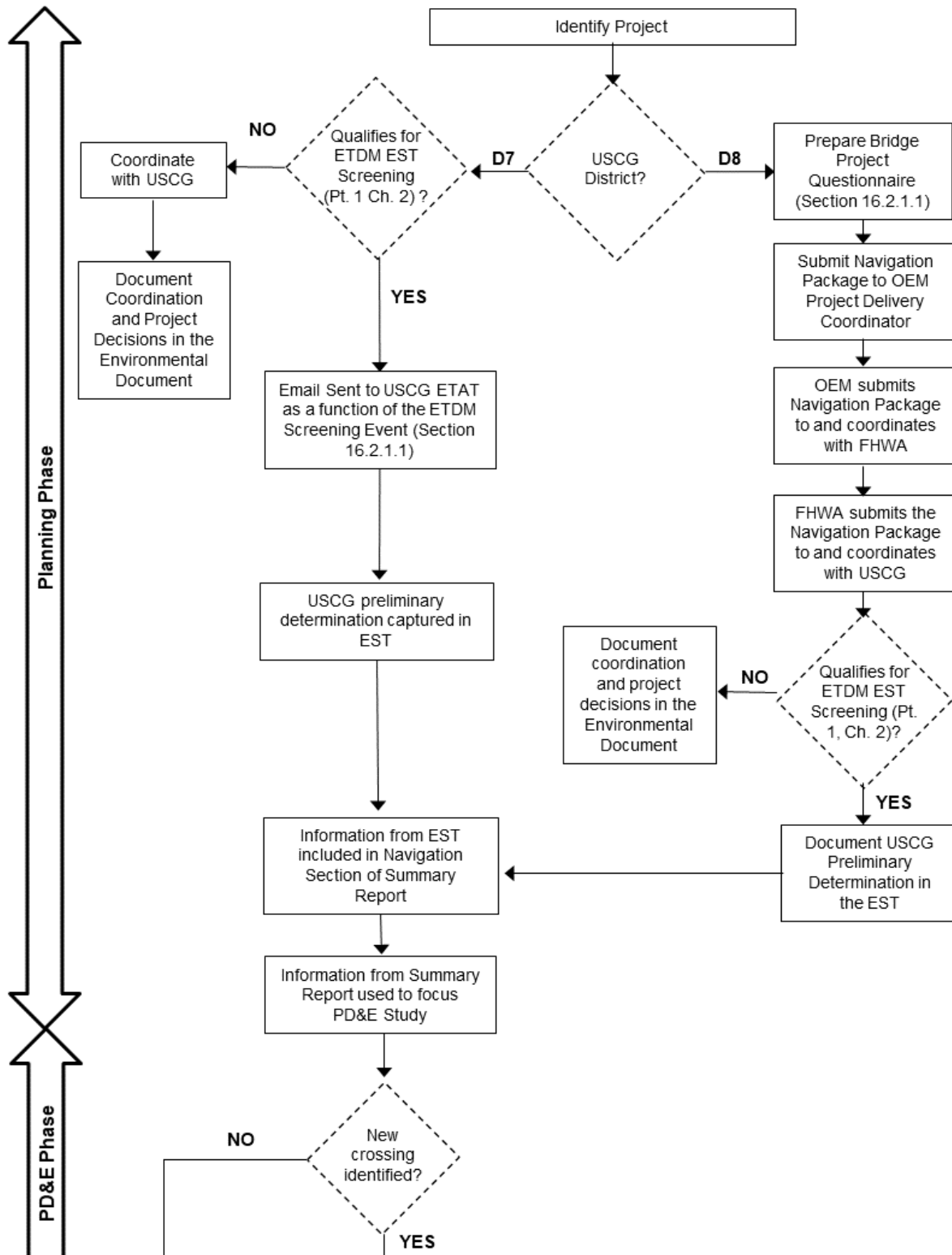


Figure 16-1 FDOT Federal Lead Process

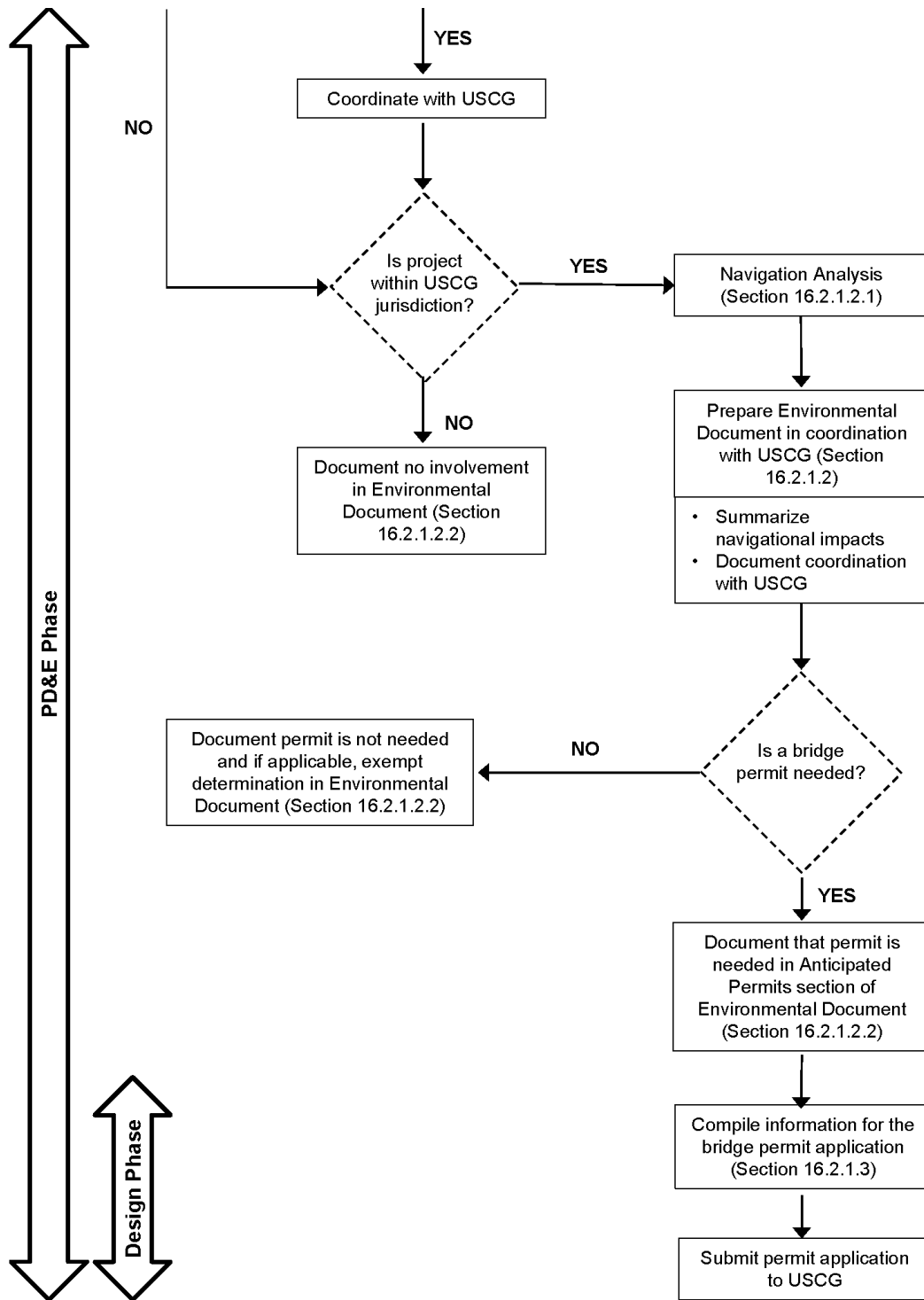


Figure 16-1 FDOT Federal Lead Process (page 2 of 2)



Commander  
Eighth Coast Guard District  
Hale Boggs Federal Building

500 Poydras St., Rm. 1313  
New Orleans, LA 70130-3310  
Staff Symbol: (dpb)  
Phone: (504 ) 671-2128  
[D8DBPALL@uscg.mil](mailto:D8DBPALL@uscg.mil)

## BRIDGE PROJECT QUESTIONNAIRE

Waterway Name  
Location  
County, State

Please provide the following information:

### A. NAVIGATION DATA:

1. Name of Waterway: \_\_\_\_\_
- 1a. Mileage along waterway measured from mouth or confluence \_\_\_\_\_
- 1b. Tributary of: \_\_\_\_\_
2. Geographic Location: \_\_\_\_\_

\_\_\_\_\_  
(Road Number, City, County, State) and (**Latitude and Longitude in NAD 83 form**)

3. Township, section and range, if applicable: \_\_\_\_\_
4. Tidally influenced at proposed bridge site? Yes \_\_\_\_ No \_\_\_\_ .  
Range of tide: \_\_\_\_\_  
Tidal data source: \_\_\_\_\_
5. Depth and width of waterway at proposed bridge site:

	Depths	Widths
At Mean High Tide	_____	_____.
At Mean Low Tide	_____	_____.

6. Character of present vessel traffic on waterway. If none, so state: None \_\_\_\_\_.  
Canoe \_\_\_\_\_ Rowboat \_\_\_\_\_ Small Motorboat \_\_\_\_\_ Cabin Cruiser \_\_\_\_\_ .  
Houseboat \_\_\_\_\_ Pontoon Boat \_\_\_\_\_ Sailboat .

**Figure 16-2 Bridge Project Questionnaire**

- 6a. Provide vertical clearance requirement for largest vessel using the waterway:
- 6b. Provide photograph of each type of vessel using the waterway.
7. Are these waters used to transport interstate or foreign commerce?  
Yes \_\_\_\_\_ No \_\_\_\_\_ .
- 7a. Are these waters susceptible to use in their natural condition or by reasonable improvement as a means to support interstate or foreign commerce?  
Yes \_\_\_\_\_ No \_\_\_\_\_ .
- 7b. Any planned waterway improvements to permit larger vessels to navigate (to your knowledge)? \_\_\_\_\_ If so, what are they? \_\_\_\_\_  
\_\_\_\_\_
8. Any natural or manmade obstructions, bridges, dams, weirs, etc. downstream or upstream? Yes \_\_\_\_\_ No \_\_\_\_\_ .
- 8a. If yes, provide upstream/downstream location with relation to the proposed bridge. \_\_\_\_\_
- 8b. If bridges are located upstream or downstream, provide vertical clearance at mean high water and mean low water and horizontal clearance normal to the axis of the channel. \_\_\_\_\_
- 8c. Provide a photograph of the bridge from the waterway showing channel spans.
9. Will the structure replace an existing bridge? Yes \_\_\_\_\_ No \_\_\_\_\_ .
- 9a. Provide permit number and issuing agencies of permits for bridge(s) to be replaced. \_\_\_\_\_
- 9b. Provide vertical clearance at mean high water and mean low water and horizontal clearance normal to the axis of the channel for the proposed bridge.  
\_\_\_\_\_  
\_\_\_\_\_
10. List names and addresses of persons whose property adjoins bridge right-of-way.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Figure 16-2 Bridge Project Questionnaire (page 2 of 3)**

11. List names and addresses/location of marinas, marine repair facilities, public boat ramps, private piers/docks along the waterway within ½ mile of the bridge site.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Attach location map and plans for the proposed bridge; including vertical clearances above mean high water and mean low water and horizontal clearance normal to axis of the waterway.

13. Attach three (3) photographs taken at the proposed bridge site: one looking upstream, one looking downstream, and one looking along the alignment centerline across the bridge site.

Name of applicant: \_\_\_\_\_

Name of agent completing questionnaire: \_\_\_\_\_

Name of agent's firm: \_\_\_\_\_

Agent's telephone number: \_\_\_\_\_

Address for correspondence: \_\_\_\_\_

Applicant's telephone number: \_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

**PLEASE NOTE: MISSING INFORMATION AND REQUIRED SIGNATURES WILL  
DELAY PROCESSING**

Attachments: Location Map  
Bridge Plans  
Photographs

**Figure 16-2 Bridge Project Questionnaire (page 3 of 3)**



Florida Department of Transportation  
District 3  
Highway 90 East  
Chipley, FL 32428

Dear Sir or Ma'am,

The Eighth Coast Guard District Bridge Branch is responsible for ensuring that bridge inspections, rehabilitations or maintenance projects do not alter drawbridge operations or impact navigation safety. We understand the need and often regulatory requirements to inspect and maintain bridges and that there are situations that require temporarily restricting drawbridge operations or temporarily changing bridge clearances to safely conduct work.

33 Code of Federal Regulations (CFR) Part 117.35 (c) provides requirements to change drawbridge regulations and 33 CFR 114.10 establishes laws which are intended to prevent any interference with navigable waters of the United States whether by bridges, dams, dikes or other obstructions to navigation except by express permission of the United States.

Bridge maintenance, planned rehabilitations or repairs or inspections that require a temporary change to a drawbridge regulation, alter a bridge's clearances or impact navigation safety must be reported to the Coast Guard Bridge Branch before the beginning of work. Bridge owners should submit the below information by letter to the Eighth Coast Guard District Bridge Branch 60 days prior to the proposed date of work. Sixty days are needed to plan possible waterway restrictions or closures, temporarily change bridge operating schedules or coordinate navigation safety for projects that temporarily reduce the vertical or horizontal clearances of a bridge.

- Bridge owner project manager contact information: name, phone number, email address
- Name and contact information for any contractor or consultant designated to represent the bridge owner during the project (if any).
- Name, location, waterway name, waterway mile and type of bridge.
- Description of the proposed work.
- Dates and times of the proposed work.
- If the bridge is moveable - proposed temporary changes to the bridge operating schedule.
- If the bridge is fixed - proposed changes to temporary bridge clearances.
- The type and sizes of vessels or barges that will be used during the project (if any).
- Proposed locations in the waterway of vessels or barges used during the project.
- Proposed locations of any temporary anchorages needed during the project.
- Proposed location where vessels or barges will be secured after completion of work during the day or night.
- Other impacts to navigation and the navigation channel.
- Steps taken to reduce adverse impacts to navigation and the navigation channel.

**Figure 16-3 USCG October 17, 2017 Letter**

165930  
October 17, 2017

Please contact me if you need additional information or would like to discuss these requirements.  
My contact information is: office phone number (504) 671-2127, cellular phone number (618)  
225-7727, email [Douglas.A.Blakemore@uscg.mil](mailto:Douglas.A.Blakemore@uscg.mil).

Sincerely,

Doug Blakemore  
Chief Bridge Administration Branch  
U.S. Coast Guard  
By direction

**Figure 16-3 USCG October 17, 2017 Letter (page 2 of 2)**



Commander  
United States Coast Guard  
Seventh District

909 S. E. 1<sup>st</sup> Avenue (Rm 432)  
Miami, FL 33131  
Staff Symbol: (dpg)  
Phone: (305) 415-6736  
Fax: (305) 415-6763  
Email: randall.d.overton@uscg.mil

16590/2252  
January 13, 2017

Marlon J. Bizerra, P.E.  
District Environmental Manager  
Florida Department of Transportation  
801 N. Broadway Avenue  
Bartow, Florida 33830-3809

Dear Mr. Bizerra:

The Coast Guard has completed its review of the navigational needs study for the Gulf Intracoastal Waterway, between Manatee Avenue (SR-64), and Cortez Road W (SR 684). Based on our review we have made a preliminary determination that a minimum vertical clearance of 65 feet for fixed bridge structures on Manatee Avenue (SR-64), and Cortez Road W (SR 684) would be required to meet the reasonable needs of navigation on this stretch of the Gulf Intracoastal Waterway.

In November 2016, the U.S. Coast Guard received a navigational needs study for the Gulf Intracoastal Waterway, between Manatee Avenue (SR-64), and Cortez Road W (SR 684). This report was prepared by Rummel, Klepper & Kahl, LLP (RK&K) on behalf of the Florida Department of Transportation.

Based on our review of the navigational needs studies, the Coast Guard has made a preliminary determination that to provide for the reasonable needs of navigational on the Gulf Intracoastal Waterway, between Manatee Avenue (SR-64), and Cortez Road W (SR 684), a vertical clearance of at least 65 ft. is required for fixed bridge structures. Please note that this preliminary determination does not constitute an approval or final agency action. The Coast Guard can only make a final determination after processing a complete bridge permit application.

Please refer to the Coast Guard's Bridge Permit Application Guide located at [http://www.uscg.mil/hq/cg5/cg551/BPAG\\_Page.asp](http://www.uscg.mil/hq/cg5/cg551/BPAG_Page.asp) to make application for a Coast Guard bridge permit. Please contact Mr. Randall Overton, (305)415-6736, with any questions. We look forward to working with FDOT and moving this project forward.

Sincerely,

RANDALL D. OVERTON  
Bridge Management Specialist  
U.S. Coast Guard

eCopy: Lieutenant Ashley Holm ([Ashley.E.Holm@uscg.mil](mailto:Ashley.E.Holm@uscg.mil)), Captain of the Port Office, St. Petersburg, FL

Figure 16-4 Sample Letter for Preliminary Determination of Navigational Clearance



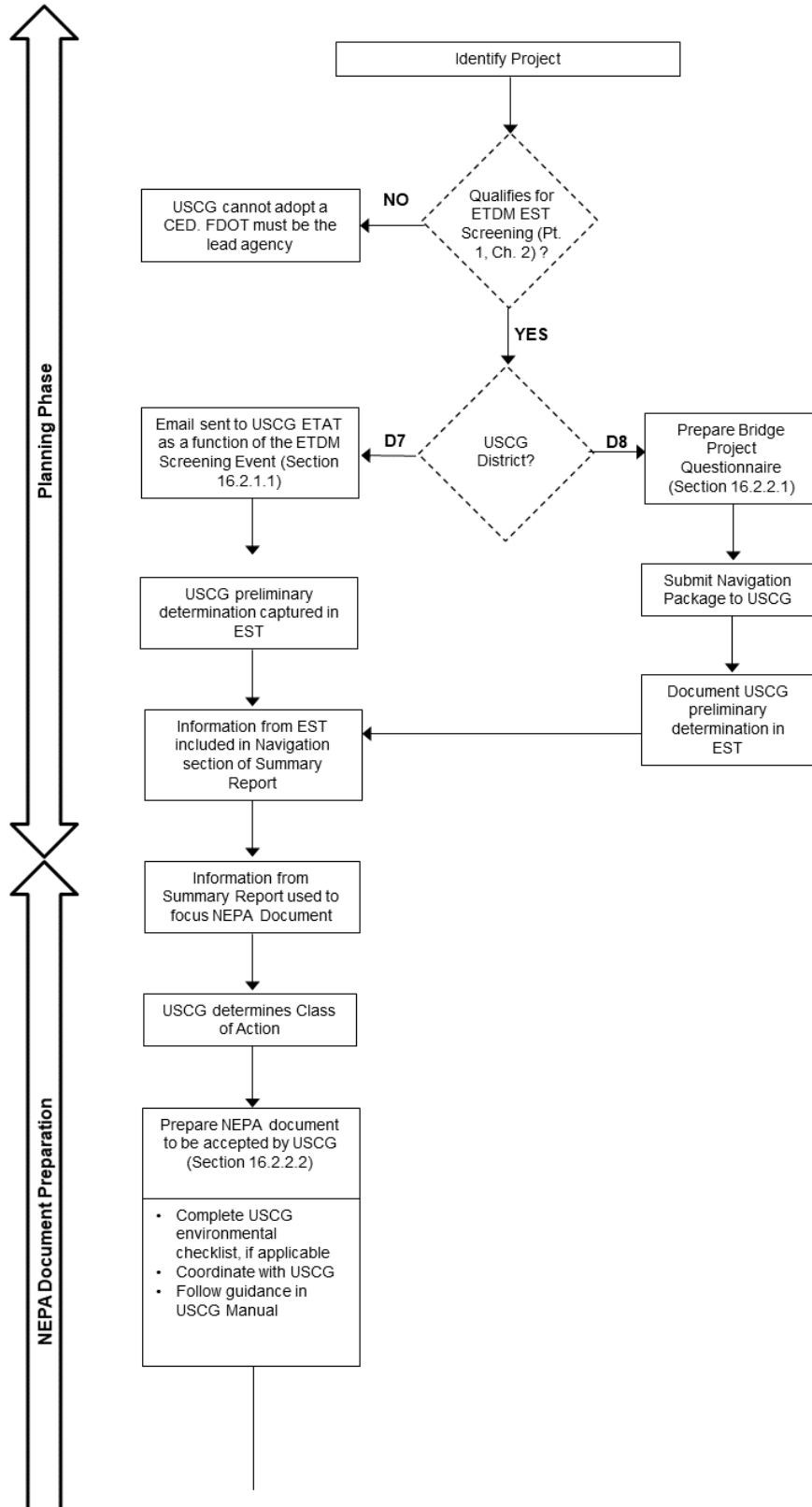
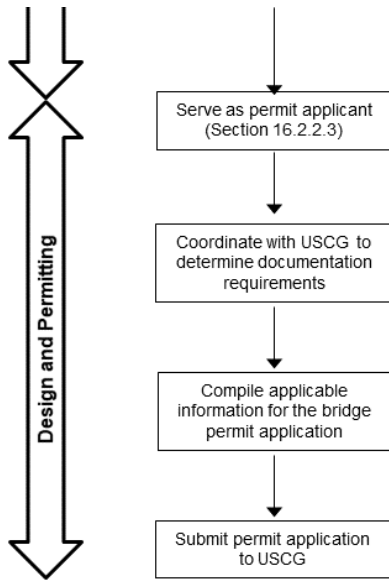
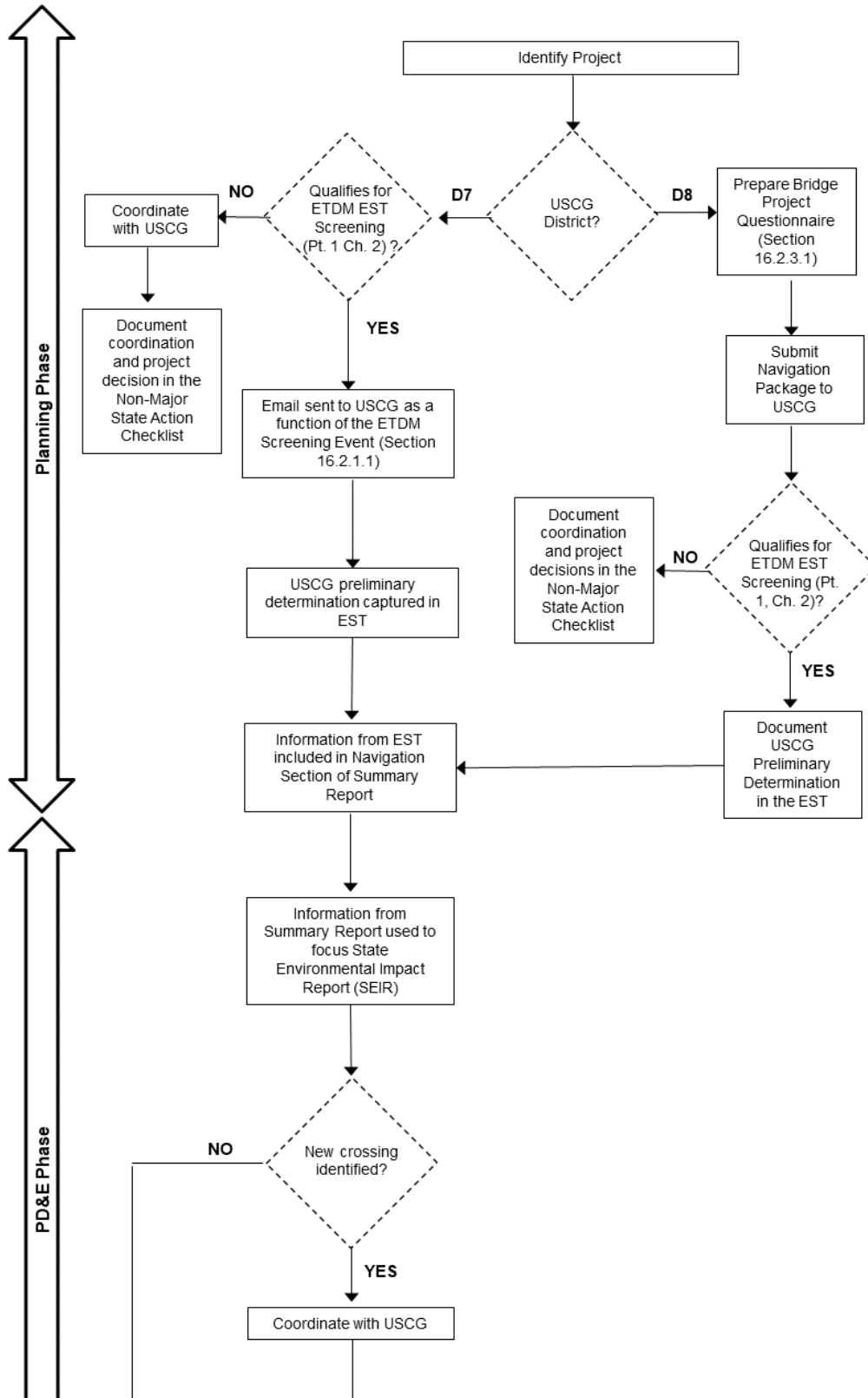


Figure 16-5 USCG Federal Lead Process



**Figure 16-5 USCG Federal Lead Process (page 2 of 2)**



**Figure 16-6 FDOT State Lead Process**

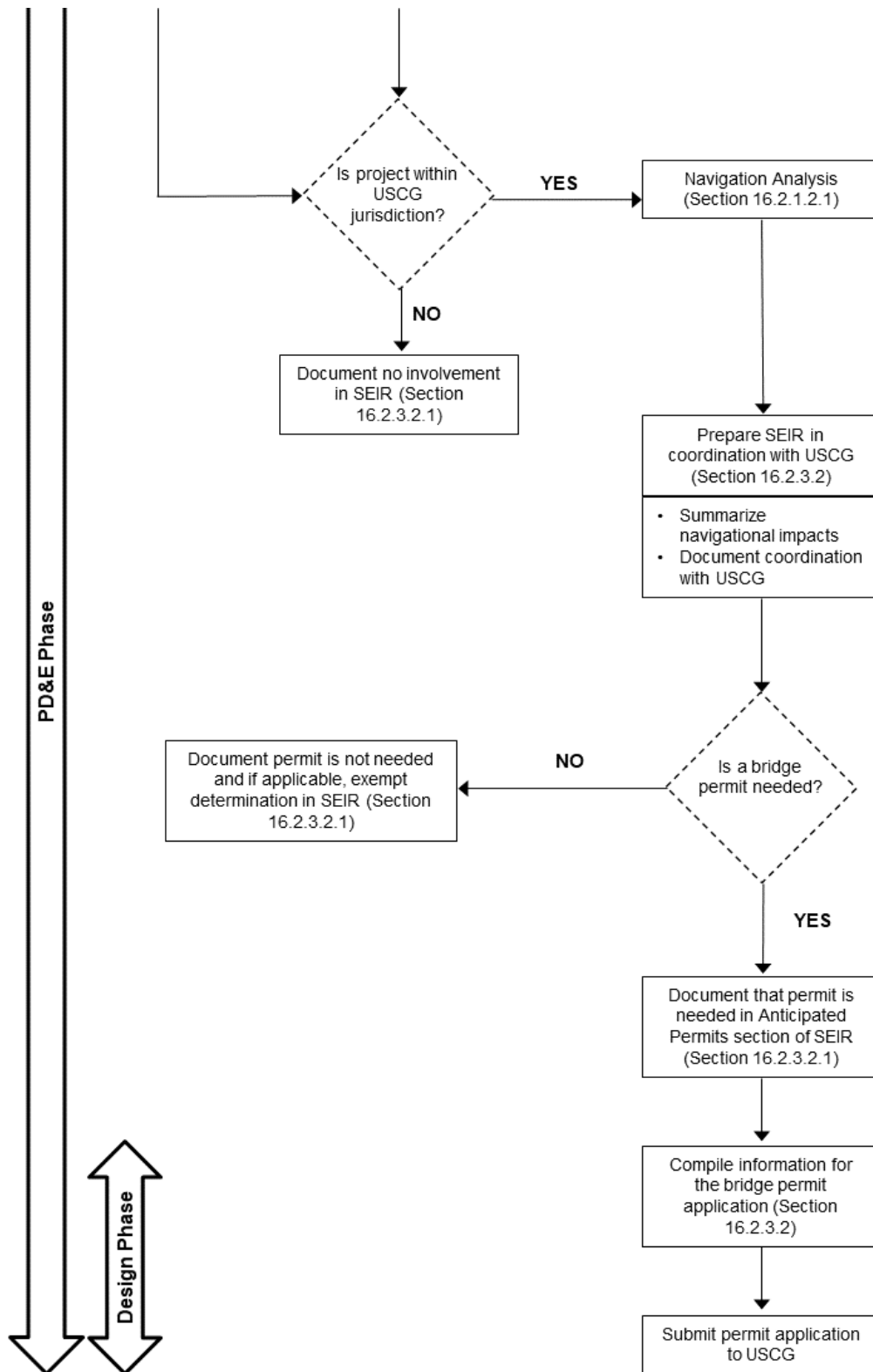


Figure 16-6 FDOT State Lead Process (page 2 of 2)

FLORIDA DEPARTMENT OF TRANSPORTATION

# PROJECT DEVELOPMENT & ENVIRONMENT MANUAL

Part 2: Topics and Analysis



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## **PART 2, CHAPTER 1**

# **PROJECT DESCRIPTION AND PURPOSE AND NEED**

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## PART 2 CHAPTER 1

# PROJECT DESCRIPTION AND PURPOSE AND NEED

### 1.1 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).

This chapter provides guidance on developing and documenting the project description and purpose and need for the project prior to and during the Project Development and Environment (PD&E) phase. The project description briefly describes the existing facility or existing conditions, project limits, project location, and the proposed improvements so that the Lead Federal Agency, resource agencies, and the public can understand the scope of the project and its effects on the environment. The purpose and need for a project is a basis for the development of the range of reasonable alternatives required in an Environmental Impact Statement (EIS), or identification of the build alternative(s) for other Classes of Action (COAs). Moreover, the purpose and need for the project assists the Lead Federal Agency in evaluating project alternatives and selecting a preferred alternative (see [Part 2, Chapter 3, Engineering Analysis](#)).

The purpose and need in an Environmental Document is where the planning process and the PD&E process (**NEPA** for federal projects) most clearly intersect. The development of the purpose and need begins early in the planning process and evolves into the final purpose and need in the PD&E Study. FDOT and planning agencies [e.g., Metropolitan Planning Organizations (MPO) and Transportation Planning Organizations (TPO)] identify transportation needs during the development of their respective transportation plans based on planning data.

FDOT uses the Efficient Transportation Decision Making (ETDM) process to obtain input from resource agencies and the public on the purpose and need for projects that are screened through the Environmental Screening Tool (EST).

The purpose and need discussion in the Environmental Document provides details about the objectives of the proposed action, such as achieving transportation-related needs identified in an MPO plan. If project alternatives do not fully address the stated purpose and need, they can be eliminated from further consideration with documentation.

Further guidance regarding the development of the purpose and need can be found in ***FHWA Technical Advisory T6640.8A***, and ***FHWA Environmental Review Toolkit***.

## **1.2 PROCEDURE**

### **1.2.1 Defining the Project**

Prior to the PD&E Study, a description of the project is developed through the planning process and documented during the ETDM process. The project description used in the PD&E Study should be similar to the one used in the ETDM process. When developing a transportation project, the logical termini are determined for the scope of both transportation improvements and environmental analysis.

#### **1.2.1.1 Development of Project Description**

The project description must be written to allow a person without prior knowledge of the project to clearly understand what the project is. The project description must include the following information:

1. A brief description of the existing facility;
2. The limits of the proposed project (such as its length and logical termini);
3. The names of the City and County where the project is located;
4. A brief description of the proposed improvements (such as mode, typical section features, facility type, multi-modal features, and any major structures);
5. A brief description of pedestrian and bicycle accommodation; and
6. Navigational needs, for federally-aided or assisted projects involving bridges over waters

A project location map illustrating the project limits. The map should display any landmarks mentioned in describing the proposed project or action (i.e., cities, towns, rivers, airports). The EST can be used to generate this map for screened projects.

An example of a project description is provided below:

This project involves a 3.1 mile segment of SR-XX extending north from SR-YY to SR-ZZ (Figure 1) located in City X, County Y. The proposed project improves the existing two-way, two lane roadway to a four (4) lane, divided roadway with a raised

or restrictive median, and six-foot sidewalks and seven-foot bicycle lanes in both directions. Additionally, the project widens the bridge over Any Drainage District Canal which is a navigable channel.

### 1.2.1.1.1 Logical Termini

The establishment of a project's logical termini is an important aspect of the proposed project and serves to define the study area. The identification of logical termini should be completed during the planning process and finalized through the ETDM screening. For federal projects, the determination of logical termini is coordinated with the OEM during the Programming Screen when the purpose and need is accepted.

Logical termini are defined as the rational beginning and end points for a transportation project and serve as the basis for the area of potential effect for environmental issues/resources to be evaluated during the PD&E Study. They are often located at major traffic generators, such as an intersecting roadways. In most cases traffic generators determine the size and type of facility being proposed. The PD&E Study area generally covers a broader geographic area than the limits of the transportation improvements to ensure consideration of potential project impacts. Pursuant to **23 Code of Federal Regulations (CFR) § 771.111(f)**, alternatives developed for Categorical Exclusions (CEs), Environmental Assessment (EAs), or EISs must:

1. Connect logical termini and be of sufficient length to address environmental matters on a broad scope.
2. Have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made.
3. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

Consideration of the items above will prevent the problem of "segmentation" which may occur when a transportation need extends throughout an entire corridor but environmental issues and transportation needs are inappropriately discussed for only a segment of the corridor.

When describing the logical termini, it is common to describe the termini points broadly, such as "the intersection at SR-XX." However, termini that may not be considered logical without further discussion are county lines, rivers, and city limits.

The logical termini presented in an Environmental Document should be consistent with the "project limits" identified in the adopted cost feasible Long Range Transportation Plan (LRTP) of the respective MPO/TPO or other planning documents in a non-MPO area. The logical termini for a project in a "Non-attainment" or "Maintenance" area for Air Quality need to be consistent with the project limits established by the MPO/TPO. Any

inconsistencies need to be resolved in coordination with FDOT's District Planning Office, the MPO/TPO, and OEM.

## 1.2.2 Purpose and Need

The purpose and need for a project provides the basis for developing, considering, evaluating, and eliminating alternatives. The purpose and need shapes the alternatives and in the case of an EIS assists with identification of reasonable and feasible alternatives.

The purpose and need should be clearly written in plain language, succinct and well defined to set the framework for the development and evaluation of alternatives. The purpose and need should briefly describe the project context including actions taken to date, other agencies and governmental units involved, actions pending, and schedules. In many cases the project purpose and need can be adequately explained in one or two paragraphs.

Project needs developed during the transportation planning process and identified in a statewide or metropolitan transportation plan can be the primary source of a project's purpose and need. The transportation planning process enables state and local governments and MPOs, with the involvement of resource agencies and the public, to establish a vision for a region's future transportation system, define a region's transportation goals and objectives for realizing that vision, decide which needs to address, and determine the timeframe for addressing these needs. Out of the process emerge proposed projects intended to meet the needs and achieve the objectives of the plan.

The initial purpose and need developed during the Planning phase or ETDM screening may be refined during the PD&E Study if new information or needs are identified. If the purpose and need changes during the PD&E Study, the OEM must be made aware of and agree to the proposed changes before they can be incorporated into the Environmental Document.

### 1.2.2.1 Development of Purpose and Need

Transportation planning data developed for FDOT in non-MPO areas or for MPO/TPO LRTPs are the primary source of information used to establish the purpose and need. These data are obtained from corridor plans, subarea plans, regional models and other sources that help identify corridors and facilities where transportation improvements are needed. These data are also summarized in the Strategic Intermodal System (SIS) plan, MPO/TPO Transportation Improvement Program (TIP), and the State Transportation Improvement Program (STIP). District staff preparing the purpose and need during ETDM screening should coordinate with planning staff to obtain relevant data that support the purpose need for the project. Consistent with the conditions set forth in **23 CFR Part 450** and **23 U.S.C. § 168** planning products can be adopted or incorporated by reference into **NEPA**.

### 1.2.2.1.1 Purpose

The purpose identifies the primary goals of the project and guides the alternatives that will be considered and developed in response to the established need. The purpose should be broad enough to encompass a reasonable range of alternatives for an EIS, but not so broad that it encompasses every possible alternative. Conversely, the purpose should not be so narrow as to preclude a range of alternatives that could reasonably meet the defined objectives or restrict decision-makers' flexibility in resolving conflicting interests.

An alternative that does not achieve the primary purpose of the project would be eliminated as unreasonable or not feasible. Secondary purposes do not, by themselves, provide a basis for eliminating alternatives from further study, but could be considered in the selection of a preferred alternative.

### 1.2.2.1.2 Need

The need for the project arises from deficiencies, issues, and/or concerns that currently exist or are expected to occur within the project area. The need serves as the foundation for the proposed project and provides the principal information upon which the "no-build" alternative discussion is based. It establishes the rationale for pursuing the action and is generally reflected in local, state or MPO/TPO transportation plans. The need should consist of a factual, objective description of the specific transportation problem supported by data and analysis. Detailed analysis supporting the need should be referenced in the purpose and need discussion.

The following list may assist project sponsors in the discussion of the need for the proposed action. This list is not all-inclusive. **With exception of the project status, the remaining elements are not applicable in every situation.**

1. **Project Status** - Discuss the planning status of a project documenting the progression of the project towards implementation. Due to the time elapsed between a document signed for public availability and the final Environmental Document, the status will likely require updating. Planning consistency is necessary to receive OEM approval. For the specific funding scenarios to obtain approval of the Environmental Document, refer to the [Guidance for Meeting Planning Requirements for NEPA Approval](#) prior to submitting the Environmental Document. See [Part 1, Chapter 4, Project Development Process](#) for more information on documenting planning consistency at the conclusion of PD&E and the [FDOT/FHWA Consistency Guidance](#) for more information on planning consistency.

Briefly discuss actions taken to date, coordination with other agencies and governmental units involved, actions pending, and schedules. Using the information contained in the appropriate planning consistency form ([Part 1, Chapter 4, Project Development Process](#)), present the project implementation information in a clear and concise manner. Summarize information contained in the planning documents including: project scope, project phases, cost, general funding sources, project description, and logical termini. Describe project implementation and document the status of the planning requirements as follows:

**a. MPO Areas:**

1. Identify which MPO the project is located in. The information provided in the Environmental Document must reference the MPO's current LRTP and TIP. Also, the current STIP should be used since the TIP must be consistent with the STIP.
2. Project limits: Confirm that the project description in the LRTP and Environmental Document are similar. Explain any differences, such as the **NEPA** project is a shorter section than what is described in the LRTP or that the Environmental Document includes more than one LRTP project. If the LRTP shows that the project will be implemented in segments, then the segments must be described. Also confirm that the STIP/TIP and Environmental Document descriptions are similar, describing any differences.
3. Project Funding: Provide a narrative referencing the Cost Feasible LRTP, STIP and TIP that describes all projects phases [PD&E, Design, Right of Way (ROW), and Construction], when those phases are anticipated, which phases are funded, and which type of funds are proposed to be used (e.g., state, local, federal, private or toll). If any phase is not funded, the estimated implementation dates should be provided, which can typically be found in the LRTP Needs Plan. The estimated total project cost and anticipated date of construction must also be included.

**b. Non-MPO Areas:**

1. In a non-MPO area, the information provided must reference the most current STIP. Acknowledge consistency with the Florida Transportation Plan. Other long range planning documents, such as SIS Cost Feasible Plan (CFP), Local Government Comprehensive Plan or other publicly adopted plans may be used to support the project's planned implementation.

2. Project limits: Confirm that the project description in the STIP or other long range document and Environmental Document are similar. Explain any differences, such as the **NEPA** project is a shorter section than what is described or that the Environmental Document includes more than one project.
3. Project Funding: Provide a narrative referencing the STIP or other transportation plan that describes all projects phases (PD&E, Design, ROW, and Construction), when those phases are anticipated, which phases are funded, and which type of funds are proposed to be used (e.g., state, local, federal, private or toll). If any phase is not funded, the estimated implementation dates should be provided. The estimated total project cost and anticipated date of construction must also be included.

In either case, if the project is going to be designed or constructed in segments, then these segments should be discussed in the Environmental Document and clearly shown on the project location map. This discussion should include the approximate implementation timeframes and estimated costs.

In this section briefly discuss planning consistency. If the project is an EA or EIS, a consistency form is prepared. There are two forms, **Planning Requirements for Environmental Document Approvals, Form No. 650-050-41** for use when there is no segmentation and **Planning Requirements for Environmental Document Approvals with Segmented Implementation, Form No. 650-050-42** which is completed for projects with segmented (phased) implementation.

The applicable form and LRTP, TIP, and current STIP pages should be included in the Appendix of the EA or EIS. The consistency form in an EA or Draft Environmental Impact Statement (DEIS) should tell the story of how and when the project will be implemented. The consistency form in an EA with Finding of No Significant Impact (FONSI), Final Environmental Impact Statement/Record of Decision (FEIS/ROD), or FEIS must be complete and include a signature when the final Environmental Document is submitted to OEM for approval. For Type 2 CE projects, planning consistency information is included in the **Type 2 Categorical Exclusion Determination Form**, no separate form is needed.

When a draft Type 2 Categorical Exclusion (CE), EA or DEIS is released for public availability and there are inconsistencies between the Environmental Document and the planning documents, the Purpose and Need section of the Environmental Document should describe the differences and the steps needed to achieve consistency and a timeframe when this will occur. After the public hearing, planning consistency must be achieved prior to signing the Type 2 CE, EA with FONSI, ROD or FEIS/ROD. Please refer to the [Guidance for Meeting Planning Requirements for NEPA Approval](#) for additional information regarding planning consistency.

2. **System Linkage** - Is the proposed project a local, regional, or intraregional “connecting link”?

Discuss how the proposed project fits into the existing and future local, regional and state transportation system (network) and contributes to the movement of people, goods, and services. Also discuss how the proposed project contributes to the multi-modal transportation network.

3. **Capacity** - Is the capacity of the existing facility inadequate to serve the traffic? What is the projected transportation demand? What capacity is needed? What is the Level of Service (LOS) for existing and proposed facilities?

Discuss the capacity of the existing facility, its existing and anticipated LOS, and any operational deficiencies of the facility.

4. **Transportation Demand** - Will the project accommodate the forecasted transportation demand as shown in the adopted state and local transportation plans? Will the project meet future transportation demands based on projected population, employment growth, an increase in freight movement, or other demands on the transportation system?

Discuss the project relationship to any statewide transportation plan or adopted urban transportation plan.

5. **Legislation** - Is there a federal, state, or local governmental mandate for the action?

Document the need to respond to federal, state, or local government requirements.

6. **Social Demands or Economic Development** - What projected economic development/land use changes indicate the need to modify the transportation facility, network or system?

Describe how the action will foster new employment, benefit schools, land use plans, recreation facilities. Discuss types of social and economic traffic generators, both existing and planned, which exert travel demands on the facility. For example, include businesses, neighborhoods, recreational facilities, shopping centers, new developments, and any other traffic generators which could increase travel demands on the proposed facility.

7. **Modal Interrelationships** - How will the proposed project interface with and serve to complement other modes of transportation such as airports, freight facilities, rail and port facilities, mass transit services?

Identify the need to address other modes of transportation (e.g., airports, rail and port facilities, mass transit services, bicycle accommodations, ridesharing, special



use lanes) associated with the project and discuss how the proposed action will complement other modes.

8. **Safety** - Is the proposed project necessary to correct an existing or potential safety hazard? Is the existing crash rate higher than the statewide average for similar facilities? How will the proposed project improve it?

Discuss crashes which have occurred in the study area that may indicate a need for improvement. The discussion may include crash types, frequency, crash pattern, crash contributing causes, and the rate of crashes when compared with the statewide average for similar facilities. Identify existing high-hazard sections of the facility and how the project will address the safety problem. Discuss any traffic or transportation safety issues which are or could become a problem (e.g., hazardous material transportation).

9. **Roadway Deficiencies** - Is the proposed project necessary to correct existing roadway deficiencies? How will the proposed project address the deficiencies? Is there a deficient or substandard bridge?

The need and rationale behind reconstructing or replacing a roadway or existing bridge **must** be provided. Provide a detailed description of the existing structure(s) and their deficiencies. Deficiencies may include substandard geometrics, load limits on structures, inadequate typical sections, poor pavement condition, inadequate drainage, and inadequate SIS roadway design standards. For bridges, the deficiencies identified may be the result of structural and functional ratings, horizontal and vertical clearances, state of repair, weight restrictions or limitations.

### 1.2.2.2 Purpose and Need during the ETDM Screening

The purpose and need should be refined over time and become more detailed as the project advances through the Planning phase, ETDM process, and into the PD&E phase. A project's purpose is usually first identified in the transportation plan(s), e.g., MPO LRTPs, the SIS plan and the TIP/STIP. While the purpose of a project does not change substantially over time, it can change as the project advances and more information becomes available.

The OEM must provide opportunities for participating agencies; and the public to provide input on the purpose and need in accordance with **23 U.S.C. § 139(f)** Prior to engaging in the environmental review process, this obligation may be satisfied if agencies and the public are involved in the development of the project purpose and need during the transportation planning process. Nonetheless, FDOT accomplishes this goal through the ETDM process for all projects that are screened. The ETDM process has two screening events: the Planning and Programming Screens. See the [ETDM Manual, Topic No. 650-000-002](#) for more information on project screening.

The following briefly describes the purpose and need during the screening events:

1. Planning Screen - The Planning Screen may be the first opportunity agencies and other interested parties have to provide input on a project's purpose and need. Coordinate with the District Planning Office to obtain the project purpose as identified in the MPO/TPO LRTP and SIS Plan.
2. Programming Screen - The Programming Screen is intended to occur prior to a project's adoption into the FDOT Work Program or TIP/STIP, and/or prior to the PD&E phase. This screening helps focus the scope of the PD&E Study and can provide scoping information for an EIS, if necessary. The information for the purpose and need should be coordinated with the District Planning Office to ensure consistency. If the project was screened previously, then the purpose and need from the screening should be refined to reflect the information presented in the **Planning Screen Summary Report** with updated information, as appropriate. If any new information is available it should also be provided.

### 1.2.2.3 Purpose and Need during PD&E

The purpose and need information from the **Programming Screen Summary Report** is used to prepare the purpose and need for the Environmental Document. According to **40 CFR § 1502.13**, "the statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." Review the most up to date transportation plans and verify whether information supporting the purpose and need is still valid, gather new data to fill any information gaps, and refine the purpose and need if necessary. OEM must be consulted if the project description or the purpose and need for a project changes substantially during the PD&E Study.

The purpose and need for a PD&E Study:

1. Should be a statement of the transportation problem (not a statement of a solution such as specific project alternatives);
2. Should be based on articulated planning factors and developed through a planning process pursuant to applicable federal law;
3. Should be specific enough so that the range of alternatives developed will offer real potential for solutions to the transportation problem;
4. Must not be so narrow in definition or so specific as to pre-determine a solution;
5. May reflect other priorities and limitations in the area, such as environmental resources, growth management, land use planning, and economic development; and
6. Should not list specific design criteria or standards to be met by the project.

### 1.2.2.3.1 Documentation

The location of the project description and purpose and need in the Environmental Document differs depending on the COA:

1. **Type 2 CE** – Project description and purpose and need information is included in Section 1 (Project Description and Purpose and Need) of the ***Type 2 Categorical Exclusion Determination Form***.
2. **EA or EIS** - Project description and purpose and need information is included in a section titled “Project Description and Purpose and Need”.
3. **SEIR** – Project description and purpose and need information is included in Section 1 (Project Description and Purpose and Need) of the ***State Environmental Impact Report Form, Form No. 650-050-43***.

## 1.3 REFERENCES

American Association of State Highway and Transportation Offices (AASHTO).

Practitioner’s Handbook: Defining the Purpose and Need and Determining the Range of Alternatives for Transportation Projects. August, 2016

Council on Environmental Quality (CEQ), Executive Office of the President, 1978. Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. Reprint 43 FR 55978-56007, [40 CFR Parts 1500-1508](#)

FHWA, Environmental Review Toolkit: Development of Logical Project Termini and Elements of Purpose and Need. <http://www.environment.fhwa.dot.gov/index.asp>

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

FHWA memorandum “Guidance on Purpose and Need”, to FHWA Division Administrators and FTA Regional Administrators, July 23, 2003

FDOT, Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002 <http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

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>

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Section 6002

Section 339.177, Florida Statutes (F.S.)

Title 23 U.S.C. § 134

## **1.4 FORMS**

[Planning Requirements for Environmental Document Approvals, Form No. 650-050-41](#)

[Planning Requirements for Environmental Document Approvals with Segmented Implementation, Form No. 650-050-42](#)

[State Environmental Impact Report Form, Form No. 650-050-43](#)

## **1.5 HISTORY**

1/28/2003, 12/03/2012: Update combined two previous chapters (Part 2, Chapter 4, Project Description 12/6/2007 and Part 2, Chapter 5, Purpose of and Need for Action), 4/22/2014, 8/22/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 4, 1/14/2019

## **PART 2, CHAPTER 2**

### **TRAFFIC ANALYSIS**

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## PART 2, CHAPTER 2

### TRAFFIC ANALYSIS

#### 2.1 OVERVIEW

##### 2.1.1 Purpose

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).

This chapter provides guidance for preparing the traffic analysis for Project Development and Environment (PD&E) Studies. Specifically, the chapter covers scoping the traffic analysis effort, traffic data requirements, analysis methodology and documentation.

Traffic analysis is an evaluation of the interaction between demand and supply of a transportation facility to determine how efficient the facility is serving the demand. This analysis forms the basis for evaluating the performance of project alternatives and design concepts based on demand, capacity, operational performance, environmental impacts, and safety concerns. Traffic analysis is one of the methods used to evaluate transportation needs during the Planning phase and PD&E Study. Additionally, traffic analysis produces data needed to support project-level environmental analyses such as noise and air quality impacts.

Traffic analysis is one of the critical activities for a PD&E Study and can impact the project schedule; the Project Manager must understand the effort associated with traffic data collection, forecasting, and analysis. Each transportation project is unique and the approach for individual projects might differ. As such, when developing the project traffic data and performing the corresponding analysis, there must always be a balance between the project's goals and objectives, available schedule and budget, and the complexity of the analysis to be performed. The Project Manager should always reach an early agreement with project reviewers on the traffic analysis approach and parameters for the analysis. Such agreement is vital to project success as it helps to avoid misunderstanding between traffic analysts and reviewers of traffic analysis reports that may negatively impact the project development schedule.

This chapter references guidance from other FDOT procedures, manuals, and handbooks, along with national guidance such as the *Highway Capacity Manual (HCM)* and FHWA's *Traffic Analysis Toolbox*. The chapter is intended for transportation practitioners who perform traffic analyses for FDOT projects and possess sufficient knowledge of traffic flow theory and traffic engineering including guidance documented in FDOT and national publications.

## 2.1.2 Definitions

The following definitions apply to terminology used in this chapter:

**Annual Average Daily Traffic (AADT)** - The total volume of traffic on a highway segment for one year, divided by the number of days in the year. This volume is usually estimated by adjusting a short-term traffic count with weekly and monthly factors.

**Average Daily Traffic (ADT)** - The total traffic volume during a given period (more than a day and less than a year) divided by the number of days in that period.

**Axle Correction Factor** - The factor developed to adjust vehicle axle sensor-based data for the incidence of vehicles with more than two axles, or the estimate of total axles based on automatic vehicle classification data divided by the total number of vehicles counted.

**Crash Modification Factor (CMF)** – A multiplicative factor used to compute the expected number of crashes after implementing a given design element or treatment at a specific site. For example, a CMF of 0.95 for a design element would suggest that application of that element or treatment would decrease crashes by 5%.

**Design Hour** - An hour with a traffic volume that represents a reasonable value for designing the geometric and control elements of a facility.

**Design Year** - The year for which the project is designed; usually 20 years from the Opening Year, but may be any time within a range of years from the present (for restoration type projects) to 20 years in the future (for new construction type projects).

**Directional Design Hour Volume (DDHV)** - The traffic volume expected to use a highway segment during the design hour of the design year in the peak direction.

**Directional Distribution (D Factor)** - The percentage of the total two-way peak hour traffic that occurs in the peak direction.

**Level of Service (LOS)** - A quantitative stratification of a performance measure that represents quality of service of a transportation facility measured on an A-F scale, with LOS A representing the best operating conditions from the traveler's perspective and LOS F the worst.

**Model Output Conversion Factor (MOCF)** - A factor used to convert the traffic volumes generated by a travel demand forecasting model in Peak Season Weekday Average Daily Traffic (PSWADT) to AADT. The MOCF is the average of the 13 consecutive weeks



during which the highest weekday volumes occur and when the sum of Seasonal Factors (SF) for those 13 weeks are the lowest. MOCF is used during model validation to convert AADT to PSWADT for the base year model network should also be used for adjusting future year model volumes from PSWADT to AADT.

**Peak Season Weekday Average Daily Traffic (PSWADT)** - The average weekday traffic during the peak season. Some Florida Standard Urban Transportation Model Structure (FSUTMS) traffic assignment volume represents PSWADT projections for the roadways represented in the model highway network. For ***Project Traffic Forecasting Reports***, the PSWADT should be converted to AADT using a MOCF. Although not all FSUTMS models report traffic assignment volume in PSWADT, there are currently several model outputs throughout the State that require conversion from PSWADT to AADT using MOCF.

**Peak Spreading** - The expansion of peak period of traffic, from the traditional one-hour peak to multi-hour peak period, as the demand to use the facility surpasses capacity.

**R-Squared Value** - A statistical measure, expressed as a percentage, of how well a regression model fits the real data points.

**Regression Analysis** - A statistical process for determining the strength of the relationship among one dependent variable and one or more independent variables.

**Safety Performance Function (SPF)** - A statistically derived equation that predicts the average number of crashes per year at a location as a function of traffic exposure (e.g., volumes of vehicles, bicyclists, pedestrians).

**Seasonal Factor (SF)** - Parameters used to adjust base counts which consider travel behavior fluctuations by day of the week and month of the year.

**Standard K (K Factor)** - A factor used to convert AADT to a peak hour volume. Standard K values are statewide fixed parameters that depend on the general area types (location) and facility types (roadway characteristics). Values less than 9% typically represent a multi-hour peak period rather than a peak hour. Standard K does not apply to emergency evacuation routes and managed lanes.

**Truck Factor ( $T_{24}$ )** - The percentage of truck traffic during a 24-hour period.

**Traffic Saturation** - Traffic operating conditions in which the traffic demand is equal to or exceeds the capacity of a facility.

## 2.2 PROCEDURE

Traffic analysis for a PD&E Study includes developing objectives of analysis, identifying key performance measures to evaluate the project alternatives, determining analysis approach and tools to be used, determining data needs, collecting and analyzing data and documenting the results. Procedures for traffic analysis are found in the following publications:

- **HCM** – Published by the Transportation Research Board (TRB), the **HCM** contains concepts, guidelines and methods for computing LOS for freeways, highways (two-lane and multilane), urban streets and intersections (roundabout, signalized and unsignalized).
- [\*\*FDOT Traffic Analysis Handbook\*\*](#) – The **FDOT Traffic Analysis Handbook** provides guidance and general requirements for the uniform application of traffic analysis tools for roadway corridor, interchange, and intersection projects.
- [\*\*FDOT Project Traffic Forecasting Procedure, Topic No. 525-030-120\*\*](#) – The **Project Traffic Forecasting Procedure** offers guidelines and techniques for forecasting traffic (with and without a travel demand model), calculating Annual Average Daily Traffic (AADT) from short term counts, calculating Directional Design Hourly Volumes (DDHVs), estimating intersection turning movements and calculating Equivalent Single Axle Load (ESAL) forecasts.
- **FHWA Traffic Analysis Tools** – The **FHWA Traffic Analysis Tools** is a program that produces and maintains different guidance documents which support different aspects of traffic and transportation analyses. The Traffic Analysis Tools program also provides guidance on the selection of and application of traffic analysis tools, interpretation of performance measures and other pertinent information.
- [\*\*FDOT Traffic Engineering Manual \(TEM\), Topic No. 750-000-005\*\*](#) – The **TEM** provides traffic engineering standards and guidelines to be used for SHS by FDOT. It provides guidance for signs, signals, markings and specialized traffic operational topics.
- [\*\*FDOT Manual of Uniform Traffic Studies \(MUTS\), Topic No. 750-020-007\*\*](#) – The purpose of the **MUTS** is to establish minimum standards for conducting traffic engineering studies for roads under the jurisdiction of FDOT. In addition, local government traffic engineering agencies are recommended and encouraged to use the **MUTS** as a guideline for conducting studies within their area of responsibility.
- **American Association of State Highway and Transportation Officials (AASHTO) Highway Safety Manual (HSM)** – The **HSM** provides a variety of methods and tools for quantitatively estimating crash frequency or severity in the project development process. The **HSM** assists practitioners in selecting countermeasures and prioritizing projects, comparing alternatives, and quantifying and predicting the safety performance of roadway elements.
- **Transit Capacity and Quality of Service Manual (TCQSM), Transit Cooperative Highway Research Program Report 165** – The **TCQSM** provides quantitative techniques for calculating the capacity and other operational characteristics of bus, rail, demand-responsive, and ferry transit services, as well as transit stops, stations, and terminals.

## 2.2.1 Traffic Analysis Objectives

Given the importance of traffic forecasting and analysis in the PD&E Study schedule, the Project Manager should meet with the project team prior to starting the analysis to establish the traffic analysis objectives. The composition of the project team will vary depending on the type of project, but will generally include FDOT planning and PD&E staff and consultant traffic staff. The objectives of the traffic analysis must reflect the purpose and need for the project and be measurable. Measurable objectives are essential for a comparable evaluation of project alternatives.

Before establishing traffic analysis objectives, the Project Manager and project team must review the purpose and need for the project, which is documented in previously completed planning studies and the Efficient Transpiration Decision Making (ETDM) *Programming Screen Summary Report*.

## 2.2.2 Level of Traffic Analysis

### 2.2.2.1 Traffic Analysis Scope

PD&E Studies vary in size and type, resulting in project traffic forecasting and analysis with varying levels of detail. FDOT's Project Manager should develop the scope of the traffic analysis effort based on the need for the project and the analysis objectives. The items that inform the traffic analysis scope are traffic study limits, design years, air quality and noise analysis requirements, and special components for traffic analysis, such as freight, transit, origin-destination data.

Traffic forecasts and analysis may be prepared as part of a planning study or advanced prior to the PD&E Study. Therefore, FDOT's Project Manager must review and consider previously completed traffic analysis activities when determining the scope or level of analysis needed during the PD&E phase.

The level of traffic analysis includes the methodology, analysis tools, and documentation. Decisions regarding scope and level of effort should be made in conjunction with the office responsible for the review of the traffic analysis, such as Systems Planning. These decisions should be made after reviewing any previously completed planning and traffic operational studies in the project area. Additionally, the following items must be reviewed when determining the level of effort needed to conduct traffic analysis:

- Elements that relate to the transportation problem being analyzed and the project's purpose and need.
- Traffic analyses conducted prior to the PD&E phase to determine their adequacy for inclusion in the PD&E Study as per **23 Code of Federal Regulations (CFR) Part 450** and **23 U.S.C § 168**. See [Part 1, Chapter 4, Project Development Process](#) for more guidance.

- Existing operating conditions to determine the degree of traffic saturation and study area of influence.
- Facility type and geographic context. This includes review of current or future major traffic generators in the vicinity of the project.
- Presence of Intelligent Transportation Systems (ITS) technology.
- Proposed improvements for the project.
- Need for tolling.

The Project Manager should begin with an understanding of what level of analysis is needed and use that information to develop the data collection effort. For instance, regarding future traffic projections, a PD&E Study for a rural corridor may only require the forecast of daily traffic demand to evaluate alternatives. An express lanes PD&E Study would require the forecast of peak period traffic volumes for both general use lanes (non-tolled lanes) and for the express lanes (variable tolled lanes). Additionally, a PD&E Study for an over-saturated intersection or corridor may require extending both geographic area of analysis and analysis time periods to accommodate actual traffic demand and bottlenecks.

The Project Manager should work with the reviewers and decision makers of the traffic analysis report to understand the expected outcome of the study. This will help to reach agreement on analysis methods and assumptions early in the process which is vital to the success of the project. Additionally, the Project Manager must consider other analyses (economic, air and noise) which are dependent on the output of the traffic analysis and incorporate them into the scope.

### **2.2.2.2 Adopting Planning Phase Traffic Analyses**

Project traffic analysis may be prepared prior to the PD&E phase as part of a corridor study, feasibility study, or Interchange Access Request (IAR) process. In addition, traffic analyses are conducted to determine transportation problems as part of a system-wide transportation needs plan. These planning studies may also be used to support the purpose and need for projects (see [Part 1, Chapter 4, Project Development Process](#)). Some of the traffic operational analyses performed prior to the PD&E phase have the same level of detail as those conducted during a PD&E Study. For instance, an IAR traffic analysis for the interstate system follows a process that is agreed upon by FHWA, FDOT, and the interchange access applicant. During the project scope development stage, the Project Manager should explore opportunities to reuse or incorporate by reference detailed planning analyses (such as those prepared in support of IAR studies) in the PD&E Study.

**Title 23 U.S.C. § 168** and **23 CFR Part 450** allow for decisions and analyses conducted during transportation planning to be used for the **NEPA** study. More information on how to adopt planning products is found in [Part 1, Chapter 4, Project Development Process](#).

It is essential for FDOT's Project Manager to review the traffic analysis conducted during the Planning phase and determine its applicability in the PD&E Study early in the scope development stage. The Project Manager should also coordinate with planning staff when determining applicability of the planning products.

### **2.2.3 Performance Measures of Effectiveness**

Comparative evaluation of project alternatives requires the selection of performance Measures of Effectiveness (MOEs) that fit the goals and objectives of the analysis. The traffic analysis computes MOEs that are used to quantify the existing and future operating conditions of the project. The appropriate MOEs help to compare the performance of various alternatives in achieving a project's traffic operational objectives.

One of the primary MOEs is Level of Service (LOS). However, LOS is not effective when the facility is characterized with oversaturated conditions where the demand to use the facility exceeds capacity. In urban areas, traffic analysis may result in LOS F for all alternatives, which will not help in differentiating between alternatives. Under such conditions, the Project Manager must select the appropriate MOEs based on the needs and context of the individual project. It is important that all stakeholders associated with the project agree to the MOEs selected before the project team begins the analysis, since data requirements and traffic analysis tools are closely related to MOEs.

A highway traffic analysis can also use the following MOEs:

- Throughput
- Vehicle Miles of Travel
- Volume/capacity ratio
- Travel time
- Travel speed
- Total delay at intersections
- Queue length
- Number of stops
- Density
- Travel time variance
- Travel time reliability
- Hours of congestion

Typical MOEs for safety analysis include:

- Crash frequency
- Actual crash rate
- Number of fatalities
- Crash severity level
- Economic loss

Typical MOEs for transit analysis include:

- Passenger trips
- Average headway
- Percent of population served
- Total fare box revenue
- Passenger wait time
- Travel reliability
- Vehicle loads
- Span of service

Typical MOEs for environmental/economic analyses include:

- Vehicle Miles of Travel
- Vehicle Hours of Delay
- Vehicles Hours of Travel
- Travel speed
- Mobile Source Emissions
- Number of crashes
- Travel time saving

## 2.2.4 Traffic Analysis Tools

Traffic analysis can vary from looking up generalized service volume tables for LOS to detailed microsimulation analysis. The tools selected for conducting the traffic analysis must correlate the complexity of the project and the magnitude of the traffic problem. Sophisticated tools and methods such as microsimulation must be used only for very complex problems such as those that require interactions of road users or involve oversaturated, congested conditions. The default tool for the analysis should be **HCM**-based tools, as they are least complex and require less data. The traffic analyst must also consider limitations of the tools when selecting proper analysis methods that meet the project needs. The Project Manager and project team should refrain from selecting a simple tool that does not fit the analysis objectives.

The tools available may have be used for different levels of analysis:

- Generalized Service Volume Tables, found in the [Quality / Level of Service Handbook](#) and Florida's LOS Planning Software (LOSPLAN) may be used for general planning level analyses and high-level concepts screening. These tools should not be used for operational analyses.
- Analysis of locations that are not congested or do not require an understanding of interactions between various users.
- Microsimulation tools can be used to analyze areas that require an understanding of interactions between various users or transportation systems and/or experience oversaturated, congested conditions. These tools can also analyze unconventional project concepts or the performance of the entire network/system.
- **HSM** tools such as **HSM Part C** spreadsheets and the Enhanced Interchange Safety Analysis Tool (ISATe), Crash Modification Factors (CMFs), Interactive Highway Safety Design Model (IHSDM), and Safety Analyst which can be used to conduct quantitative safety analyses.

The [Traffic Analysis Handbook](#) contains guidance for selecting the proper traffic analysis tools. Depending on project conditions or needs, the analysis may use tools other than those listed in this section or discussed in the [Traffic Analysis Handbook](#). Prior to using alternative tools not listed in the [Traffic Analysis Handbook](#), the traffic analyst must submit a request and provide justification to FDOT's Project Manager.

## 2.2.5 Data Collection

Data required for traffic analysis depends on various factors such as project context, project limits, analysis methods, and performance MOEs. At the outset of the project, FDOT's Project Manager and project team must gather all existing available traffic information from FDOT databases, past studies, prior projects, and other analysis performed within the project area. This information is essential to obtaining general knowledge of the project area and identifying any gaps in data that would be included in

a data collection plan. Even when review of existing data indicates the data is sufficient, the project team must conduct field reviews. Field observations are necessary to confirm data and review driving characteristics and operational conditions. Aerial and satellite imagery can provide useful information about physical characteristics of the analysis area but they should not replace field reviews. The [\*\*FDOT Manual of Uniform Traffic Studies \(MUTS\), Topic No. 750-020-007\*\*](#) contains additional requirements for collecting data to support traffic signal warrant studies, travel time studies, and speed studies.

The data collection effort should consider all modes of transportation that exist or are planned within the project limits. [\*\*FDOT's Complete Streets Policy, Topic No. 000-625-017\*\*](#) requires that roadways accommodate all modes and users of all ages and abilities. Therefore, depending on project context, data collection should include information about transit stops, boarding and alighting, headways, pedestrian counts, and bicycle counts, as appropriate. Collection of data related to pedestrian generators and attractors should be considered in urban contexts.

The tools used to develop and analyze alternatives also affect the data collection effort. Microsimulation analyses require more detailed data than analytical methods or **HCM**-based tools. The data collection plan for a microsimulation analysis must contemplate and include data needed for the proper calibration and validation of the model to be used in the analysis.

The data collection plan must include the traffic analysis area, which may exceed the project limits. Examples of traffic studies where the data collection plan must extend beyond the PD&E Study limits are:

- **Interchange Access Request Studies** - Interchange access requests may require analysis of the interchanges upstream and downstream of the project location and the crossroad up to one half-mile in either direction of the proposed access change. The geographic breadth of the analysis should be coordinated with the District's Interchange Review Coordinator (IRC), FHWA, and OEM (for projects on the interstate system). See ***Interchange Access Request Users Guide*** for more guidance.
- **New Corridor Studies** - New corridor studies require a general understanding of the total demand, operations, and safety for the corridor traffic analysis area, which includes roadways parallel to or intersecting with the proposed roadway.
- **Bottlenecked and Oversaturated Roadway Facilities** - The analysis area must include operational constraint points or sections (limited physical capacity) that restrict the roadway from processing the traffic demand, thus causing recurring congestion. The constraints may require extension of the analysis area beyond the predefined area of influence. Downstream bottlenecks cause queue spillbacks into the project area, while upstream bottlenecks may meter the flow and cause demand starvation within the project area.



- **Coordinated Freeways and Arterials** - Project sections or points that are part of a coordinated arterial and/or Coordinated Freeways and Arterials (CFA) network may require extension of the traffic analysis area to include coordinated signals.
- **Lane Repurposing** - Project converting (repurposing) existing lanes to dedicated bus lanes, parking lanes, or bicycle lanes may require a system or network wide analysis to evaluate the impact of traffic diverting to adjacent major roadways.
- **Projects with Transit Routes** - Transit ridership on a project is based on several factors including accessibility (a measure of how an individual can pursue a desired mode at a desired location and time). Accessibility can include park and ride lots and transfer between modes, which may be located outside the PD&E Study limits. Additionally, terminal stations where transfers take place may be located outside the PD&E Study limits.

Once the data collection plan is defined, the next step is to decide the type of information to be collected.

### 2.2.5.1 Types of Data Collection

The data collection effort can be divided into three categories—roadway characteristics, multimodal travel characteristics, and operations and safety characteristics. The type of traffic analysis will determine the requirement and level of detail in which elements in each category are to be collected. The following are the data elements for each category:

#### Roadway Characteristics

- Number of lanes
- Lane widths
- Presence of auxiliary lanes
- Length of auxiliary lanes
- Intersection types (signalized, stop controlled, roundabout, grade separated)
- Predominant land use types (existing and future) adjacent to corridor
- Roadway geometrics (curvature, intersection configuration, grades)
- Number of turn lanes
- Turn lane storage lengths
- Merge/diverge lengths
- Interchange spacing/density

- Presence of on-street parking
- Presence of transit lanes
- Presence of transit stops
- Type of transit stops (bus bays or bus stops)
- Presence of bicycle lanes
- Bicycle lane width
- Presence of sidewalks
- Sidewalk distances from travel lanes
- Shoulder widths
- Lateral and vertical clearances
- Presence of railroad crossings
- Toll plaza type (electronic vs. cash collection) and location
- Right of way map, tax map, parcel maps
- As built plans

### **Multimodal Travel Characteristics**

- AADT
- Vehicle classification and vehicle mix
- Truck Percentages
- Turning Movements Counts
- Pedestrian Counts
- Bicycle Counts
- Boarding and alighting at transit stops or stations
- Transit Hours of Operation
- Transit Headways

- Route Ridership
- Running time information
- Utilization of special facilities (e.g., bus on freeways, transit centers, transit stops)
- Frequency of train service at railroad crossings
- Peak Hour Factors (PHF)
- Origin-Destination (OD) survey data for general vehicles and/or trucks

### **Operations & Safety Characteristics**

- Posted Speed Limits
- Average Travel Speeds (highway and transit)
- Average Travel Times
- Signal density
- Signal Timings
- Locations of detectors and traffic signal heads
- Queue locations and queue lengths
- Number of crashes and location of crashes
- Severity of crashes (fatal, injury or property damage) and their contributing causes

FDOT and other agencies have developed the following databases containing several roadway, traffic, safety and operations characteristics, which can be used to supplement the data collection effort:

- FDOT Florida Transportation Information (FTI) DVD and Florida Traffic Online (FTO) <https://tdaappsprod.dot.state.fl.us/fto/>
- FDOT Traffic Characteristic Inventory (TCI) Database
- FDOT Roadway Characteristic Inventory (RCI) Database
- Regional Integrated Transportation Information System (RITIS) at University of Maryland
- FDOT Crash Analysis Reporting (CAR) System Database

- Signal Four Analytics
- FDOT District Databases and Sources
- Metropolitan planning organization (MPO) travel demand models
- Motor and Equipment Manufacturers Association (MEMA) vehicle fleet data

### 2.2.5.2 Duration of Data Collection

The Project Manager should work with the project team to determine the appropriate duration of the data collection effort. Data collected over multiple days provides a higher degree of confidence and is more robust if random events like traffic crashes or equipment failure occur during part of the data collection period. Data collection cost increases with duration, therefore, the Project Manager must balance these competing considerations with the goals of the study. The project team must first review existing data sources, such as the ones from FTI DVD and/or FTO, to determine 24-hour demand profiles. Demand profiles are a useful tool to estimate the duration of the data collection. In the absence of existing data, use Chapter 3 of the *HCM* for examples of monthly, weekly, and hourly variation in traffic volumes for rural and urban routes to determine the length of the data collection period. Chapter 2 of the FDOT [Project Traffic Forecasting Handbook](#) describes traffic adjustment factors and the variability of traffic counts.

The data collection effort should be guided by the following:

- The FDOT [Project Traffic Forecasting Handbook](#) recommends that traffic counts be collected on Tuesday, Wednesday, or Thursday. To ensure the data is representative of average (typical) traffic conditions, traffic counts should not be collected during the summer or on holidays, since travel patterns during these times cannot be assumed to be representative of typical weekdays. However, for studies near recreational facilities summer or holidays may provide the traffic analyst with more accurate “typical” pattern of travel.
- A 72-hour period is recommended for traffic counts. Collection of data over a 72-hour period is preferred over single-day to avoid poor and faulty data due to equipment failures, human errors, and traffic incidents, among other reasons. However, if the roadway is a typical commuter traffic route and there is adequate history (5 to 10 years) of traffic counts, a 24-hour to 48-hour count may be sufficient. A 24-hour to 48-hour traffic count must be validated against historical counts.
- Classification counts from a Telemetered Traffic Monitoring Site (TTMS) or Portable Traffic Monitoring Site (PTMS) can be used as long as such site exists within the vicinity of the project. In absence of a permanent count station, 72 consecutive hours of vehicle classification counts should be collected. Counts for less than 72 hours are not recommended because of random variations that may

be brought about by equipment failures, human errors, weather, special event, and traffic incidents, among other reasons.

- Intersection turning movements should generally be collected during the AM and PM peak periods for at least 3 days. For urban arterials serving predominantly commuter traffic, turning movement counts less than 3 days may be sufficient, provided there is historical validation data. Typical 8-hour intersection turning movement counts are collected over a day. The Project Manager may review the FTI traffic synopsis report and collect more than 8-hour per day if the area experiences heavy peak periods throughout a typical weekday. If heavy truck traffic is anticipated in the study area, truck counts should also be collected as part of the intersection turning movement count.

Roadways serving commercial uses, shopping centers, and schools may peak during the midday period or during the weekends. The Project Manager should review the traffic count synopsis report from the FTI DVD and/or FTO to determine if midday turning movement counts are required.

If there is no history of traffic counts, conduct 72-hour approach and departure counts at the intersection to allow extrapolation of the peak hour turning movements from the daily turning movements.

- Intersection turning movement counts must include bicycle and pedestrian movements. Bicycle and pedestrian usage varies considerably with location. Peak period counts may be adequate in areas with light pedestrian/bicycle usage. Downtown areas, university campuses, and areas with heavy pedestrian and/or bicycle usage should be counted for an 8-hour period.
- Crash data should be obtained for the most recent five years. If five years of crash data are not available, use a minimum of three years with a corresponding explanation.
- Transit projects can vary from new fixed guideway systems to Bus Rapid Transit (BRT) projects. The data collection for such projects depends on the type of project. For areas with existing transit service, the traffic analyst should consult with the local transit agency before beginning any data collection. Transit agencies and providers are required to develop a 10-year Transit Development Plan (TDP). These TDPs usually contain a significant amount of data that can be used for transit studies, such as socio-economic data, transportation system characteristics, market research and system surveys, and public transportation service performance and trends, among other useful information. The data collection effort may vary among routes depending on the ridership. For example, low ridership routes may only require a 7 to 10-day period of data collection to capture a sufficiently robust sample of responses. Additional details about data collection activities for environmental analysis can be found in [Part 1, Chapter 14, Transit Project Delivery](#).

## 2.2.6 Project Traffic Forecasting

Project traffic forecasting is the process of estimating the future year traffic demand for a given project. It includes estimating daily volumes and peak hour demand volumes. Daily volumes are represented by AADT while peak hour demand is represented as Design Hour Volume (DHV). Transportation practitioners use AADT and DHV to determine geometric features of the roadway, assess operational performance of the facility, and calculate the ESALs for pavement design.

There are two options for forecasting traffic volumes:

- With a Travel Demand Model
- Without a Travel Demand Model

The [Project Traffic Forecasting Handbook](#) details FDOT's traffic forecasting process for both options. Documentation of traffic forecasts and analysis must detail the selection of the preferred forecasting method, as well as the application of said method in the analysis.

### 2.2.6.1 Forecasting using a Travel Demand Model

Traffic forecasting for a project must begin with the most recently adopted version of a travel demand model. This model should have been used to develop the most recent Long Range Transportation Plan (LRTP). This model represents the latest planning assumptions regarding population, employment, land use, transportation plans, and revenue, and is referred to as the "adopted model".

Before using any travel demand model, the traffic analyst must determine if the model meets the area wide validation standards established by FDOT's Systems Traffic Modeling Office and published in the [FSUTMS-Cube Framework Phase II – Model Calibration and Validation Standards Report](#).

With the development of the Florida Statewide Model, all 67 counties within the State of Florida are now covered by at least one travel demand model. The determination of the preferred model for each study is dependent on several factors, such as project location, analysis years, available data, transportation mode (e.g., freight, transit, automobile). District Planning Office concurrence on the preferred travel demand model is required prior to commencing the traffic forecasting process.

Finally, most of the travel demand models are validated to Peak Season Weekday Average Daily Traffic (PSWADT). The PSWADT traffic volumes generated by the model must be converted to AADT using the Model Output Conversion Factor (MOCF). In such cases, the following formula shall be applied:

$$\text{AADT} = \text{PSWADT} \times \text{MOCF}$$

## Subarea or Corridor Validation

Some travel demand models may require subarea or corridor validation to improve the forecast within the project limits. Subarea validation is needed when a model meets area-wide validation standards but fails within a specific area or corridor under study. In a subarea or corridor validation, a smaller area or corridor is extracted from the regional model and the validation process is restarted with the goal of improving statistics such as demand/count ratios, Root Mean Square Error (RMSE). The subarea or corridor validation effort is not as intensive as a regional, MPO or county model validation, because it uses a smaller roadway network. Further information about the Subarea/Corridor Validation standards can be found in the [FSUTMS-Cube Framework Phase II – Model Calibration and Validation Standards](#).

## Time of Day Model

Travel demand models were originally designed to produce future travel demand at the daily level. Most of the analysis done to determine geometric requirements of roadways and intersections is done for the design hour. Until recently, the process of converting AADT to peak hour assumed that 10% of the AADT occurred during the peak hour. While this process produces reasonable results in smaller urbanized areas where the peak period is limited to one hour, it fails in highly congested urban areas where the peak period spreads beyond the typical one hour.

The broadening of traffic flow profiles to multiple-hour peak periods is referred to as peak spreading. As the traffic congestion worsens during the peak hour, many drivers either leave early or delay the trip to avoid the peak hour. In some cases, they seek an alternative route or switch modes. As a result, the traffic generally traveling during the peak hour shifts to the adjacent shoulder hours.

To address multi-hour congestion problems, many urban areas have developed a Time of Day (TOD) model that forecasts traffic for the AM peak period, midday period, PM peak period and night/rest of the day period. Most TOD models add trip assignments for all time periods together to approximate daily traffic. TOD models require traffic count data by time of day to ensure accurate validation by each period. This adds to the level of complexity for validation checks and the Project Manager should consult with District Planning Office or MPO traffic modeling staff before using the TOD model.

Additional details regarding forecasting using a travel demand model can be found in Chapter 3 of the [Project Traffic Forecasting Handbook](#).

### 2.2.6.2 Forecasting without Travel Demand Models

Projects located in areas without an MPO travel demand model or in areas where the Florida Statewide Model or the MPO travel demand model is not performing well may have to rely on a combination of historic traffic trends or population growth for traffic forecasting.

## Historic Trend Projections

The historic trends analysis should be based on a minimum of 10 years of data. A regression analysis is performed on the most recent 10 years of traffic counts to obtain a trend equation. Any obvious outliers should be removed from the data set and an explanation provided. Only trend equations with an R-square value of at least 75% should be used to estimate the future year traffic volumes. Trend analysis is not sensitive to capacity constraints or new capacity, therefore care should be exercised when projected traffic demand exceeds capacity.

## Growth Rates

Historic trends analysis works well for areas with stable land use, transportation network and growth patterns. In areas that are experiencing substantial growth, construction of parallel facilities and changes in land use should consider growth rates based on population and employment growth.

Once the growth rate has been determined and checked for reasonableness, it can then be applied to a given base year count and projected forward to the future analysis years.

For additional details, see Chapter 4 of the [Project Traffic Forecasting Handbook](#).

### 2.2.6.3 Calculating AADT and DDHV

#### AADT

Traffic counts are usually collected over a 24- to 72-hour period through the placement of portable traffic counters. These counters are usually rubber hoses placed across the roadway to record the number of axles.

The short-term traffic count collected over 24 to 72 hours is called the Average Daily Traffic (ADT) or “raw count”. Due to the seasonal variations in traffic, the count must be adjusted by the Seasonal Factor (SF). In addition, the traffic counter only counts the number of axles and not vehicles. The raw traffic count of ADT must be adjusted using the Axle Correction Factor (ACF):

$$\text{AADT} = \text{ADT} \times \text{Seasonal Factor} \times \text{Axle Correction Factor}$$

It is worth noting that there are methods for placing tubes in a pattern that will allow tubes to provide classification counts based on axle spacing. Therefore, the analyst should review the data before applying the ACF.

#### Standard K Factor

The K Factor is critical in traffic forecasts because it defines the volume of traffic for which the road is being designed. K factors are developed based on field-collected data over long periods of time. Standard K factors are established statewide for specific areas and facility types, using the data measured at permanent traffic monitoring sites, and should



be applied to AADT to determine the DHV. Standard K factors less than 9.0% essentially represent multi-hour peak period (or peak spreading) rather than peak hour conditions. See Chapter 2 of the [Project Traffic Forecasting Handbook](#) for the latest FDOT Standard K factors.

## D Factor

The **Directional Distribution (D Factor)** is the percentage of the total, two-way design hour traffic traveling in the peak direction. The D Factor is an essential parameter used to determine the DDHV. The D Factor is obtained from traffic counts and checked against the value listed in the FDOT FTI DVD and on the FTO Website.

To determine if a D Factor is acceptable for project traffic forecasting, its value should be cross-referenced against the acceptable range of values for D Factors listed in Chapter 2 of the [Project Traffic Forecasting Handbook](#).

## Design Hour Volume (DHV) and Directional Design Hour Volume (DDHV)

The DHV is the traffic volume expected to use the roadway segment during the design hour of the design year. The DHV is calculated using the following formula:

$$\text{DHV} = \text{AADT} \times \text{K Factor}$$

The DDHV is the traffic volume expected to use the roadway segment during the design hours of the design year in the peak direction. The DDHV is calculated using the following formula:

$$\text{DDHV} = \text{AADT} \times \text{K Factor} \times \text{D Factor}$$

## T Factor (Percent Trucks)

The T Factor measures the percentage of trucks on a daily basis and is the most critical factor in pavement design. The structural design of a roadway is primarily dependent upon on the heavy axle loads generated by commercial traffic and the T Factor measures the percentage of trucks on a daily basis.

For traffic analysis, the Design Hour Truck (DHT) Factor is used to convert trucks to passenger car equivalents. The DHT is calculated by dividing the T Factor by 2 because the percentage of trucks in the traffic is not evenly distributed throughout the day.

### 2.2.6.4 Re-evaluating Traffic Analysis

Most of traffic forecasting and analysis should be completed during the PD&E phase. Once the traffic forecast and analysis is completed, the subsequent phases (Design and Construction) should use the same traffic data for design and operational purposes such as designing turn lanes, signal timing, or traffic control plans.

As transportation projects advance, they may require a re-evaluation as described in [Part 1, Chapter 13, Re-evaluations](#). During re-evaluation, the Project Manager and the project team must decide if the traffic forecast and analysis prepared for the project needs to be updated.

The validity of traffic forecasts and analysis depends on changed conditions brought on by:

- Substantial “macro-level” changes in the economy and driving habits since the project traffic forecast was prepared. Examples include the effects of economic recession, a substantial change in gas prices potentially affecting travel demand or implementation of an alternative travel mode.
- Substantial change in land uses or growth within the study area. For example, large scale developments, such as sector plans, approved near the study area which have the potential to change traffic generation and/or travel patterns.
- Substantial changes in the scope of work. For example, the addition of a new alternative that was not previously considered when the travel demand model or microsimulation model was developed. Model adjustment may be necessary to incorporate changes in trip patterns anticipated within the study area.
- Substantial changes in the transportation network near the study area. For example, the construction of major beltways or by-pass routes. Traffic reports prepared before and after the network was changed may contain substantial differences in trip distribution patterns.
- Adoption of a new LRTP and regional travel demand model when the project traffic forecast is more than five years old. An update of the LRTP represents the latest planning assumptions regarding population, employment and land use, and coordinates transportation planning activities within and outside of the MPO area. If the traffic forecast is more than five years old and the MPO has adopted a new LRTP, the Project Manager and the traffic analyst should perform a sensitivity analysis of revised input and model assumptions to determine the magnitude of differences from prior analyses and their effects on past project decisions.

The Project Manager should use conditions discussed above as a guide to determine the validity of previously completed traffic analysis. The project team may conduct sensitivity tests to assess the magnitude of differences from prior analyses resulting from use of new data and their effects on past decisions. The Project Manager and project team must consider any difference in the results to deliver the project decision. The focus should be on consistent conclusions from the analysis, rather than on any minor numerical differences between two different travel demand models outputs. If there is no substantial change in the traffic forecast, the study team would simply document the change and the sensitivity analysis results in the project file and proceed with the next phase of the project.

If there is a substantial change in the traffic forecast, the Project Manager must coordinate with the District Environmental Office and OEM to address the need for re-evaluating the traffic analysis for the project. The re-evaluation of traffic analysis may require changes to the analysis methodology, data inputs and assumptions to update the traffic analysis to be consistent with the latest LRTP. The Project Manager should document decisions reached with the District Environmental Office and other project stakeholders.

## 2.2.7 Traffic Analysis

Traffic analysis includes capacity and operational analysis to determine how well the project alternatives are meeting the project purpose and need. Detailed evaluation of project alternatives should only proceed on viable or feasible project alternatives (see [Part 2, Chapter 3, Engineering Analysis](#)). Also, the same assumptions and a similar set of tools should be consistently applied to perform traffic analysis for different alternatives in a project.

Depending on the project, the analysis may use the methodologies in the *HCM* or a more sophisticated tool such as microsimulation to analyze the interactions between different users on an entire network.

The decision on selecting the appropriate tool for the project depends on the analysis objectives and the available resources/data. Chapter 4 of the [FDOT Traffic Analysis Handbook](#) describes the various tools available and provides guidance on selecting the proper analysis tools.

### 2.2.7.1 Capacity Exceeds Traffic Demand

In scenarios where the roadway capacity exceeds traffic demand, all the traffic is accommodated during the time interval under study. There is no spillback of any queues or congestion from one segment affecting adjacent segments.

In such situation, analytical tools that can compute LOS and other operational MOEs for individual segments or isolated points should be used. These tools can compute LOS for uninterrupted flow facilities, interrupted flow facilities and multimodal transportation facilities (e.g., pedestrian, bicycle, and transit). *HCM* guidance on how to conduct analytical analysis is available in the *HCM* and supporting software.

### 2.2.7.2 Traffic Demand Exceeds Capacity

In scenarios where the traffic demand exceeds roadway capacity, the traffic demand is not accommodated during the time interval under study. As a result, congestion and queues spillback to adjacent segments and time intervals. The analysis should analyze the entire period where traffic demand exceeds capacity and until all the congestion has dissipated.

In such scenarios, a microsimulation traffic analysis that simulates the effect of spillback queues and congestion on adjacent segments should be used. Microsimulation tools use computer models to simulate the interaction of individual users, such as cars, based on

specified driver behavior factors. Microsimulation tools must be calibrated to local traffic conditions before being applied in alternatives analysis. Chapter 7 of the [FDOT Traffic Analysis Handbook](#) and *FHWA Traffic Analysis Toolbox Volumes III and IV* provide guidance on the development, calibration and application of microsimulation tools.

## 2.2.8 Safety Analysis

Safety analysis includes analyzing crash history (usually five years) within the project limits to assess the existing safety performance and evaluating the potential safety implications of a project. Depending on project context, safety assessment of the project may use *HSM* methodologies and tools according to the [Highway Safety Manual Implementation Policy, Topic Number 000-500-003](#). The *HSM* is a collection of analytical procedures and techniques for identifying the causes of crashes and developing solutions for certain types of roadways. Certain data which is compiled or collected for the purpose of identifying, evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings, or for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in such reports, surveys, schedules, lists, or data, per **23 U.S.C § 148** and **23 U.S.C § 409**.

### 2.2.8.1 Historical Crash Analysis

A historical crash analysis involves descriptive analysis of five years of crash data with respect to crash characteristics such as severity, types, frequency, rates, density, patterns, clusters, and their relationships with crash contributing causes. The results of the historical crash analysis are used to identify or confirm safety problems in the project study area. An understanding of crash characteristics along with crash contributing factors helps to determine and evaluate corrective actions or countermeasures that can be applied to the project alternatives. Crash countermeasures must be selected based on their appropriateness and effectiveness to address specific safety issues and project goals.

Historical crash analysis may be used to analyze existing conditions by comparing the crash rate of a project location to the statewide average. Locations with crash rates above the statewide average require further investigation to determine the cause of crashes and appropriate crash countermeasures. Appropriate crash countermeasures could still be determined in locations with crash rates below the statewide average.

The future conditions analysis should examine the safety performance of the alternatives based on project context which includes future traffic volumes, proposed geometrics, modal needs, and traffic control conditions as appropriate. Future conditions analysis must include a discussion of the proposed design context, traffic operational performance and users of the facility. Additionally, safety assessment for future conditions must examine how the proposed alternatives improve upon any existing or potential safety

problems. This will include comparison of existing conditions safety performance to that of future no-build and future build conditions.

### 2.2.8.2 Quantitative Safety Analysis

Quantitative safety analysis, also known as data-driven safety analysis, is a predictive analysis that uses crash, roadway, and traffic volume data to provide reliable estimates of an existing or proposed roadway's expected safety performance in terms of crash frequency and severity. It uses **HSM** predictive methods that incorporate site specific characteristics and mathematical functions such as Safety Performance Functions (SPFs) and Crash Modification Factors (CMFs).

The **HSM** predictive methods are detailed and require a thorough knowledge and experience in their applications. The advantage of these methods is their ability to make relative comparisons between project alternatives based on the change in the number of crashes or combinations of crash severities for different contexts. Additionally, **HSM** methods can assist transportation analysts to quantify safety impacts associated with proposed design elements, operational treatments, or future changes in the facility. Therefore, these methods can help analysts make more informed project development decisions that weigh safety with other project goals and evaluation criteria. In some conditions, the **HSM** methods may not quantify the safety performance of a design element or crash countermeasure as data, research, scientific knowledge, or current best practice may not be incorporated in the **HSM** predictive methods. It is therefore important to understand the limitations of the **HSM** methods when deciding on the safety analysis approach for the project.

The **HSM** continues to evolve and does not offer the ability to evaluate safety performance for every project scenario or context. In some cases, the SPF may require adjustments to Florida conditions because they were developed using national data and may not reflect typical Florida conditions. Users of the **HSM** should refer to the State Safety Office for publication of the current Florida specific SPF calibration factors.

**HSM** can be used to support the following project development activities:

- Evaluate purpose and need for the project
- Develop and refine the project alternatives
- Analyze and evaluate project alternatives

The **HSM Part C** predictive methods can calculate historic and anticipated future safety performance of the project. **HSM Part C** is applicable to rural two-lane highways, rural multilane highways, suburban and urban arterials, freeways, and interchanges. **HSM** has specific guidance regarding how to estimate future crashes with and without safety improvements. Additionally, the human factors fundamentals published in the **HSM** can help traffic analysts identify safety-specific needs for a project and estimate the potential for safety improvements.

Safety performance should be included in the project goals if the project's purpose is to address a safety problem. **HSM** predictive methods can support evaluation of the purpose and need by predicting crashes that would occur in the project or identifying potential countermeasures and strategies that would improve safety performance when incorporated in the project.

Development and evaluation of alternatives can use **HSM** predictive methods to quantify the anticipated change in crash frequency and/or severity as the result of changes in geometric features or traffic conditions. If an assessment for a safety-specific project shows that some alternatives would have a negligible or adverse effect on safety performance, those alternatives can be eliminated. Additionally, **HSM** predictive methods can be used to inform and evaluate project decisions on design changes implemented to address avoidance and minimization of potential impacts to environmental resources. The documentation needed to support evaluation of alternatives and environmental decision making could therefore include the information derived from the **HSM** methods.

Another method for quantifying safety impacts of project alternatives is a relative comparison of CMFs. This method estimates the relative magnitude of potential safety impacts based on the anticipated percent change in crash frequency based on applicable CMFs. CMFs are published in the **HSM Part D** and **FHWA's Crash Modification Factors Clearinghouse website** which include a star rating to indicate their quality. CMFs are also used to compare relative safety benefits of potential mitigation measures when selecting a treatment or strategy to address an identified safety issue. This method is relatively simple to apply, and when used appropriately can objectively support proposed improvements. CMFs are applicable to roadway segments, intersections, interchanges, special facilities, and various geometric situations.

### 2.2.8.3 Selecting Safety Analysis Method

The following should be considered when selecting appropriate safety analysis method for the project:

1. Capability (and limitations) of the method to answer the questions that the project is addressing
2. Data that is typically available in relation to the data required to use the safety analysis method correctly
3. Related project development tasks (such as purpose and need, interchange access, alternatives analysis, design exception) that may benefit from the same analysis method
4. The type of project and associated design or operational treatments that are the focus of safety analysis

It is important to discuss these considerations with the reviewers of the safety analysis during methodology development to set clear expectations for the level of analysis and documentation needed. The need to collect additional data to support analyses should

also be discussed so that the desired safety analyses can be performed on time and within budget.

## 2.2.9 Environmental Analyses

Environmental impact analyses such as land use, air quality, and noise depend on the outputs of traffic forecasting and analysis. The most common traffic data required for environmental analyses are AADT, peak hour volumes, peak hour truck volumes and traffic classification. Typical MOEs from the traffic analysis that are used for environmental analyses are listed in [Section 2.2.3](#). The Project Manager should work with the District Environmental Manager and other environmental subject matter experts to determine the scale of traffic data needed for various environmental analyses.

## 2.2.10 Project Traffic Analysis Report

The ***Project Traffic Analysis Report*** documents the assumptions, methods, traffic forecasts, design traffic, and results of the traffic analysis for the project in plain language and in an easily understood format. It summarizes the data collection effort, input parameters, traffic analysis tools, existing conditions, development of future traffic forecasts, and traffic operational and safety analyses of project alternatives. The report must use the ***Technical Report Cover Page, Form No. 650-050-38*** as the cover sheet of the report. A sample ***Project Traffic Analysis Report*** cover page is provided in [Figure 2-1](#). Traffic analysis reports support decisions regarding project actions. Therefore, the report should concisely present the results of the traffic analysis in a manner that can be readily understood by a variety of audiences. Discussion of the analysis results should be focused and avoid unnecessary information. Additionally, the report should include text that discusses information presented in tables and figures (charts, maps, and diagrams). MOEs presented in tables and figures should be clear, concise, and simple. The report should include other supporting technical data and output from analysis tools in the appendices. Additionally, highly detailed information such as data used to prepare figures and tabular summaries should be placed in the appendices.

The scope of the report depends on the size and complexity of the project, and whether traffic analyses conducted prior to the PD&E phase are going to be incorporated. Regardless of the complexity, the traffic analysis report should summarize the items presented in [Section 2.2.10.2](#). The ***Project Traffic Analysis Report*** must be signed and sealed by a professional engineer in accordance with ***Chapter 471, Florida Statutes (F.S.)***.

Traffic analysis reports for projects that are not complex can include the results of traffic forecasting. The approach to documentation (i.e., one ***Project Traffic Analysis Report*** or multiple technical memoranda) should be included in the scope and agreed upon by the FDOT Project Manager and project team. For complex projects, traffic forecasting and traffic analysis may be prepared under different project tasks and teams. For such projects, it is recommended that traffic forecasting results and traffic analysis be documented in different technical memoranda or reports. See the [Project Traffic](#)

[Forecasting Handbook](#) on how to prepare a **Project Traffic Forecasting Memorandum**.

Depending on the size and complexity of the project, safety analysis may be documented either in a standalone technical memorandum or as part of the **Project Traffic Analysis Report**.

Documentation of safety analysis should include a condition diagram depicting important site characteristics that affect safety on the project; collision diagram showing the location of the crashes; crash mapping showing relative locations or severity levels of crashes; discussion of crash types, patterns, severity levels and crash contributing factors; potential countermeasures; quantitative analysis (assumptions, method and steps followed); summary of the findings; and recommendations of the analysis. The discussion of safety analysis results should be supported with data, relevant findings, and best practices.

Quality control review for **Project Traffic Analysis Reports** should include reviewing methods and assumptions used to develop the analysis, inputs, reasonableness of results, and completeness of the results. The review of reasonableness of traffic projections should include comparing observed (and projected) traffic volumes with historical trends, examining proposed roadway and transit network improvements, and reviewing socio economic data and land use projections. Refer to the [FDOT Traffic Analysis Handbook](#) for checklists that may aid the review process.

### 2.2.10.1 Traffic Analysis Assumptions

The assumptions used to prepare the traffic analysis including traffic projections should be documented so that a reviewer can easily understand the methodology, input values, and analysis results. It is essential for the Project Manager to reach consensus with the project team and lead agency regarding the assumptions during the scope development stage of the project. The **Project Traffic Assumption Form, Form No. 650-050-39** in [Figure 2-2](#), can be used to summarize the assumptions.

The following should be included in the traffic analysis assumptions summary as appropriate.

1. Traffic Forecasting Assumptions Summary
  - a. Traffic forecast method - travel demand model, historic trend, or growth rates
  - b. For the travel demand model:
    - i. Date of adoption of LRTP
    - ii. Model base year
    - iii. Horizon year of the travel demand model



- iv. MPO website which includes documentation of the LRTP
  - c. Changes in land use, economy, population, and employment since the travel demand model was built.
  - d. Data Collection Year
  - e. Analysis years – opening year, design year and interim year (for phased projects)
  - f. MOCF
  - g. K Factor
  - h. D Factor
  - i. T Factor
2. Traffic (operational and safety) analysis assumptions summary should include:
  - a. Study Area (i.e., Project limits, traffic study area, influence area)
  - b. Key input parameters
  - c. Calibration and validation parameters
  - d. Analysis method and/or tools
  - e. Analysis periods
  - f. Performance MOEs

### **2.2.10.2 Project Traffic Analysis Report Outline**

The following is an outline for the ***Project Traffic Analysis Report***. The report should have headings and subheadings to effectively delineate the sections appropriate to the level of analysis.

1. Executive Summary – Summary of analysis results.
2. Traffic Analysis Assumptions – Summary of assumptions for input parameters, analysis years, analysis methodology.
3. Introduction – Brief description of the project with a project location map, traffic analysis objectives, including a project location map.
4. Traffic Analysis Method – Discussion of assumptions and analysis methodology including analysis years, traffic study area, data required, analysis tools including version, and MOE.

5. Existing Conditions Analysis – Summary of balanced turning movement counts for the study intersections/interchanges under existing conditions. Summary of operational and safety analyses for the existing conditions. Microsimulation analysis should also include base model development and calibration documentation. Calibration may be submitted as a standalone document.
6. Development of future year traffic forecast – Depending on the scale of the project, this may be developed and submitted as a standalone document, in which case it should be referenced within the ***Project Traffic Analysis Report***.
7. Alternatives Analysis – Description of project alternatives, assigning of project traffic volumes to alternatives. Summary of operational and safety analyses for each project alternative.
8. Summary of Analysis Results – Discussion of advantages and disadvantages of alternatives with respect to the traffic analysis objectives and goals.
9. Appendix – Raw data used to prepare input and analysis summaries. Other supporting data/information.

## 2.3 REFERENCES

American Association of State Highway and Transportation Officials (AASHTO), 2010 Highway Safety Manual

FDOT, 2008. FSUTMS-Cube Framework Phase II – Model Calibration and Validation Standards.

[http://www.fsutmsonline.net/images/uploads/reports/FR2\\_FDOT\\_Model\\_CalVal\\_Standards\\_Final\\_Report\\_10.2.08.pdf](http://www.fsutmsonline.net/images/uploads/reports/FR2_FDOT_Model_CalVal_Standards_Final_Report_10.2.08.pdf)

FDOT, 2019. Project Traffic Forecasting Handbook.

<https://www.fdot.gov/planning/systems/programs/sm/traffic/default.shtm>

FDOT, 2014. Traffic Analysis Handbook.

<https://www.fdot.gov/planning/systems/programs/sm/traffic/default.shtm>

FDOT, Efficient Transportation Decision Making Manual, Topic No. 650-000-002.

<http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

FDOT, Highway Safety Manual Implementation Policy, Topic Number 000-500-003.

FDOT, Manual on Uniform Traffic Studies, Topic No. 750-020-007.

<http://www.fdot.gov/traffic/TrafficServices/Studies/MUTS/MUTS%20Final%2001.2016.pdf>

FDOT, Traffic Engineering Manual, Topic No. 750-000-005.

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FHWA, 2004. Traffic Analysis Toolbox Series.  
<https://ops.fhwa.dot.gov/trafficanalysisitools/index.htm>

FHWA, 2013. Traffic Monitoring Guide.  
<https://www.fhwa.dot.gov/policyinformation/tmguide/>

Institute of Transportation Engineers (ITE), 2015. Integration of Safety in the Project Development Process and Beyond: A Context Sensitive Approach

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>

Regional Integrated Transportation Information at University of Maryland.  
<http://www.ritis.org>

Title 23, CFR § 450, Appendix A. Linking the Transportation Planning and NEPA Processes. <http://www.ecfr.gov/cgi-bin/text-idx?SID=ffd5a70592b8f07eb3d383a5e441e880&mc=true&node=pt23.1.450&rgn=div5>

Transportation Research Board (TRB), 2010. Highway Capacity Manual

## **2.4 FORMS**

[Project Traffic Assumption Form, Form No. 650-050-39](#)

[Technical Report Cover Page, Form No. 650-050-38](#)

## **2.5 HISTORY**

7/24/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 5, 1/14/2019

## PROJECT TRAFFIC ANALYSIS REPORT

Florida Department of Transportation

District X

Project Title

Limits of Project

County, Florida

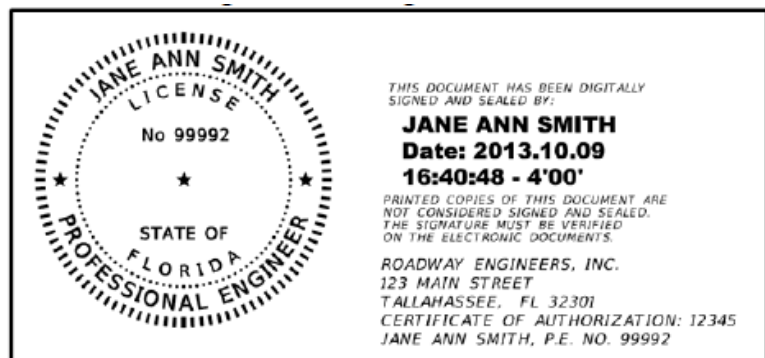
Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

Date

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.

(Insert digital signature block)



**Figure 2-1 Sample Project Traffic Analysis Report Cover Page**

<b>Traffic forecast for the project was developed using:</b>	
<input type="checkbox"/> Travel Demand Model	<input type="checkbox"/> Growth Rates
<b>Type of Travel Demand Model Used:</b> <input type="checkbox"/> Metropolitan Planning Model <input type="checkbox"/> Other Model _____	<i>Refer to appropriate section of Project Traffic Analysis Report that discusses growth rates</i>
<b>Is the travel demand model based on the latest adopted Long Range Transportation Plan?</b>	
<input type="checkbox"/> YES	<input type="checkbox"/> NO
_____ Date when MPO adopted the latest Long Range Transportation Plan	Explain why?
_____ Base Year of Travel Demand Model	
_____ Horizon Year of Travel Demand Model	
Long Range Transportation Plan documentation is available at (provide web address): _____	
<b>Traffic Data and Factors</b>	
Standard K = _____ D Factor = _____ T <sub>Daily</sub> = _____	Data Collection Year = _____ Opening Year = _____ Interim Year = _____ Design Year = _____
Discuss any changes in land use, economics, population and employment data since the model was built	
<b>Traffic Analysis Assumptions</b>	
Discuss study area, data calibration/validation parameters, analysis tools, analysis periods and MOEs	

**Figure 2-2 Project Traffic Assumption Summary**

## PART 2, CHAPTER 3

# ENGINEERING ANALYSIS

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## PART 2, CHAPTER 3

# ENGINEERING ANALYSIS

### 3.1 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).

#### 3.1.1 Purpose

Engineering analysis builds upon the information developed and documented by FDOT during the Planning phase of a project. This chapter contains FDOT's procedure for engineering analyses to support development of general project location and design concepts during Project Development and Environment (PD&E) Studies. The engineering analysis defines project features essential to the assessment of project impacts on the social, cultural, natural, and physical environment while also seeking to balance the extent to which project needs are addressed to ensure project costs and environmental impacts are minimized. Further, the analysis establishes necessary design considerations to support progression of the project from concept to preliminary design and eventually to final design.

This chapter provides guidance on engineering analysis and considerations concerning evaluation of existing conditions, selection of design parameters, development of project alternatives, analysis of alternatives, selection of the preferred alternative(s), and documentation of engineering analyses.

During the identification and evaluation of the project alternatives, the Project Manager should continuously coordinate with the various offices within the District to promote collaboration between a multi-disciplinary team including engineers and environmental specialists throughout the project development process. Continual coordination is critical to the success of the project because it helps resolve and address project issues that may affect development of project alternatives. The Project Manager also has the responsibility of engaging project stakeholders and the public throughout the project development process.

### 3.1.2 Definitions

**Air operations area (AOA)**- A portion of an airport, specified in the airport security program, in which security measures specified in this part are carried out. This area includes aircraft movement areas, aircraft parking areas, loading ramps, and safety areas, for use by aircraft regulated under **49 CFR Part 1544 or Part 1546**, and any adjacent areas (such as general aviation areas) that are not separated by adequate security systems, measures, or procedures. This area does not include the secured area.

**Alignment** - Refers to both horizontal and vertical placement of a transportation facility. Horizontal alignment refers to the location of the transportation facility as described by curves and tangents. Vertical alignment refers to the vertical profile of the facility (i.e., below grade, at grade, or above grade).

**Alternative** - A potential transportation corridor, alignment, design feature, mode, or improvement under consideration that addresses the project's Purpose and Need.

**Alternative Corridor Evaluation (ACE)** - A study process used to identify and evaluate alternative corridors for the project with regard to transportation needs and environmental issues or concerns early in the project development process. This study links planning and the environmental review process. This process is described in [Part 1, Chapter 4, Project Development Process](#).

**Bicycle Lane** - A bicycle lane (bike lane) is a portion of a curbed roadway which has been designated by striping and special pavement markings for use by bicyclists.

**Corridor** - Any land area designated by the state, a county, or a municipality which is between two geographic points and which is used or suitable for the movement of people and goods by one or more modes of transportation.

**Design Exception** - The process that is followed when a proposed design element is below both the FDOT's governing criteria and the American Association of the State Highway and Transportation Officials' (AASHTO's) new construction criteria for Controlling Design Elements.

**Design Variation** - The process that is followed when a proposed design element is below FDOT's criteria and where a Design Exception is not required.

**Express Lanes:** A type of managed travel lane physically separated from general use lanes, or general toll lanes, within a roadway corridor. Express lanes use congestion pricing through electronic tolling in which toll amounts are set based on traffic conditions in the express lanes.

**Final Design** - Any design activities following preliminary design, expressly including the preparation of final construction plans and detailed specifications for the performance of construction work, final plans, final quantities, and final engineer's estimate for construction, also referred to as Plans Specifications & Estimates (PS&E).

**Managed Lane** - Highway facilities or sets of lanes within an existing highway facility where operational strategies are proactively implemented and managed in response to changing conditions with a combination of tools. These tools include access control, vehicle eligibility, variable pricing, or a combination thereof. Managed lanes can include express lanes, high occupancy vehicle (HOV) lanes, reversible lanes, truck-only toll lanes, and vehicle-restricted lanes.

**No-Action (No-Build) Alternative** - The option in which the proposed project activity would not take place. The No-Action (No-Build) alternative provides the baseline for establishing environmental impacts of the build alternatives.

**Preferred Alternative** - The preferred alternative for a federal aid project is the alternative that has been approved by the lead agency. If a preferred alternative is identified prior to the public hearing, it must be presented as such at the public hearing and in the Environmental Document available to the public during the period of public availability.

**Preliminary Design** - Defines the general project location and design concept. It includes, but is not limited to: preliminary engineering and other activities and analyses, such as environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analysis, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of materials, and other work needed to establish parameters for the final design.

**Preliminary Engineering Report (PER)** - The engineering report that documents engineering analyses and decisions made during the PD&E Study. The **PER** contains preliminary design plans and design parameters that support advancing the project into the final Design phase.

**Reasonable Alternatives** [Term used in the Environmental Impact Statement (EIS) only] - Alternatives meeting the purpose and need which are practical or feasible from a technical and economic standpoint.

**Transportation Management Area (TMA)** - All Urbanized Areas (UZAs) with population greater than 200,000 as determined by the most recent census.

**Transportation Systems Management and Operations (TSM&O)** – A set of strategies to manage traffic congestion and minimize other unpredictable causes of service disruption and delay to preserve the capacity and improve the security, safety, and reliability of the transportation system.

**Viable Alternatives** [Term used in Type 2 Categorical Exclusion (CE), Environmental Assessment (EA), and State Environmental Impact Report (SEIR) only] - Alternatives that address the purpose and need that can be designed and constructed from an engineering standpoint, if there is more than one alternative proposed.

## 3.2 PROCEDURE

This section describes the procedure for conducting engineering analysis during the PD&E phase. FDOT conducts engineering analyses consistent with the [FDOT Design Manual \(FDM\), Topic No. 625-000-002](#), and other manuals and procedures listed in [Figure 3-1](#). Engineering considerations for a project begin during the Planning phase where the project's purpose and need is defined, and continue throughout the PD&E process when conceptual and preliminary design plans are prepared. Engineering analysis and considerations include coordination with other offices within the Districts, Central Office, Native American tribes, agencies, the public, and the Lead Federal Agency as appropriate.

### 3.2.1 Level of Detail of Analysis

The level of detail for engineering analysis for a PD&E Study depends on the overall size and complexity of the project. It also depends on the Class of Action (COA) or type of Environmental Document for the project. Type 1 Categorical Exclusion (CE) and Non-Major State Action (NMSA) projects require a lesser level of analysis and do not require a PD&E Study. Type 2 CE, Environmental Assessment (EA), Environmental Impact Statement (EIS), and State Environmental Impact Report (SEIR) projects require a more detailed level of analysis and documentation. Regardless of the Environmental Document type, the engineering analyses must be performed to a level of detail that is sufficient to assess the effects of the alternative(s) on the social, economic, natural, cultural, and physical environment. In order to analyze multiple alternatives, the Project Manager must ensure that the alternatives are developed to the same level of detail.

A **Preliminary Engineering Report (PER)** is prepared to document the results of engineering analysis for a SEIR, Type 2 CE, EA, or EIS. See [Section 3.2.10.2](#) for an outline of the **PER**. If the Design phase occurs concurrently with the PD&E phase, a **PER** may be scaled down to present the results supporting alternatives evaluation as other preliminary design information are documented in the Design Documentation for the project. See [Part 1, Chapter 4, Project Development Process](#) for guidance on completing PD&E and Design phases concurrently.

### 3.2.2 Project Coordination

The PD&E Project Manager is responsible for timely coordination with other offices within the District and Central Office, as applicable, to ensure proper development and evaluation of project alternatives. A successful PD&E Study requires orderly and continuous coordination between planning, engineering, environmental, public involvement and other staff from various offices.

If the project has federal involvement, the Project Manager must coordinate the project development efforts with OEM. Coordination with FDOT's Structures Design Office is required for special bridge structures such as moveable bridges, historic bridges, and signature bridges. Coordination with the US Coast Guard (USCG) and US Army Corps of Engineers (USACE) is also required for permitting purposes.

For projects that are in the vicinity of a public use or military airport, the Project Manager must coordinate with the Airspace and Land Use Manager in the Department Aviation Office as early as possible in the initial phases of the project.

Prior to making commitments, the Project Manager must coordinate with appropriate staff to ensure commitments are viable and are approved by the appropriate offices. [Part 2, Chapter 22, Commitments](#) and [Procedure No. 650-000-003, Project Commitment Tracking](#).

The following is a list of the various coordination efforts the Project Manager undertakes during the PD&E Study.

### **Planning**

It is the responsibility of the Project Manager to request the any existing and future traffic projections, turning movements, and traffic factors from the District Planning Office. See [Part 1, Chapter 4, Project Development Process](#) for guidance on re-using data from planning studies.

Projects involving Express Lanes require coordination with the Planning Office, the Traffic Engineering and Operations Office in Central Office, and the Florida Turnpike Enterprise (FTE).

The Project Manager should also coordinate with District Metropolitan Planning Organization (MPO)/Transportation Planning Organization (TPO) liaison for planning consistency requirements.

### **Traffic Operations**

Projects involving Intelligent Transportation System (ITS) and TSM&O strategies require coordination with the Traffic Operations Office. The Project Manager is responsible for requesting crash data from the Safety Engineer within the Traffic Operations Office.

### **Roadway Design**

Project alternatives must be reviewed for proper application of geometric design elements including design speed, typical section details, superelevation, horizontal and vertical alignment, constructability, and maintainability. Unconventional design alternatives and innovative design concepts should be coordinated with the District Design Engineer and the District Structures Design Engineer.

During the development and evaluation of alternatives, the viable or reasonable alternatives must be reviewed for situations that would require a Design Variation or Design Exception. If a variation or exception is needed, the Project Manager must coordinate with the District Design Engineer to receive District or Central Office approval, as required.

During the development of alternatives, the Project Manager must coordinate the typical sections with the District Design Engineer. After the public hearing is completed (if held) and the project alternative is approved, a **Typical Section Package** will be finalized in accordance with [FDM, Part 1, Chapter 120, Topic No. 625-000-002](#).

## Structures

The Project Manager must request approval from the District Structures Design Engineer for conceptual location and design recommendations for each bridge alternative including cost and any benefit-cost analyses used for selecting or recommending structure alternatives. In addition, the Project Manager must consult the District Structures Design Engineer if non-standard signs, lighting, signals, or other miscellaneous structures are under consideration.

For coastal bridge replacement projects, consideration may be given to using clean demolition materials as an artificial reef under **Title 33 U.S.C. Chapter 35**. This consideration must be part of the coordination and consultation process with the regulatory and resource agencies as well as with other stakeholders. Considerations will include, but not be limited to, management, testing, storage, and transport of the material as well as permitting and agreements that may be required. The **Bridge Development Report (BDR)** (see [FDM, Part 1, Chapter 121, Topic No. 625-000-002](#)) will include the approximate volume of debris and the estimated timeframe in which the material will be available.

## Drainage

The District Drainage Engineer should review tidal projects to determine if coastal hydraulics will affect project design. If so, a coastal engineer should review the project in accordance with the [Drainage Manual, Topic No. 625-040-002](#).

The Project Manager should also meet with the District Drainage Engineer to explore watershed stormwater needs, stormwater pond sites, and alternative permitting approaches when developing project alternatives.

## Freight/Port

The Project Manager must coordinate with the District Seaport Coordinator and/or District Freight Coordinator whenever the project involves a port, or is part of landside port transportation or access improvements, such as highways connecting Florida's ports to their markets.

## Aviation

Federal regulations promulgated by the Federal Aviation Administration (FAA) exist to protect the national airspace system and must be considered and complied with when planning, designing and constructing a FDOT project in the vicinity of a public-use or military airport. [FDM, Part 1, Chapter 110.5.1, Topic No. 625-000-002](#) provides guidance on the required action during Design.

FAA discourages placing stormwater treatment facilities within the airport's air operation area because of their potential for being hazardous wildlife attractants. The Project Manager must coordinate with the FDOT Airport Engineering Manager when stormwater treatment facilities are proposed within the vicinity of an airport. Such coordination is essential to ensure the stormwater treatment facilities incorporate the FAA design criteria of no above-ground standing water.

### **Scenic Highways**

The Project Manager must coordinate with the District Scenic Highway Coordinator for projects affecting designated scenic highways. If the project impacts a scenic highway and qualifies for screening, it will be identified in the Environmental Screening Tool (EST) as part of the Efficient Transportation Decision Making (ETDM) process.

### **Right of Way**

The Project Manager should discuss Right of Way (ROW) requirements associated with the project alternatives and coordinate with the District ROW office to identify or obtain ROW cost estimates, schedules, and work effort to complete ROW activities. Issues related to open cut and fill roadway cross sections pointed in [FDM, Part 1, Chapter 113, Topic No. 625-000-002](#) should be discussed with the District ROW office.

### **Landscape**

The Project Manager should discuss landscaping needs for the preferred alternative with the District Landscape Architect.

### **Permits**

The determination of permits required for the project starts during the ETDM Programming Screen. Representatives from each of the environmental permit agencies comment on the general project (including potential permits from their agency). Early coordination with the District Permit Coordinator and regulatory agencies is necessary to determine the level of detail required to acquire permits concurrent with PD&E. For more information regarding the environmental permit process, see [Part 1, Chapter 12, Environmental Permits](#).

### **Utilities and Railroads**

The Project Manager should begin early coordination with District Utility Office and the District Railroad Office to identify and document potential utility and railroad conflicts, see [Part 2, Chapter 21, Utilities and Railroads](#).

## **3.2.3 Preliminary Engineering Analysis**

The key elements in performing engineering analysis during PD&E are:

1. Project purpose and need

2. Data collection
3. Design controls and criteria
4. Existing conditions analysis
5. Alternatives analysis
6. Documentation

### **3.2.3.1 Project Purpose and Need**

Purpose and need identification occurs during the Planning phase of the project. It is important for the Project Manager to review and understand the project's purpose and need, which drives the development of alternatives considered and evaluated during the PD&E process and documented in the Environmental Document.

The Project Manager must review the *Programming Screen Summary Report* for projects that were screened through the ETDM Process. The Project Manager should also review planning documents such as the Long Range Transportation Plan (LRTP).

### **3.2.3.2 Data Collection**

The data collection process should consider the purpose and need for the project and the goals and objectives of the PD&E Study. Specifically, data collection should start by obtaining the data to assess and support the purpose and need for the project. When existing data is available, efforts should be made to determine any gaps in the data and approaches to fill the gaps. Data can be grouped into four categories: roadway characteristics, traffic characteristics, operations and safety characteristics, and environmental characteristics.

### **3.2.3.3 Design Controls and Criteria**

Design controls are established parameters or physical characteristics that affect the selection of criteria and standards for geometric design of project alternatives. Design controls are also established for roadway elements such as lighting, noise abatement, drainage consideration, access management and multi-modal facilities.

Design controls include:

1. Roadway context classification
2. Functional classification and system classification
3. Access management class and standards
4. Design speed



5. Capacity and Level of Service (LOS)
6. Project traffic
7. Design vehicle
8. Pedestrian and bicycle requirements
9. Physical constraints (e.g., existing ROW, approach roads, intersecting roads, railroads, major utilities)
10. Environmental constraints (e.g., public parks, historic and cultural features, wetlands, floodplains)
11. Type of stormwater management facilities (e.g., closed or open drainage systems)
12. Navigational requirements
13. Design high water
14. Design wave heights for coastal bridges

The future roadway context classification should be used when developing Project alternatives. The following are questions to consider when defining future context classifications.

- Are there any planned or new developments anticipated in the project area?
- What is the local government future land use vision as identified in the Local Government Comprehensive Plan (LGCP), corridor plan, policies or other credible sources?
- Does the adopted future land use plan include specific recommendations regarding development density, building setbacks, or urban design within the project area?
- Are there locally adopted multimodal plans or policies affecting non-motorists' trips or transit?

The FDOT procedure for identifying roadway context classification is presented in the [\*\*FDOT Context Classification Document\*\*](#).

The [\*\*FDM, Topic No. 625-000-002\*\*](#) is the principal source of values for design criteria for projects on the SHS. The values for design criteria contained in the **FDM** have been accepted by FHWA. The [\*\*Florida Greenbook, Topic No. 625-000-015\*\*](#) must be used only on projects not on the SHS or federal aid systems. Guidance on the design, location and installation of transit facilities can be found in the [\*\*Assessing Transit Design Handbook\*\*](#).

When the design elements of the preferred alternative do not meet the designated design criteria, Design Exceptions or Design Variations must be prepared and approved per [FDM, Part 1, Chapter 122, Topic No. 625-000-002](#).

### 3.2.3.4 Existing Conditions Analysis

The purpose of the existing conditions analysis is to document available information regarding the existing facility or corridor. Existing conditions analysis documents the inventory of roadway elements, structure elements, and environmental features of the project. It also includes review of planning issues contained in previous planning documents such as corridor feasibility studies or interchange access requests. The existing conditions analysis helps to identify or confirm design and operational deficiencies associated with the project study area, as well as to verify, refine, and support the purpose and need for the project. It also establishes the baseline conditions for which environmental impacts are evaluated.

Comparison of the existing conditions against the current design controls or criteria identifies roadway and structure elements that do not meet current standards. Such project deficiencies must be discussed, analyzed, and documented in the *PER* or SEIR. Analysis of project deficiencies is used to support the project purpose and need (see [Part 2, Chapter 1, Project Description and Purpose and Need](#)).

The sections below are examples of elements of existing conditions analysis. For new corridors, analysis of existing conditions requires a description of the adjacent facilities to explain how the existing transportation system is currently handling the travel demand.

#### 3.2.3.4.1 Existing Roadway Conditions

Existing roadway conditions should be documented to reflect the following:

1. Roadway context classification
2. Functional classification and other classifications
3. Access classification and access management standards
4. Typical sections – description and dimensions of each cross-sectional element
5. ROW including extent and type of limited access and easements
6. Property lines and land use types adjacent to the roadway
7. Pavement type, structural and operational conditions
8. Design speed and posted speed
9. Horizontal and vertical alignments

10. Multi-modal facilities:

- a. Pedestrian accommodations - Walkways, crosswalks, Americans with Disabilities Act (ADA) accessibility, and school routes
  - b. Bicycle facilities - Location, type, width, and designation
  - c. Mass transit facilities including bus and rail services – Type, locations and number of stops, transfer centers, park-and-ride facilities, bus bays
  - d. Freight and intermodal logistics centers
11. Intersections - Lane configuration, type, control type, technology, and operational conditions
12. Physical or operational restrictions such as special use lanes, parking, evacuation routes, fixed objects, barriers, and clear zones
13. Traffic data - Annual Average Daily Traffic (AADT), peak hour volume, truck percentage, pedestrian and bicycle counts, and transit data
14. Roadway operational conditions - LOS or relevant performance measures such as delay, travel time, and density
15. Crash data - Crash rates, severity, number (frequency), types, locations, contributing causes and patterns
16. Railroad crossings - Number of tracks, number of train crossings, speed, type of train (passenger or freight), type of warning devices, operating characteristics, railroad ROW, and Rail Master Plan
17. Drainage system - Drainage areas and flow patterns, floodplains and stormwater management systems including regional facilities
18. Lighting - Location, type, condition, spacing, and maintaining agency
19. Utilities - Location, Utility Agency/Owner (UAO), and contact persons
20. Soils classifications
21. Aesthetic features (e.g., lighting, landscaping, vegetation, pavers)
22. Traffic signs

### 3.2.3.4.2 Existing Bridge Conditions

FDOT's Bridge Maintenance Office maintains **Bridge Inspection Reports (BIRs)** for every public bridge in the State of Florida. The Project Manager must obtain the **BIR** for each bridge on the existing corridor. Additionally, geotechnical and scour reports,

environmental permits, and previous studies for existing bridges can be requested from the structures and environmental permits offices. If hydraulic analysis is anticipated, bridge information for each bridge upstream and downstream of the existing crossing can also be obtained.

Evaluation of existing bridge conditions should include identification of wildlife crossing features. These features include bridges, bridges with shelves, specially identified culverts, enlarged culverts or drainage culverts, and/or exclusionary devices such as fencing, walls or other barriers, or some combination of these features. The Project Manager should confirm the location of a wildlife crossing feature based on coordination with the District Environmental Manager, District Permit Coordinator, and District Structures Design Engineer.

**BIRs** typically contain the following information:

1. Bridge number
2. Bridge Type
3. Typical Section
4. Facility crossed (waterway, roadway, or railroad)
5. Year structure was built and/or modified
6. Type of structure - Timber, concrete, or steel
7. Condition - Structural rating and suitability for widening or retrofitting
8. Load posting information
9. Horizontal and vertical clearances
10. Ship impact data
11. Span arrangement - Number and length of spans
12. Historical significance - i.e., **National Register of Historic Places (NRHP)** eligible or may be a potentially significant historic bridge (of 50 years of age or older). If a bridge is on the **NRHP**, determine if the bridge is a critical landmark or a signature structure.
13. Geotechnical information from existing bridge borings, pile driving records, scour reports, and maintenance history where available
14. Channel data - Alignment, width, depth, and clearance requirements
15. On bridges with moveable spans - The average number of times the bridge opens per day, results of boat traffic and mast height surveys, include any special

navigation (shipping/boating) requirements that will require accommodation during construction

16. Normal High Water and Mean High Water (for coastal bridges) in accordance with [FDM, Part 1, Chapter 121, Topic No. 625-000-002](#), and [Section 4.6, Drainage Manual, Topic No. 625-040-002](#)

17. Bridge security issues

For bridges maintained by other agencies, all relevant information regarding the existing bridge should be requested from the owner of the bridge in addition to requesting the **BIR**.

### **3.2.3.4.3 Existing Environmental Features**

Existing conditions analysis must include a review of potential environmental issues in the project area that would affect development of project alternatives. This analysis requires input from environmental specialists. As such, field observations of existing environmental features must be conducted concurrently with the review of existing roadway and bridge features. Close coordination between environmental and engineering staff is essential to developing alternatives that reduce environmental impacts.

### **3.2.3.4.4 Existing Intelligent Transportation Systems/Transportation Systems Management and Operations**

Projects that involve ITS must include review of existing ITS documents and plans to determine operational needs and infrastructure requirements. Also, if applicable, review existing Concepts of Operations (ConOps) and other systems engineering documents.

### **3.2.3.4.5 Facilities Repeatedly Requiring Repair Due to Emergency**

Existing condition analysis should consider results of the evaluation of roadway and bridges that have required repair and reconstruction activities on two or more occasions due to emergency events pursuant to **23 CFR § 667.9**. This includes review of the Transportation Asset Management Plan (TAMP) and related evaluation reports. Additionally, coordination with the District Maintenance Office and District Pavement Engineer is essential to determine if there are reasonable alternatives to the affected portion of the roadway or bridge.

## **3.2.4 Alternatives Analysis**

Alternatives analysis is the process of developing, evaluating, and eliminating potential project alternatives based on the purpose and need for the project. Alternatives analysis involves evaluation of both engineering and environmental aspects of a project. Therefore, the Project Manager must engage both District engineering and environmental staff from the scope development stage through the alternative analysis process.

The process to develop and evaluate potential alternatives must also seek public and stakeholder input. See [Part 1, Chapter 11, Public Involvement](#) for guidance regarding public involvement for a project.

The alternatives analysis of a PD&E Study must consider the following alternatives:

1. No-Action Alternative, or No-Build Alternative
2. TSM&O Alternative
3. Multimodal Alternative
4. Build Alternative(s)

Some of the project alternatives developed, analyzed, and eliminated during the Planning phase of a project can be eliminated from further analysis consistent with the conditions in **Title 23 U.S.C. § 168**. During the PD&E Study, it is the responsibility of the Project Manager to review planning studies previously completed for the project, and document the alternatives that have already been considered, screened, and eliminated through a planning process. The Project Manager must coordinate with the OEM in advance to verify any planning decision that can be adopted or incorporated by reference into the Environmental Document pursuant to **23 U.S.C. § 168** and **23 Code of Federal Regulations (CFR) Part 450, Appendix A**. This coordination must occur during the scope development stage of the PD&E project. See [Part 1, Chapter 4, Project Development Process](#) for more guidance.

### **3.2.4.1 No-Action Alternative**

The No-Action Alternative (or No-Build Alternative) serves as the baseline, or benchmark against which the Build Alternatives are evaluated. The No-Action Alternative is defined as the alternative in which the proposed project activity would not take place.

The engineering analysis must analyze the effects of the No-Action Alternative on the surrounding social, cultural, natural, and physical environment to the same level of detail as the build alternatives. The No-Action Alternative remains under consideration throughout the PD&E Study, including the public hearing. Both the **PER** and Environmental Document must include and discuss the No-Action Alternative. Discussion about impacts of the No-Action Alternative must include the impacts to surrounding areas, such as increased travel demand on the existing facility and parallel routes, impacts to multi-modal facilities, and impacts to emergency response times, amongst others.

Documentation of the alternatives analysis must include advantages and disadvantages of the No-Action Alternative.

### **3.2.4.2 Transportation System Management and Operations Alternative**

The TSM&O Alternative includes strategies with the operational objective of preserving the capacity and improving the security, safety, and reliability of the transportation system,

while minimizing all environmental impacts. These strategies may include upgrades or additions to the existing facility, such as ramp signals, arterial traffic management systems, traffic incident management, work zone traffic management, road weather management, traveler information services, congestion pricing, parking management, traffic control, commercial vehicle operations, transit priority signals systems, and freight management.

Prior to evaluating build alternatives, engineering analysis must demonstrate that maximization of the existing system through various TSM&O strategies will not meet the purpose and need for the project. Documentation of the TSM&O Alternative evaluation must include a ConOPs and system requirements as described in [Florida's Statewide Systems Engineering Management Plan \(SEMP\)](#).

While TSM&O primarily relates to projects in urbanized areas, the concept of achieving maximum utilization is also important in rural areas. The TSM&O Alternative shall be discussed in the alternatives section of the **PER** and Environmental Document. If the TSM&O Alternative does not meet the purpose and need for the project, the **PER** and Environmental Document must briefly explain why.

### 3.2.4.3 Multimodal Alternatives

When consistent with the purpose and need, the alternatives analysis should consider multimodal alternatives. The Project Manager should review the MPO LRTP, LGCP, and the Transit Development Plan, where applicable, for any multimodal projects that are planned along the corridor for possible inclusion into the project. The Project Manager should also coordinate with the District Transit or Modal Office when evaluating multimodal alternatives. Multimodal alternatives can include non-motorized facilities (for pedestrians and bicyclists) to meet the purpose and need for the project. These alternatives must include the types of facilities that are planned in the LGCP. Discussion of multimodal alternatives should include needs that are stated in the LRTP and/or LGCP.

### 3.2.4.4 Build Alternatives

The Build Alternatives are proposed to address the project's purpose and need. Build alternatives should seek to avoid or minimize impacts to the environment by considering issues, concerns, and opportunities identified during the Planning phase of the project.

In order to ensure meaningful evaluation of alternatives, **each** build alternative **must** have:

1. Logical termini and should be of sufficient length to address environmental matters and the purpose and need on a broad scope.
2. Independent utility, i.e., to function as designed and be a reasonable expenditure even if no additional transportation improvements in the area are made.

The Project Manager and project team may consider opportunities for developing hybrid alternatives that could incorporate TSM&O strategies and/or multimodal options with the

build alternative to meet the purpose and need for the project. Incorporation of TSM&O strategies in the build alternative requires the Project Manager to obtain input from the District TSM&O Program Engineer early on during the alternative development process.

Design detail of the Build Alternatives should be commensurate with the information needed to define and evaluate environmental impacts or define ROW. Each alternative must be explored at a sufficient level of detail to support a reasoned choice. All alternatives under consideration must be developed to a comparable level of detail so that their comparative merits may be evaluated.

#### **3.2.4.4.1 Development of Build Alternatives**

The number of Build Alternatives to be analyzed during the PD&E Study affects the project schedule and budget. The initial number of Build Alternatives to be analyzed in detail during the PD&E Study must be relative to the size and complexity of the project. As such, only viable or reasonable Build Alternatives should be evaluated in detail.

When Planning phase corridor studies identified and documented operational strategies or improvement options that may address the needs, the Project Manager should coordinate with the District Environmental Office to determine if planning products or decisions can be reused or adopted according to **23 U.S.C. § 168** and **23 CFR § 450.318** and **Appendix A of 23 CFR Part 450 - Linking the Transportation Planning and NEPA Processes**. See [Part 1, Chapter 4, Project Development Process](#) for more guidance on linking planning and the environmental review process.

For complex projects, an evaluation of alternatives may start by high-level screening of a broad number of improvements, concepts, or TSM&O strategies to eliminate unreasonable or nonviable alternatives from further detailed analysis. A sketch planning process can be used to quickly identify and evaluate the performance of various improvements and design concepts. FDOT design criteria and standards must be used when developing the alternatives compatible with context classification and other applicable design controls.

A Type 2 CE or SEIR must evaluate at least one Build Alternative and a No-Action Alternative. The actual number of alternatives evaluated depends on factors such as complexity of the project, environmental issues/resources, results of planning/corridor studies, and input from stakeholders and the public.

An EA must evaluate at least one Build Alternative and a No-Action Alternative. The **FHWA Technical Advisory T 6640.8A** notes the purpose of the EA is to determine if an EIS is required. The EA does not need to evaluate in detail all reasonable alternatives for the project, and may be prepared for one or more viable build alternatives. The EA should also include a discussion of any alternative considered but eliminated prior to preparation of the EA that documents the reasons for eliminating the alternative.

An EIS must evaluate reasonable alternatives or a reasonable range of alternatives in addition to a No-Action Alternative. The **Forty Most Asked Questions Concerning CEQ's NEPA Regulations** has defined reasonable to mean those technically and



economically feasible alternatives that would satisfy the primary objectives of the project defined in the purpose and need.

Typically, EISs and complex EAs are developed through the Alternative Corridor Evaluation (ACE) process which refines the scope of the project and number of alternatives to be considered during PD&E. The ACE process is discussed in detail in [Part 1, Chapter 4, Project Development Process](#).

#### **3.2.4.4.2 Alternatives Considered but Eliminated**

The primary reason for eliminating an alternative from consideration is that it does not meet the project's purpose and need. Project Managers are encouraged to screen unreasonable or unviable alternatives early in the alternative development stage. The screening of alternatives determines if an individual alternative or a concept has one or more deficiencies that prevent it from being successfully implemented. The screening of alternatives is based on project purpose and need, established goals and objectives, or environmental controversy based on impacts on natural, social, physical or cultural environment. Other factors that should be considered when screening the alternatives include design constraints, constructability issues, and construction costs.

Although the No-Action Alternative does not typically meet the purpose and need, it must be considered as a viable alternative throughout the study.

The **PER** must include a section that discusses alternatives, including associated TSM&O strategies, which were considered for the project but eliminated from detailed study (during the Planning or PD&E phase). The section should discuss descriptions of each alternative considered in the evaluation process; the methodology used for eliminating alternatives including screening criteria used; data used in evaluation; agency and public input into the evaluation process; and at what point in the process (Planning or PD&E phase) the alternatives were eliminated. The Environmental Document must briefly summarize development of alternatives and decisions made (including the reasons for eliminating alternatives from detailed analysis) during alternatives evaluation process.

### **3.2.5 Engineering Considerations for Build Alternatives**

The following section discusses important engineering considerations during the development of build alternatives.

#### **3.2.5.1 Complete Streets**

Development of Build Alternatives must consider the [FDOT Complete Streets Policy, Topic No. 000-625-017](#) early in the alternatives development process. The **Complete Streets Policy** requires a context-sensitive approach to project development by accommodating all transportation users and their relationship to safety, economy, mobility, and the environment. Consideration and integration of complete streets during the PD&E Study promotes the efficient development of a multimodal transportation system. The complete streets context classification is determined based on the [FDOT](#)

**Context Classification Guide** and coordination with the FDOT staff to help ensure that the determination of context classification is collaborated for future approvals.

Complete streets must serve the transportation needs of users of all ages and abilities, including cyclists, pedestrians, motorists, transit riders, emergency responders, and freight handlers. Incorporation of complete streets into the project development process requires coordination with local governments, MPOs, transportation agencies, and the public.

Understanding of community context (transportation network, land use, and local priority), potential users and needs are key inputs for developing build alternatives that are complete streets oriented. The Project Manager must evaluate these key inputs during data collection, existing conditions analysis, and the alternatives development steps of the engineering analysis.

There is no single design solution for complete streets because each street and its context and travel demand are unique. For example, a complete street in an urban setting is quite different from a complete street in a rural setting; however, both streets must be designed to meet the users' needs and the transportation objectives of safety, mobility and the environment. Incorporation of complete streets may necessitate modification of design standards to allow typical sections to accommodate non-motorized traffic or allow raised medians, adequate shoulders, narrow lanes, and traffic calming features. Such modifications must follow FDOT's Design Exceptions and Design Variations process.

### **3.2.5.2 Pedestrians and Bicycle Accommodation**

In 2010, the U.S. Department of Transportation (USDOT) issued a Policy Statement on Bicycle and Pedestrian Accommodation Regulation and Recommendations to support the development of fully integrated active transportation networks. It states:

The DOT policy is to incorporate safe and convenient walking and bicycling facilities into transportation projects. Every transportation agency, including DOT, has the responsibility to improve conditions and opportunities for walking and bicycling and to integrate walking and bicycling into their transportation systems. Because of the numerous individual and community benefits that walking and bicycling provide — including health, safety, environmental, transportation, and quality of life — transportation agencies are encouraged to go beyond minimum standards to provide safe and convenient facilities for these modes.

The USDOT policy encourages the State, local government, and public transportation agencies to:

1. Consider walking and cycling as equals with other transportation modes
2. Ensure that there are transportation choices for people of all ages and abilities
3. Go beyond minimum design standards

***FHWA Bicycle and Pedestrian Planning, Program and Project Development*** provides additional guidance related to safety and accommodation of pedestrians and bicyclists.

***FDOT's Complete Streets Policy, Policy No. 000-625-017*** is consistent with the 2010 USDOT ***Policy Statement on Bicycle and Pedestrian Accommodation Regulations and Recommendations*** and further specifies that facilities be context-appropriate, based on existing or planned land use. Additionally, ***Section 335.065, Florida Statutes (F.S.)***, requires full consideration of bicycle and pedestrian ways along state roads and transportation facilities during planning and project development unless contrary to public safety, disproportionate cost or absence of need. Therefore, all Build Alternatives must consider pedestrian and bicycle accommodation.

Guidance on the design of pedestrian and bicycle facilities can be found in:

1. ***FDM, Part 2, Chapter 222*** – ***Pedestrian Facilities*** and ***FDM, Part 2, Chapter 223*** – ***Bicycle Facilities***
2. ***American Association of State Highway and Transportation Officials (AASHTO) Guide for the Development of Bicycle Facilities***
3. ***AASHTO Guide for the Development of Pedestrian Facilities***
4. ***Florida Greenbook*** (for off-system projects)

Pedestrian sidewalks in highly-developed urban areas and near schools may require additional width based on anticipated pedestrian volumes and context. When designing pedestrian facilities, the safe crossing needs of the pedestrian must be considered, such as providing median refuge, placing crosswalks perpendicular to the roadway or to match the intersection lines at skewed intersections, and minimizing pedestrian crossing length.

For interchange design, pedestrians and bicyclists accommodation on the arterial must be considered at the beginning of the planning process and during the PD&E phase. Ramp configurations, speeds, and overall complexity can create impractical and unsafe conditions for bicyclists and pedestrians if not carefully considered throughout the design process.

Where current pedestrian or bicycle facilities or indications of use are identified, the Bicycles and Pedestrians section of the Environmental Document should discuss the current and anticipated use of the facilities, the potential impacts of the affected alternatives, and proposed measures, if any, to avoid or reduce adverse impacts to the facility and its users. Where new facilities are proposed as a part of the proposed highway project, the Environmental Document should include sufficient information to explain the basis for providing the facilities (e.g., proposed bicycle facility is a link in the local plan or sidewalks will reduce project access impact to the community). Where the preferred alternative would sever an existing major route for non-motorized transportation traffic, the proposed project needs to provide a reasonable, alternative route or demonstrate that

such a route exists. This needs to be described in the Environmental Document according to the ***FHWA Technical Advisory T6640.8A***.

### **3.2.5.3 Traffic Operations and Safety**

Build alternatives should be evaluated for their impact on traffic operations. Traffic analysis for build alternatives includes both travel demand forecasting and capacity analysis to determine the number of through lanes, intersection control type, intersection configurations, need for auxiliary lanes, or access management. One of the primary objectives of traffic analysis is to determine if the Build Alternative will operate acceptably through the design year. Projects in urban areas require extensive traffic operational evaluations as compared to projects in rural areas because of recurring congestion and ROW constraints.

Safety analysis for build conditions should occur after evaluation of crash data to determine any existing safety deficiencies and appropriate corrective measures. Evaluation of existing safety can also include a Road Safety Audit (RSA), which is an examination of safety conditions of a road by an independent audit team. Safety analysis for build conditions should analyze potential hazardous elements on the proposed project conditions and draw inferences based on interactions of these elements and users. Development of Build Alternatives must correct existing safety deficiencies.

Intersection alternative(s) evaluation is governed by the [\*\*\*Manual on Intersection Control Evaluation, Topic No. 750-010-003\*\*\*](#).

### **3.2.5.4 Managed Lanes**

Managed Lanes are highway facilities or sets of lanes where TSM&O strategies are proactively implemented and managed in response to changing traffic conditions to provide congestion relief. They are generally considered in congested urban areas with limited ROW and where the previous widening projects have not met travel demand. For this reason, the managed lanes alternative is evaluated for its ability to provide long-term mobility, managed capacity, travel time reliability, and travel options. Coordinate with the State Managed Lanes Engineer for guidance.

PD&E Studies can evaluate the Managed Lanes alternatives against the No-Action (No-Build) Alternative if the project is included in the MPO LRTP as an Managed Lanes project, or if previously completed planning or corridor studies had recommended Managed Lanes per ***Title 23 U.S.C. § 129, Title 23 U.S.C. § 166, and Title 23 U.S.C. § 301***.

Typically, development of initial congestion pricing concepts and the decision to apply congestion pricing is made during the Planning phase. The initial congestion pricing concepts may be refined during the PD&E phase as more data related to engineering, finance, and public factors are collected. Therefore, the Project Manager should coordinate with the Florida Turnpike Enterprise Toll Studies and Forecasting Office about

the decision to use congestion pricing and the scope of tolling analysis, if required during the PD&E phase.

### 3.2.5.5 Access Management

Access management is a comprehensive approach to the management and regulation of driveways, medians, median openings, intersections, and freeway interchanges. The purpose of access management is to increase safety and efficiency of the transportation system by providing proper access from the SHS to abutting lands while limiting and separating traffic conflict points. It also ensures balance between accessibility and mobility while increasing the capacity of a roadway system. Access management analysis in the PD&E Study should evaluate and recommend appropriate locations for median openings and driveways, as applicable. The concept plans developed in the PD&E Study should show appropriate access management features. Changes in access management should be consistent with [\*\*Median Openings and Access Management Procedure, Topic Number 625-010-021\*\*](#). The Project Manager should coordinate with the District Access Management Review Committee (AMRC) for any proposed deviations from the access management and median opening standards.

### 3.2.5.6 Interchanges on Interstate Highways

If the project includes a new interchange or a modification to an existing interchange, the Project Manager must coordinate with the District Interchange Review Coordinator (DIRC) throughout development of the project to ensure that the alternative which received safety, operational and engineering (SO&E) acceptability in the **Interchange Justification Report (IJR)**, **Interchange Modification Report (IMR)** or **Interchange Operational Analysis Report (IOAR)** is included as one of the PD&E Study alternatives. Additionally, the Project Manager must coordinate the project schedule with DIRC such that the SO&E acceptability is obtained before the **NEPA** Document is sent to OEM for final approval.

To streamline project development, traffic operational analysis, safety analysis, and conceptual design analysis performed to address the requirements of the **2017 FHWA Policy on Access to Interstate System** also support development and evaluation of alternatives in the PD&E Study. The Interchange Access Request (IAR) process and PD&E approval is further discussed in [\*\*Part 1, Chapter 4, Project Development Process\*\*](#). Additionally, the preliminary engineering analysis for the PD&E Study includes the following to satisfy the FHWA Policy requirements related to social, economic or environmental impacts:

- Perform traffic and safety analyses of the No-Build conditions to demonstrate the inability of the existing interchanges to adequately serve design year traffic demands or address safety needs.
- Review local roads and streets within the interchange area of influence to confirm that local road improvements will not satisfactorily address the design year traffic demands.

- Summarize all alternatives considered to address the need for the IAR proposal and describe why alternative solutions to the proposed access change do not address the need or are not feasible.
- List planned improvements on the interstate within the IAR proposal and discuss IAR consistent with local and regional land use and transportation plans.
- In corridors where the potential exists for future multiple interchange additions, describe other access changes that are planned in close proximity to the IAR proposal, and state any impacts the IAR proposal and planned access changes have within the context of a network plan. Additionally, summarize how the adjacent planned access changes were incorporated into the IAR evaluation.
- If a new or modified IAR is due to a new, expanded, or substantial change in current or planned future development or land use, describe coordination that has occurred to identify fiscal responsibilities and any commitments to constructing local improvements needed to assure adequate collection and dispersion of the traffic resulting from the development with the adjoining local street network and the interchange.

If the recommended PD&E Study alternative is different from the interchange concept that received SO&E acceptability, the **IJR**, **IMR**, or **IOAR** must be re-evaluated to demonstrate that the preferred alternative meets the requirements of the IAR analysis procedure prior to the final approval of the **NEPA** Document or design change re-evaluation. The need and scope for the IAR re-evaluation must be determined through consultation with the DIRC, Statewide Interchange Review Coordinator (SIRC), and FHWA, as appropriate. See the [Interchange Access Request User's Guide](#) for IAR re-evaluation guidance.

### 3.2.5.7 Intelligent Transportation Systems

If a project uses federal funds and involves ITS technologies or a system of technologies, the requirements specified in the [Procedure No. 750-040-003, Florida Department of Transportation Systems Engineering and Intelligent Transportation System \(ITS\) Architecture Procedure](#) must be followed. The guidelines ensure an ITS project's compliance with **23 CFR § 940.11** and FDOT's requirements. Authorization of federal funds for construction or implementation of the project cannot proceed until compliance with **23 CFR § 940.11** is demonstrated.

**23 CFR § 940.11** requires that all ITS projects funded with highway trust funds be based on systems engineering analysis and have a project level ITS architecture that is coordinated with the development of the regional ITS architecture before advancing to final design. The Project Manager must prepare a high-level project ConOps and a **Preliminary System Engineering Management Plan (PSEMP)** to document the results of the system engineering analysis. The **PSEMP** is a technical document that defines the project's system engineering process for ITS deployments from concept to system operations in Florida consistent with **23 CFR Part 940**. **PSEMP** specifies systems

engineering activities and what must be built to satisfy stakeholder needs. The Project Manager should coordinate with the District TSM&O Engineer or program manager and the County Engineer when developing the **PSEMP**. Example of project alternatives that may require a **PSEMP** are Managed Lanes alternatives, transit alternatives, and any alternative with TSM&O strategies, because they involve ITS technologies and may be funded by federal funds.

### 3.2.5.8 Lane Elimination

Lane elimination alternatives are intended to reconfigure the existing cross section of the roadway to accommodate other uses and travel modes. The recovered travel lanes can be repurposed as bicycle lanes, sidewalks, landscaping, on-street parking, channelization, or bus lanes. Since a lane elimination alternative may redistribute traffic to other adjacent roadways, a networkwide or system impact analysis should be performed. Projects considering lane elimination as an alternative must follow the procedures in [FDM, Part 1, Chapter 126, Topic No. 625-000-002](#), for review and approval by the Chief Engineer, prior to the selection of a preferred alternative.

### 3.2.5.9 Stormwater Management

A PD&E Study must consider how management of stormwater from the project area will meet quality, rate, and quantity requirements of FDOT, Water Management Districts (WMDs) and the Florida Department of Environmental Protection (FDEP).

The [Drainage Manual, Topic No. 625-040-002](#) contains the drainage design standards for FDOT projects.

After the project's stormwater management requirements are determined and before stormwater management design decisions are made, the Project Manager should as appropriate convene an Environmental Look Around (ELA) meeting with regional stakeholders to explore watershed-wide stormwater needs and alternative permitting approaches. (see [Part 2, Chapter 11, Water Resources](#) and [Chapter 5 of the FDOT Drainage Manual, Topic No. 625-040-002](#).) The ELA should explore the following types of opportunities:

1. WMD / FDEP issues: wetland rehydration, water supply needs, minimum flows and levels, flooding, Total Maximum Daily Load (TMDL), acquisition of fill from FDEP/WMD lands
2. City / County issues: stormwater re-use, flooding, discharge to golf courses or parks, National Pollutant Discharge Elimination System (NPDES) needs, and water supply needs
3. FDOT project permitting: regional treatment, stormwater re-use, and joint use facilities

Potential participants from FDOT include the Design Engineer, Project Manager, Drainage Engineer, Permit Coordinator, and NPDES Coordinator. Potential

representatives from the City/County include the Public Works Director, City/County Engineer, and Stormwater Engineer. Other participants would include WMD / FDEP staff.

Areas of potential cooperation shall be documented as appropriate in the **PER** and **Pond Siting Report** or **Conceptual Drainage Design Report** for future follow up as the project development process moves forward. Any stormwater management commitments made during ELA meeting must be documented in the Environmental Document and follow the process outlined in [Part 2, Chapter 22, Commitments](#) and [Procedure No. 650-000-003, Project Commitment Tracking](#).

### 3.2.5.9.1 Drainage and Landscaping

The Project Manager should meet with the District Drainage Engineer and Landscape Architect to explore opportunities for integrating pond features with existing and proposed landscaping.

### 3.2.5.9.2 Water Quality

A **Water Quality Impact Evaluation (WQIE) Checklist, Form No. 650-050-37** must be prepared for each Type 2 CE, EA, EIS or SEIR project. The WQIE focuses on surface water and ground water. The surface water evaluation should identify and document water quality issues to produce designs that are complying with the goals of the **Clean Water Act (CWA)**, as amended. The objective of the **CWA** is to provide guidance for developing comprehensive solutions to prevent, reduce, and eliminate pollution of waters of the United States. The ground water evaluation, in coordination with the Environmental Protection Agency (EPA) and other regulatory agencies, should be consistent with the **Safe Drinking Water Act (SDWA)**, as amended. The **SDWA** requires ground water quality to be maintained to protect human health, the environment, and ground water resources. WQIE requirements are discussed in detail in [Part 2, Chapter 11, Water Resources](#).

### 3.2.5.9.3 Hydrology and Floodplains

Analysis of project alternatives includes hydrology and hydraulic evaluation to determine preliminary location, type, and size of major drainage crossings that may impact floodplains and floodways. Protection of floodplains and floodways is required by **Executive Order (EO) 11988, Floodplain Management, USDOT Order 5650.2, Floodplain Management and Protection** and **23 CFR Part 650A**. The intent of these directives is to avoid or minimize highway encroachments within the 100-year (base) floodplains, where practicable, and to avoid supporting land use development which is incompatible with floodplain values.

Hydraulics evaluation involves field observations to determine or confirm needed improvements, analysis of existing and proposed drainage basins, design of cross drains and culverts, design of outfall structures, determination of special erosion control and flood control features, among other things. Hydraulics evaluation also determines and corrects roadway design profile issues that may cause roadway flooding or overtopping.



The results of hydrology and hydraulic evaluation are summarized in the *PER* and the Environmental Document and detailed in the *Location Hydraulics Report (LHR)*. See [Part 2, Chapter 13, Floodplains](#) for guidance on how to prepare a *LHR*.

### **3.2.5.10 Utilities and Railroads**

The Project Manager should coordinate with the District Utility Engineer and District Railroad Coordinator whenever a project involves utilities and/or rail systems on the project. The goal is to identify potential existing or future conflicts with the project. Coordination requirements for potential utilities and railroad conflicts are outlined in [Part 2, Chapter 21, Utilities and Railroads](#).

### **3.2.5.11 Survey and Mapping**

Development of the horizontal and vertical alignment of the build alternative requires topographic survey data. The Project Manager should obtain existing information on survey control points, benchmarks, and control data (e.g., vertical and horizontal datum, coordinate system). The scale of surveying and mapping required for a PD&E Study depends on the project context, project complexity, and adjacent land use intensity. The scale of surveying and mapping also depends on the scope of the preliminary engineering. Engineering analysis for build alternatives may require the following:

1. Existing aerial photographs and imagery
2. LiDAR technology
3. Previous topographic surveys and reports
4. Previous roadway corridor mapping
5. U.S. Geological Survey (USGS) topographic maps
6. ROW maps, including supporting survey and title work
7. County maps showing adjacent parcels, plats, and side streets
8. Utility locates
9. Additional topographic surveys, Digital Terrain Models (DTM) and reports

Refer to the [Surveying and Mapping Procedure, Topic No. 550-030-101](#), and [Surveying and Mapping Handbook](#) for standards and guidance for conducting surveying and mapping.

### **3.2.5.12 Geotechnical Investigation**

Soil exploration during the PD&E phase is part of the analysis that supports location and design of project alternatives. A subsurface investigation is required at the site of new

structures, roadway construction, widening, trails, and rehabilitation locations as directed by the District Geotechnical Engineer or project scope. The scale of geotechnical investigation depends on the level of design analysis for the PD&E project and the type of soils involved. Geotechnical and subsurface investigation during PD&E involves:

1. Reviewing project requirements such as project location, alignment, structure location, structure loads, pier locations, and cut/fill area locations
2. Performing field reconnaissance of the site and existing structures to determine conditions that may affect development and construction of the project
3. Reviewing or obtaining ground survey data, aerial photography, geological information, U.S. Department of Agriculture (USDA) soil data, USGS topo maps, U.S Coast and Geodetic Survey (USCGS) maps
4. Planning and conducting field investigation and laboratory testing
5. Preparing a preliminary geotechnical report summarizing available data and providing recommendation
6. Identifying potential needs for the design investigation to address construction requirements and anticipate problems

Geotechnical and subsurface investigations must be conducted by a geotechnical engineer in accordance with geotechnical standards, policies, and procedures (refer to the [\*\*Soils and Foundations Handbook\*\*](#)).

Geotechnical and subsurface investigations may reveal evidence of contamination or solid waste/land-filling activities. This information is useful to the environmental analyst tasked to perform contamination assessment work on the same project. When these investigations reveal contamination issues, the project geotechnical engineer should inform the Project Manager and the District Contamination Impacts Coordinator (DCIC).

### **3.2.5.13 Structures and Bridges**

The Project Manager should include structures engineers when developing project alternatives that may require bridges, retaining walls, tunnels, culverts, or other structural elements.

#### **3.2.5.13.1 Development of Bridge Alternatives**

When the project involves a bridge or box culvert, several important factors guide the development of bridge alternatives. For existing bridges, the age, sufficiency rating, typical section, repair costs, vertical and horizontal clearance, historic significance,

maintenance of traffic plan, and availability of a detour route determine if the bridge needs to be repaired or replaced.

For new bridges, the proposed typical section, navigation requirements, vertical and horizontal clearance requirements, location hydraulic evaluation and scour analysis, geotechnical data, ship/barge traffic, security requirements, aesthetics requirements and bridge deck drainage considerations will guide the selection of the superstructure, substructure, and foundations.

For projects involving replacement of a bridge that is considered historic, or has substantial community value, the study must include a rehabilitation or repair alternative. If the bridge has an existing wildlife crossing feature, coordination with the District Environmental Manager and the resource agencies is required to ensure appropriate bridge design alternatives are considered.

The purpose of the bridge analysis is to determine the general attributes for the bridge alternative(s). The bridge analysis must provide conceptual guidance for the bridge designer who will develop specific attributes of the bridge (such as bridge design and structure type) in the **BDR**. The scope of services for the PD&E Study must specify the level of structural analysis and development for each anticipated bridge structure in the study. The District Structures Design Engineer must concur with the findings of the bridge analysis. See [FDM, Part 2, Chapter 260, Topic No. 625-000-002](#) for the contents of the bridge analysis. Bridge replacement PD&E studies do not require preparation of a **PER**, rather the preliminary engineering analysis results for these projects may be documented in the **BDR** or **Bridge Replacement Report**.

### **3.2.5.13.2 Braided Underpass Structures**

Design of interchange concepts and ramp configurations must consider the three-dimensional relationship of roadway and bridge components. Such components can include the mainline, auxiliary lanes, ramps, Collector-Distributor (C-D) roads, braided (grade-separated) ramps, ramp terminal intersections, and ramp junctions. When an interchange concept involves braided underpass structures, the Project Manager must coordinate with the District Structures Design Engineer to ensure vertical and horizontal geometry of the bridges can be structurally designed. Braided underpass structures usually carry primary roadway traffic (e.g. mainline or C-D road traffic) over secondary roadway traffic (e.g. ramp traffic). They typically consist of single-span bridges where the beams or flat slab superstructure component is not oriented parallel to traffic of the overlying roadway and a portion of the superstructure and substructure extends beyond the limits of the traffic barriers (refer to the [Structures Manual, Topic No. 625-020-018](#) for details).

### **3.2.5.13.3 Bridge Hydraulics**

The drainage engineer must prepare a **LHR** for bridges over water in accordance with the procedures outlined in the [Drainage Manual, Topic No. 625-040-002](#). Depending on the

level of engineering analysis during the PD&E phase, a **Bridge Hydraulic Report (BHR)** may be prepared to determine the hydraulic length of the bridge.

The District Drainage Engineer should review tidal projects to determine if coastal hydraulics is a meaningful consideration in a roadway or bridge project's design. When coastal hydraulics is essential to the project, a coastal engineer must assist in determining the level of bridge analysis effort during scoping of the PD&E phase. Conditions that typically require attention by a coastal engineer during the final Design phase are as follows:

1. Hydraulic analysis of interconnected inlet systems
2. Analysis of inlet or channel instability, either vertically or horizontally
3. Determination of design wave parameters
4. Prediction of over wash and channel cutting
5. Design of countermeasures for inlet instability, wave attack or channel cutting
6. Prediction of sediment transport or design of countermeasures to control sediment transport
7. Assessment of wave loading on bridges and other structures

#### **3.2.5.13.4 Perimeter Walls**

The request for consideration of a perimeter wall must come from the local municipality in which the project is located or from a group of directly affected residences/property owners adjacent to the project. These requests should be documented in the project file as early in the project's life as possible (i.e., during the PD&E phase of the project). If a request for perimeter wall consideration has been made, it is the responsibility of the Environmental Office Project Manager to forward the request to the appropriate design staff/project manager to ensure complete follow through on the request.

Perimeter walls are not intended to provide any noise reduction, nor are they intended to serve as a substitute for noise barriers at locations where a noise analysis has determined that the construction of noise barriers is not feasible and cost reasonable. Perimeter walls are also not intended to be used as mitigation for environmental impacts. Perimeter walls will not be considered as a retrofit for existing conditions, and shall only be given consideration when a minimum of one of the following conditions are met:

1. Expanding the capacity of an existing highway by adding lanes to the outside of the existing travel lanes;
2. The significant alteration of the vertical or horizontal alignment of an existing highway;
3. A new highway on a new alignment;

4. The removal of existing extensive vegetation or visual barrier within the FDOT ROW;
5. Exceptions to any of the items listed above will be considered on a case by case basis by the Assistant Secretary of Engineering and Operations.

If at least one of the above conditions is met, further consideration for the construction of a perimeter wall can proceed. The following requirements must also be met:

1. Building permits for the structures on the adjacent land that would realize a benefit from the perimeter wall must be issued prior to the approval of the Environmental Document.
2. Traffic on the project roadway must be visible from the adjacent property.
3. All structures for which the perimeter wall is being considered must be immediately adjacent to the FDOT's ROW and within 150 feet of the edge of the nearest travel lane. Additionally, the perimeter wall must be constructible within the FDOT's ROW or an easement must be granted to facilitate construction, if necessary.
4. The perimeter wall must be continuous, with no openings to accommodate driveways or other access requirements.
5. The cost of the perimeter wall shall not exceed \$25,000 per adjacent land owner. A unit cost equal to 2/3 that of a noise wall (currently \$30/ft<sup>2</sup>) shall be used for estimating and programming purposes.
6. The height of a perimeter wall is limited to eight feet.
7. A simple majority of the adjacent property owners must support the construction of the perimeter wall.

[FDM, Part 2, Chapter 264](#) provides additional details on the requirements for consideration of perimeter walls.

### **3.2.5.14 Transportation Management Plan**

Conceptual Transportation Management Plan (TMP) should be prepared during PD&E and will evolve as the project progresses toward final design and construction. Conceptual TMP must include traffic control strategies, and may also include additional work zone management strategies based upon the expected work zone impacts of a project. For additional guidance related to the TMP development process, see [FDM, Part 2, Chapter 240, Topic No. 650-000-002](#).

### 3.2.5.15 Constructability

The evaluation of build alternatives requires review of constructability and ability to maintain traffic during construction to uncover issues that may prevent implementation. The Project Manager must include Roadway Design Office, Structures Office and Construction Office in the reviews of concept plans prepared for the Build Alternatives.

### 3.2.5.16 Construction Impacts

Impacts resulting from the actual construction of the proposed project should be discussed. A listing of general areas that may be discussed is provided below. This list is not intended to be all inclusive, as some impacts may be unknown and other activities are governed by specifications and law.

1. Air quality impacts related to open burning and dust control, see [Part 2, Chapter 19, Air Quality](#)
2. Noise and vibration impacts related to construction activities, see [Part 2, Chapter 18, Highway Traffic Noise](#)
3. Water quality protection related to erosion control, sedimentation, and turbidity reduction, see [Part 2, Chapter 11, Water Resources](#)
4. Species and habitat protection related to construction activities, see [Part 2, Chapter 16, Protected Species and Habitat](#)
5. Maintenance of traffic and detour routing
6. Maintenance of access to businesses and residences
7. Safety considerations
8. Public involvement and community interaction to ease disruptive effects
9. Disposal of construction materials
10. Stockpiling of construction materials and fill
11. Use of borrow areas
12. Mitigation measures proposed to reduce dredge and fill-related impacts

The **PER** and Environmental Document must contain a section that discusses construction impacts of the project. The discussion must include impacts which may occur, whether they are disruptive or beneficial, and measures, where feasible, to reduce the amount disruption which could result. Generally, FDOT has standard construction practices which take into consideration many of the direct impacts of construction, and

provides for measures to reduce or eliminate their effects. Many of these measures are found in the [Standard Specifications for Road and Bridge Construction](#).

There are occasions where FDOT may commit to implement specific measures, features, or activities. Such measures will become commitments by FDOT and, as such, must be incorporated in the Commitments section of the *PER* and Environmental Document consistent with [Part 2, Chapter 22, Commitments](#) and [Procedure No. 650-000-003, Project Commitment Tracking](#).

### 3.2.6 Environmental Considerations for Build Alternatives

Development of Build Alternatives must consider the environment within which the project will be built and reflect the environmental constraints identified in the project area. Therefore, the development of the Build Alternatives should begin with overlaying environmental data collected during field review on the base map. Additional information is contained in the *Programming Screen Summary Report* that is completed for projects qualified for ETDM screening. FDOT environmental specialists and subject matter experts are involved throughout the project development process to evaluate potential impacts and recommend impact avoidance, minimization, mitigation, or enhancement measures. For environmental considerations refer to *Part 2* of this [PD&E Manual](#).

### 3.2.7 Comparative Alternatives Evaluation

Each project presents a unique set of challenges and the Project Manager must carefully provide a balance between the environmental impacts, the engineering considerations and the project costs, along with public input when selecting a preferred alternative. Analysis requires a comparative evaluation to objectively assess project alternatives (including the No-Action Alternative) at the same level of detail in a matrix format. The objective of an alternatives evaluation matrix is to compare the performance of each viable alternative in meeting the evaluation criteria, and to quantify its impacts to the natural, social, cultural and physical environment. The comparative alternative evaluation must include the No-Action Alternative (No-Build Alternative).

Alternative evaluation measures should be presented in a manner to help the public, elected officials and agencies understand the advantages and disadvantages associated with each alternative.

The following is a list of suggested items to be compared in a matrix format. The list is not meant to be comprehensive, and it should be tailored to each project.

**Project Cost** - The project cost should include costs associated with:

1. Design Phase
2. ROW Acquisition (cost of acquiring ROW, relocation cost and business damages, if any)

3. Construction (roadway and bridge) - including TMP
4. Construction Engineering and Inspection (CEI)
5. Wetland, Habitat and Species Costs
6. Utility Relocation Cost
7. Operations and Maintenance Cost (for transit projects)

### **Social and Economic Environment**

1. Number of parcels (business and residential)
2. Number of relocations (business and residential)
3. Churches, Synagogues, Mosques, Worship centers
4. Cemeteries
5. Schools
6. Hospitals, Medical Centers

### **Cultural Environment**

1. **Section 4(f)**
2. Historic Sites and Districts
3. Archaeological Sites
4. Recreational Areas and Protected Lands

### **Natural Environment**

1. Wetlands and Other Surface Waters
2. Protected Species and Habitat
3. Farmland
4. Floodplains

### **Physical Environment**

1. Contamination/Hazardous Waste Sites
2. Noise Receptors



3. Water Resources
4. Air Quality
5. Utilities
6. Bicycles and Pedestrians

### **Traffic Operations and Safety**

1. LOS
2. Throughput
3. Delay
4. Travel Time
5. Safety
6. Vehicles Hours Traveled/Vehicle Miles Traveled (VMT)
7. Travel Time Reliability

An evaluation matrix for multimodal projects should include multimodal measures such as increased ridership, connectivity and accessibility, reduction of modal conflicts, and change in VMT.

For freight-focused projects, the comparative evaluation matrix should include freight-related performance measures. Such measures can include diversion estimates from through town, estimated travel-time savings between port and warehouse locations, travel time improvements for port access, travel-time differentials, and reduction in the number of truck trips.

### **3.2.8 Value Engineering**

In accordance with the [Value Engineering Program, Topic No. 625-030-002](#), all projects with an estimated cost of \$25,000,000 or more (including all phases of the project), shall have a minimum of one **Value Engineering (VE) Study**, performed during the development of the project prior to the completion of final design. Projects that have a potential for value improvements and do not meet the \$25,000,000 criteria may also be studied.

The Director of Transportation Development may waive the requirement for VE Studies, See [Value Engineering Program, Topic No. 625-030-002](#). Projects delivered with the Design Build (DB) method of construction are not required by federal regulation to have a VE Study; therefore, the requirement may be waived regardless of the dollar amount.

A VE Study can be conducted either during PD&E or during Preliminary Engineering (PE) Design. If the VE Study is conducted during the PD&E phase, it must occur after alternatives analysis is complete and before the public hearing (if held). In addition, all VE issues/recommendations should be resolved before scheduling a public hearing. The Project Manager should coordinate scheduling of the VE Study with the District Value Engineer and make sure that the draft Environmental Document, **PER**, Summary of Public Involvement, and other technical documents are available for review by the VE team. Recommendations from the VE Study must be incorporated in the comparative alternatives evaluation and documented in the **PER** and the Environmental Document.

### 3.2.9 Preferred Alternative

The identification of the preferred alternative is based on the results of the alternatives evaluation. The District should identify the preferred alternative in the appropriate sections of the **PER** and the Environmental Document. Both **PER** and Environmental Document should include supporting reasons for identifying the preferred alternative. The Environmental Document should briefly discuss proposed design features of the preferred alternative (see [Section 3.2.10](#)). The **PER** should discuss in detail the preliminary design features of the preferred alternative such as horizontal and vertical alignments, typical sections, conceptual ROW limits, conceptual drainage and stormwater management, conceptual maintenance of traffic, and intersection/interchange concepts. Detail design of these features is performed during the Final Design phase, in accordance with the [FDM, Topic No. 625-000-002](#).

The preferred alternative (or portion thereof) for a project, after being identified in the Draft Environmental Impact Statement (DEIS), may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or compliance with requirements for permitting. The development of such higher level of detail must not prevent FDOT from making an impartial decision as to whether to accept another alternative that is being considered in the environmental review process. The District must coordinate with the State Environmental Development Engineer prior to developing the preferred alternative to a higher level of detail than other alternatives.

Once the public hearing is held and public and agency comments are considered, appropriate sections of the Environmental Document are updated to include information received from the public hearing process. Additionally, the **PER** is updated to include preliminary design details associated with the preferred alternative based on comments received.

The following are elements of the preferred alternative that require detailed discussion in the **PER**, if applicable.

#### Typical Section(s)

Discuss the proposed typical sections and include a **Typical Section Package** finalized in accordance with [FDM, Part 1, Chapter 120, Topic No. 625-000-002](#). Include a copy

of the approved **Typical Section Package** in the **PER** for Type 2 CEs, EAs with Finding of No Significant Impact (FONSI), EISs, and SEIRs.

### **Project Traffic Volumes**

Reference the **Project Traffic Analysis Report** if a separate report was produced. Otherwise, summarize the traffic projections for analysis years, traffic factors and any level of service or other relevant traffic performance measures developed from the analysis.

### **Horizontal and Vertical Geometry**

Include preliminary concept plans showing the horizontal and vertical geometry of the project.

### **Intersection/Interchange Concepts and Signal Analysis**

Include concepts plans showing proposed intersections and/or interchange configurations. Refer to either the **Project Traffic Analysis Report** for signal timing analysis or include signal analysis in the Appendix.

### **Bridge Analysis**

Include a proposed typical section and bridge concept for all bridges on the project. Include the proposed superstructure and substructure for each bridge and the breakdown of cost.

### **Access Management**

Discuss the existing access management classification(s) and any change(s) to that classification proposed by the preferred alternative. Discuss other access point changes such as medians and driveways and show the proposed changes on the concept plans. Prepare a conceptual access management plan to document access management issues and preliminary design decisions and actions reached during the PD&E phase. If a public hearing is required based on changes in access management, this hearing can be conducted concurrently with the PD&E public hearing.

### **Design Variations and Design Exceptions**

Discuss any design controls and criteria that will need a design variation or design exception. Include any approved design variations or design exceptions, if received.

### **Right of Way**

Discuss the number of parcels, the number of relocations and the total cost estimate for the acquisition of those parcels. If a **Conceptual Stage Relocation Plan (CSRP)** has been developed for the project, include a reference to the plan and its conclusions. Details regarding costs for individual parcels must not be included in this discussion or elsewhere in the report.

## **Utilities**

Include a list of all the UAOs together with the contact information for each within the preferred alternative. Include a cost estimate for utility relocations.

## **Transportation Management Plan**

Discuss or detail preliminary TMP that will handle all phases of construction for the preferred alternative.

## **Bicycle and Pedestrian Accommodations**

Discuss multimodal accommodation (bicycles, pedestrians, transit), Complete Streets and Context Sensitive design solutions applied to the alternative. Coordinate with the District Bicycle and Pedestrian Coordinator.

## **Preliminary Drainage Analysis**

Discuss the type of drainage system(s) to be used for the preferred alternative. A discussion of the number and type of stormwater management systems should also be included.

## **Floodplain Analysis**

Discuss impacts that occur to floodplains. This discussion should include whether the impacts will be parallel or perpendicular to the floodplain.

## **Special Features**

Discuss any features that are not commonly associated with a transportation project. Examples could include any features included to protect or minimize impacts to the environment.

## **Cost Estimates**

Include a table summarizing project costs consistent with the Long Range Estimate (LRE). Use FDOT's LRE System for construction costs, and ROW estimates for ROW costs. Design and CEI costs may be developed based on a fixed percentage of construction cost. For a project with wetland impacts, include the cost of wetland mitigation. For a project with utility impacts, include the costs of utility relocation both directly and indirectly to FDOT.

## **Construction Impacts**

Discuss all direct impacts resulting from the actual construction of the proposed project.

### 3.2.10 Documentation

This section provides guidance on documenting alternatives analysis in the Environmental Document and *PER*. A Florida registered professional engineer must sign and seal the engineering analysis performed to support PD&E Studies in accordance with *Chapter 471, F.S.*

#### 3.2.10.1 Environmental Document

The Environmental Document must discuss impacts on the environment from the preferred alternative and other alternatives in a comparative form. The comparative alternatives evaluation must provide a clear basis for the decision to select the preferred alternative. The alternatives section of the Environmental Document must address the following in accordance with *40 CFR § 1502.14*:

1. Rigorously explore and objectively evaluate all reasonable alternatives (for EISs), and, for alternatives which are being eliminated from detailed study, briefly discuss the reasons for their elimination.
2. Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.
3. For EISs only, include reasonable alternatives not within the jurisdiction of the Lead Agency.
4. Include the No-Action Alternative.
5. Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft document and identify such alternative in the final document unless another law prohibits the expression of such a preference.
6. Include appropriate mitigation opportunities and measures not already included as a part of the proposed action or the alternatives proposed.

The location of alternatives documentation differs depending on the type of Environmental Document:

1. **Type 2 CE** - Alternatives information is included in the *PER*.
2. **EA** - Alternatives information is included in the section titled Alternatives.
3. **EIS** - Alternatives information is included in the section titled Alternatives.
4. **SEIR** - Alternatives information is included in the *PER*.

The alternatives section for EAs and EISs should be divided into the following subsections, as applicable:

1. Alternatives Development
2. Alternatives Considered but Eliminated
3. Alternatives Considered for Additional Study
4. Comparative Alternatives Evaluation
5. Preferred Alternative

**Alternatives Development** - Summarize any Planning phase alternative corridor reports, screening reports, and results of the ACE process as applicable. Provide a brief description of the original alternatives that were considered and the methodology used for evaluation, while referencing technical documents such as the *PER* and *Project Traffic Analysis Report, Alternative Corridor Evaluation Report (ACER)*, for detailed information. Discuss public involvement activity as related to alternatives development.

**Alternatives Considered but Eliminated** - Discuss alternatives considered but eliminated from detailed analysis (include alternatives considered and eliminated during planning). Clarify why the alternatives were eliminated, what criteria were used to eliminate them, at what point in the process the alternatives were removed, and who was involved in establishing the criteria.

**Alternatives Considered for Additional Study** - Identify the alternatives studied in detail during the PD&E Study and include a concise discussion of how and why they were selected. Describe each alternative in sufficient detail to support decision-making. Provide a clear understanding of each alternative's termini, location, costs, and major design features (i.e., number of lanes, ROW requirements, median widths, access control). See [Section 3.2.5](#) for information to consider for each Build Alternative. Present a summary of the environmental impacts of each alternative based on the information and analysis presented in the Environmental Analysis section of the Environmental Document. The information should provide a clear basis for decision-making.

**Comparative Alternative Evaluation** - Describe the alternatives evaluation methodology used to objectively compare all alternatives. Present comparative evaluation results (qualitative and quantitative) in a matrix form. Information in the matrix must be consistent with the Environmental Document and applicable technical reports. Describe the rationale and the factors used in the ranking of the alternatives.

**Preferred Alternative** - Describe the alternative which the District is recommending to OEM for Location and Design Concept Approval (LDCA). The selection of the preferred alternative should be described in sufficient detail so the reader can understand the decision.

Below is an example of the discussion generally found in this section.

As a result of scoping, environmental analysis, the public hearing, and interagency coordination, the alternative identified for LDCA is (alternative

name), which is (alternative description) (provide location of alternative specific details and typical sections).

The Final Environmental Impact Statement (FEIS) must identify the preferred alternative and should discuss the basis for its selection [See **23 CFR § 771.125(a)(1)**]. The FEIS must also discuss substantive comments received on the DEIS and responses thereto, summarize public involvement, and describe the mitigation measures that are to be incorporated into the proposed action.

### 3.2.10.2 Preliminary Engineering Report

Documentation of engineering analysis of a PD&E Study should include at the following elements at a minimum:

#### 1. Cover Page

- a. The **PER** must use the **Technical Report Cover Page, Form No. 650-050-38** as the cover sheet of the report. A sample **PER** cover page is provided in [Figure 3-2](#). The cover page of the **PER** prepared under the authority granted by the **NEPA** Assignment MOU and transmittal letters associated with information packages should include the following 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 December 14, 2016, and executed by FHWA and FDOT.*

#### 2. Project Summary

- a. Project Description - Include a brief description of the project including location, length of project, number of interchanges and bridges and/or major features.
  - b. Purpose and Need - Include the purpose and need for the project. Must be consistent with purpose and need described in the Environmental Document.
  - c. Commitments - Include a list of all engineering related commitments that will be included in the Environmental Document.
  - d. Description of the Preferred Alternative - Include a brief description of the preferred alternative.
3. Existing Conditions - Briefly discuss existing roadway conditions, structure conditions, and environmental issues that may be affected by the project. Include discussion of typical section, ROW, roadway classification, vertical and horizontal

alignment, pedestrian and bicycle facilities, transit facilities, drainage, crash data, utilities, design, posted speed and traffic characteristics.

4. Future Conditions – Briefly discuss future conditions including land use and context classification; travel demand; and other improvement plans, if any. Reference traffic report if it was prepared separately.
5. Design Controls and Criteria - List design controls and criteria used to develop alternatives.
6. Alternatives Analysis - Discuss development of alternatives. Discuss evaluation and elimination of alternatives. Summarize the criteria used to assess the performance of the various alternatives. Include the No-Action (No-Build) Alternative, TSM&O Alternative and Build Alternative(s). Include a comparative alternatives evaluation with assumptions made during the development of the evaluation matrix. Summarize potential environmental impacts for each alternative, incorporate by reference the results of the environmental technical analyses to reduce repetition.
7. Public Involvement/Project Coordination - Document all public meetings and hearing(s) held for the project. Include coordination with Elected/ Appointed officials, MPO/County/City and citizens as well as resource agencies.
8. Preferred Alternative - Discuss major design features such as typical sections, horizontal and vertical geometry, access management, variation and exceptions, utilities, preliminary drainage, structures, intersection and interchange concepts, drainage and stormwater treatment and facilities.

### 3.3 REFERENCES

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CEQ, 1981. Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations. <https://energy.gov/nepa/downloads/forty-most-asked-questions-concerning-ceqs-national-environmental-policy-act>

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<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

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Title 40 CFR Part 230. Guidelines for Specification of Disposal Sites for Dredged or Fill Material. <https://www.ecfr.gov/cgi-bin/text-idx?SID=41629bc4699d654b4164d357da2329e0&mc=true&node=pt40.27.230&rn=div5>

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### **3.4 FORMS**

[Technical Report Cover Page, Form No. 650-050-38](#)

[Water Quality Impact Evaluation Checklist, Form No. 650-050-37](#)

### **3.5 HISTORY**

1/12/2000, 10/16/2013, 8/25/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 6, 1/14/2019

Engineering analyses, design concepts, and accompanying reports must be prepared consistently with the latest edition of the following documents:

1. [FDOT Design Manual \(FDM\), Topic No. 625-000-002](#)
2. [Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways \(Florida Greenbook\), Topic No. 625-000-015](#)
3. [Structures Manual, Topic No. 625-020-018](#)
4. [Approval of New or Modified Access to Limited Access Highways on the State Highway System \(SHS\), Topic No. 000-525-015](#)
5. [Level of Service Targets for the SHS, Topic No. 000-525-006](#)
6. [Median Opening and Access Management Decision Process, Topic No. 625-010-021](#)
7. [Manual on Uniform Traffic Studies \(MUTS\), Topic No. 750-020-007](#)
8. [Drainage Manual, Topic No. 625-040-002](#)
9. [FDOT Drainage Design Guide](#)
10. [Utility Accommodation Manual, Rule 14-46.001, F.A.C.](#)
11. [CADD Manual, Topic No. 625-050-001](#)
12. [Standard Plans for Road and Bridge Construction, Topic No. 625-010-003](#)
13. [Complete Streets, Topic No. 000-625-017](#)
14. [Americans with Disabilities \(ADA\) Requirements for Access to Department Facilities, Topic No. 625-020-15](#)
15. [Transit Corridor Program, Topic No. 725-030-003](#)
16. [FDOT Right of Way Procedures Manual, Topic No. 575-000-000](#)
17. [FDOT Standard Specifications for Road and Bridge Construction](#)
18. [Project Traffic Forecasting, Procedure No. 525-030-120](#)
19. [FDOT Quality/Level of Service Handbook](#)
20. [Highway Beautification Policy Topic 000-650-011](#)

**Figure 3-1 Manuals, Procedures, and Design Guides, and to Establish Project Development Design Controls and Criteria**

21. [FDOT Traffic Engineering Manual \(TEM\), Topic No. 750-000-005](#)
22. [FDOT Express Lanes Handbook](#)
23. [FDOT Accessing Transit Design Handbook](#)
24. [FDOT Context Classification](#)
25. [Surveying and Mapping Procedure, Topic No. 550-030-101](#)
26. [FDOT Surveying and Mapping Handbook](#)
27. [FDOT Soils and Foundations Handbook](#)
28. [FDOT Interchange Access Request User's Guide](#)
29. [FDOT Traffic Analysis Handbook](#)
30. [Manual on Intersection Control Evaluation, Topic No. 750-010-003](#)

The engineering analysis may also use national publications such as:

1. Highway Capacity Manual (HCM)
2. American Association of the State Highway and Transportation Officials (AASHTO) A Policy on Highway Geometric Design (AASHTO Green book)
3. AASHTO Highway Safety Manual (HSM)
4. NCHRP Report 672, Roundabouts: An Informational Guide
5. AASHTO Guide for the Development of Bicycle Facilities
6. AASHTO Guide for the Development of Pedestrian Facilities
7. Manual on Uniform Traffic Control Devices (MUTCD)

**Figure 3-1 Manuals, Procedures, and Design Guides to Establish Project Development Design Controls and Criteria (Page 2 of 2)**

PRELIMINARY ENGINEERING REPORT

Florida Department of Transportation

District X

Project Title

Limits of Project

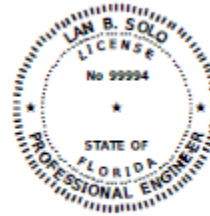
County, Florida

Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

Date

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.



THIS ITEM HAS BEEN DIGITALLY  
SIGNED AND SEALED BY

Lan B. Solo  
2018.10.14 16:42:28 -400'

ON THE DATE ADJACENT TO THE SEAL  
PRINTED COPIES OF THIS DOCUMENT ARE  
NOT CONSIDERED SIGNED AND SEALED  
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123 MAIN STREET  
TALLAHASSEE, FL 32301  
LAN B. SOLO, P.E. NO. 99994

Figure 3-2 Preliminary Engineering Report Sample Cover Page

## **PART 2, CHAPTER 4**

# **SOCIOCULTURAL EFFECTS EVALUATION**

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## PART 2, CHAPTER 4

# SOCIOCULTURAL EFFECTS EVALUATION

### 4.1 OVERVIEW

#### 4.1.1 Purpose

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).

This chapter contains the FDOT's procedures for evaluating sociocultural effects (SCE) throughout the transportation project delivery process. The SCE evaluation process, illustrated in [Figure 4-1](#), identifies and addresses potential effects of transportation projects on communities and community resources. The SCE evaluation process is collaborative, involving government agencies, the public, and other stakeholders, to ensure that community values and concerns receive consideration during project delivery and that no population groups are disproportionately affected. Note, in some state and federal policies, SCE evaluation is called "Community Impact Assessment."

FDOT proactively engages with communities in delivering transportation projects. The SCE evaluation process supports legal requirements during project development to consider and account for sociocultural resources that may be affected by project activities.

The SCE evaluation process assesses social, economic, land use changes, mobility, aesthetics effects and relocations, including potential issues associated with Environmental Justice, Civil Rights, and other nondiscrimination laws. Project benefits and effects on communities are assessed in the SCE evaluation with special consideration for minority, low-income, and other potentially underrepresented populations (see examples in [Table 4-1](#)). Information gathered through the SCE evaluation process is carried forward and used to support decision making throughout project delivery.

**Table 4-1 Examples of Potentially Underrepresented Populations**

Demographic Characteristics	Legal Authority for Protection from Discrimination
Race, color, or national origin	Title VI of the Civil Rights Act
Disability	Americans with Disabilities Act and Rehabilitation Act
Age	Age Discrimination Act
Gender	23 United States Code (USC) 324
Limited English Proficiency	Executive Order (EO) 13166
Minority and low income	EO 12898 (Environmental Justice)
Handicap, age, race, color, sex, or national origin	23 Code of Federal Regulations (CFR) 771

### 4.1.2 Sociocultural Effect Issues

The SCE evaluation focuses on the six sociocultural issues listed in [Table 4-2](#). The table also includes examples of topics evaluated for each of the six issues. The issues are described in [Section 4.2.4](#). For additional information, see the **SCE Issue Sheets** located on the [SCE Evaluation Process](#) website. See [Section 4.4](#) for the internet address to all web sites and links used in this chapter.

**Table 4-2 Sociocultural Effects Evaluation Issues**

<p><b>Social</b></p> <ul style="list-style-type: none"> <li>• Demographics</li> <li>• Community Cohesion</li> <li>• Safety/Emergency Response</li> <li>• Community Goals</li> <li>• Quality of Life</li> <li>• Special Community Designations</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• Business &amp; Employment</li> <li>• Tax Base</li> <li>• Traffic Patterns</li> <li>• Business Access</li> <li>• Special Needs Patrons</li> </ul>	<p><b>Land Use Changes</b></p> <ul style="list-style-type: none"> <li>• Land Use – Urban Form</li> <li>• Local Plan Consistency</li> <li>• Open Space</li> <li>• Sprawl</li> <li>• Focal Points</li> </ul> <p><b>Mobility</b></p> <ul style="list-style-type: none"> <li>• Modal Choices                             <ul style="list-style-type: none"> <li>○ Pedestrian</li> <li>○ Bicyclists</li> <li>○ Transit</li> </ul> </li> <li>• Transportation Disadvantaged</li> <li>• Connectivity</li> <li>• Traffic Circulation</li> <li>• Public Parking</li> </ul>	<p><b>Aesthetic Effects</b></p> <ul style="list-style-type: none"> <li>• Noise/Vibration</li> <li>• Viewshed</li> <li>• Compatibility</li> </ul> <p><b>Relocation Potential</b></p> <ul style="list-style-type: none"> <li>• Residential</li> <li>• Non-Residential</li> <li>• Public Facilities</li> </ul>
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### 4.1.3 Application

The SCE evaluation process typically starts at the earliest planning stages of a project and continues throughout the project delivery process. Each successive phase builds on the data, analysis, and results of previous SCE evaluations to achieve the particular objectives of the project phase. The level of analysis required to determine potential project effects varies according to project phase, project nature and scope, level of potential controversy, and potential for project effects. Projects qualifying for screening through the Efficient Transportation Decision Making (ETDM) process receive early consideration of sociocultural effects during the Planning phase. Project types qualifying for ETDM screening are identified in **Chapter 2** of the [ETDM Manual, Topic No. 650-000-002](#).

#### 4.1.3.1 Planning Phase

In the Planning phase, projects qualifying for ETDM screening are evaluated for sociocultural effects in the Planning Screen (when a Planning Screen is conducted) and Programming Screen.

The objectives of the Planning Screen are to consider project feasibility; focus the issues to be addressed during the Programming Screen; and allow for early identification of potential avoidance, minimization, and mitigation opportunities. The Planning Screen is ideally performed for projects being considered for adoption in the Metropolitan Planning Organization (MPO)/Transportation Planning Organization (TPO) Long Range Transportation Plan (LRTP). It is also performed for some projects that have not been previously screened, but are included in these plans. See **Chapter 3** of the [ETDM Manual, Topic No. 650-000-002](#) for more information about the Planning Screen.

The Programming Screen builds upon the Planning Screen evaluation (if conducted) to further identify, refine, and understand potential project issues while supporting the development of a scope of service to complete the detailed analysis during the Project Development and Environment (PD&E) Study. Not all Programming Screen projects are preceded by a Planning Screen review. See **Chapter 4** of the [ETDM Manual, Topic No. 650-000-002](#) for more information about the Programming Screen.

#### 4.1.3.2 PD&E Phase

The SCE evaluation process is an important part of the PD&E Study to comply with Council on Environmental Quality (CEQ) regulations **40 Code of Federal Regulations (CFR) §§ 1500-1508**, which requires federal agencies to use all practicable means, consistent with the requirements of the **NEPA**, to avoid or minimize any possible adverse effects of their actions upon the quality of the human environment. The SCE evaluation

process also applies to non-federal projects. The level of assessment during PD&E depends on the potential for significant impacts, as defined by **40 CFR §§ 1500-1508**.

### 4.1.3.3 Updating SCE Evaluations in Subsequent Phases

Project development for a transportation project may span several years and communities potentially impacted by the project may change over time. Therefore, potential sociocultural effects are updated at each phase of project delivery. Typically, in the design phase, community information and concerns are gathered through public involvement activities identified in the **Community Awareness Plan (CAP)**. These activities vary depending on the community context, the nature and scope of the project, and the potential for adverse project effects. If commitments have been made, they are carried out according to FDOT [Procedure No. 650-000-003, Project Commitment Tracking](#) and documented in the Environmental Document (see [Part 2, Chapter 22, Commitments](#) for more information).

## 4.2 PROCEDURE

The major steps in the SCE evaluation process, shown in [Figure 4-1](#), include:

**Step 1** - Review Project Information

**Step 2** - Define the Study Area

**Step 3** - Prepare Community Information

**Step 4** - Evaluate Sociocultural Effects

**Step 5** - Identify Solutions to Project Impacts

**Step 6** - Document Results

An important consideration throughout the SCE evaluation process is the potential for project effects on potentially underrepresented population groups protected under **Title VI of the Civil Rights Act of 1964 (Title VI)**, the President's Executive Order (EO) on Environmental Justice (**EO 12898**), and related nondiscrimination statutes and regulations. The following definitions apply to these nondiscrimination protections:

- **Disabled/Handicapped Person** - Any person who (a) has a physical or mental impairment that substantially limits one or more major life activities, (b) has a record of such an impairment, or (c) is regarded as having such an impairment.
- **Minority** - Black or African American, Hispanic, Asian American, American Indian/Alaskan Native, and Native Hawaiian or Pacific Islander.
- **Limited English Proficient (LEP) persons** - Persons for whom English is not their primary language and who have a limited ability to read, write, speak, or

understand English. It includes people who reported to the U.S. Census that they speak English “less than very well” (i.e., speak English well, not well, or not at all). It also refers to people of low basic literacy.

- **Low-Income** - A person whose median household income is at or below the U.S. Department of Health and Human Services (HHS) poverty guidelines. These guidelines are updated annually and are available at the HHS website (see [Section 4.4](#) for the website address).

The SCE evaluation process incorporates the goals of Environmental Justice throughout the transportation planning and project development process. These goals, as articulated in the US Department of Transportation’s (USDOT) *Environmental Justice Strategy (USDOT, 2016)*, include:

1. Avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
2. Ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
3. Prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Considerations and guidance to address these concerns are included in the discussion of each of the SCE evaluation process steps in the following sections of this Chapter. More information about addressing these issues is available on the [SCE Evaluation Process website](#).

All six steps of the SCE evaluation process apply whether the evaluation occurs during the Planning Screen, Programming Screen, or PD&E phase. However, the activities within each step may vary. Generally, as a project transitions from the ETDM screening to the PD&E phase, the SCE issues receive more detailed consideration. The level of effort in each step is tailored to the project phase, nature and scope, and study area characteristics, including conditions that may have changed between project phases. [Table 4-3](#) compares the activities that may occur to support SCE evaluations in Planning Screens, Programming Screens, and PD&E Studies. SCE updates occur in subsequent phases. Activities during those phases will vary depending on the community context, the nature and scope of the project, and potential for adverse project effects.

**Table 4-3 Comparison of SCE Evaluations in ETDM Process and PD&E Phase**

<b>STEP 1 REVIEW PROJECT INFORMATION</b>		
<i>Planning Screen</i>	<i>Programming Screen</i>	<i>PD&amp;E Study</i>
<ul style="list-style-type: none"> <li>Review current data [e.g., Environmental Screening Tool (EST) data]</li> <li>Perform community outreach</li> <li>Review prior public input</li> <li>Conduct field review</li> </ul>	<ul style="list-style-type: none"> <li>Review Planning Screen Summary Report/Issues and Recommendations (if conducted)</li> <li>Review current data (e.g., EST data)</li> <li>Identify/fill data gaps</li> <li>Perform community outreach with local planners and community leaders</li> <li>Review prior public input</li> <li>Conduct field review</li> </ul>	<ul style="list-style-type: none"> <li>Review Final Programming Screen Summary Report or other project information, if available</li> <li>Identify/fill data gaps</li> <li>Identify affected populations for Public Involvement Plan outreach</li> <li>Conduct field review</li> </ul>
<b>STEP 2 DEFINE THE STUDY AREA</b>		
<i>Planning Screen</i>	<i>Programming Screen</i>	<i>PD&amp;E Study</i>
<ul style="list-style-type: none"> <li>Review field review notes</li> <li>Review EST buffers</li> <li>Review additional data</li> <li>Select appropriate study areas (EST buffers) to evaluate SCE issues</li> </ul>	<ul style="list-style-type: none"> <li>Review field review notes</li> <li>Review EST buffers focusing on project alternative(s)</li> <li>Review updated data</li> <li>Select appropriate study areas (EST buffers) to evaluate SCE issues</li> </ul>	<ul style="list-style-type: none"> <li>Review/update field review notes</li> <li>Review available project information</li> <li>Review ETDM screening study areas</li> <li>Refine study area to account for project alternative(s) moving forward</li> </ul>
<b>STEP 3 - PREPARE COMMUNITY INFORMATION</b>		
<i>Planning Screen</i>	<i>Programming Screen</i>	<i>PD&amp;E Study</i>
<ul style="list-style-type: none"> <li>Review compiled material</li> <li>Acquire additional community data</li> <li>Create Sociocultural Data Reports (SDR)</li> </ul>	<ul style="list-style-type: none"> <li>Review data from previous SCE evaluation, if completed</li> <li>Acquire additional data</li> <li>Create or update SDRs</li> </ul>	<ul style="list-style-type: none"> <li>Review data from previous SCE evaluation</li> <li>Verify community boundaries, community desired features and demographic data</li> <li>Create or update SDR</li> </ul>
<b>STEP 4 - EVALUATE SOCIOCULTURAL EFFECTS</b>		
<i>Planning Screen</i>	<i>Programming Screen</i>	<i>PD&amp;E Study</i>
<ul style="list-style-type: none"> <li>Identify resources and level of importance</li> <li>Assess potential effects:                             <ul style="list-style-type: none"> <li>Direct effects</li> <li>Indirect effects</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Identify resources and level of importance</li> <li>Assess potential effects:                             <ul style="list-style-type: none"> <li>Direct effects</li> <li>Indirect effects</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Identify resources and level of importance</li> <li>Evaluate feasible alternatives and no-build</li> <li>Review ETDM screening issues and public input</li> </ul>

<ul style="list-style-type: none"> <li>○ Cumulative effects (optional)</li> <li>● Assign Degrees of Effect</li> <li>● Review ETAT comments</li> <li>● Assign Summary Degree of Effect</li> </ul>	<ul style="list-style-type: none"> <li>○ Cumulative effects (optional)</li> <li>● Assign Degrees of Effect</li> <li>● Review ETAT comments</li> <li>● Assign Summary Degree of Effect</li> <li>● Determine PD&amp;E Study scope</li> </ul>	<ul style="list-style-type: none"> <li>● Review PD&amp;E phase public input</li> <li>● Assess effects:                             <ul style="list-style-type: none"> <li>○ Direct effects</li> <li>○ Indirect effects</li> <li>○ Cumulative effects</li> </ul> </li> <li>● Assess severity of impacts</li> </ul>
<b>STEP 5 - IDENTIFY SOLUTIONS TO PROJECT IMPACTS</b>		
<i>Planning Screen</i>	<i>Programming Screen</i>	<i>PD&amp;E Study</i>
<ul style="list-style-type: none"> <li>● Identify potential solutions to project effects or project enhancements</li> <li>● Identify potential recommendations to address potential effects</li> </ul>	<ul style="list-style-type: none"> <li>● Review potential solutions/enhancements identified in Planning Screen</li> <li>● Identify potential solutions to project effects or project enhancements</li> <li>● Document recommendations to address potential effects</li> </ul>	<ul style="list-style-type: none"> <li>● Review potential solutions/enhancements from previous screenings</li> <li>● Work with affected communities to identify viable solutions</li> <li>● Focus outreach on most affected populations and neighborhoods</li> <li>● Recommend methods to avoid, minimize, or mitigate project effects or enhance the project</li> </ul>
<b>STEP 6 - DOCUMENT RESULTS</b>		
<i>Planning Screen</i>	<i>Programming Screen</i>	<i>PD&amp;E Study</i>
Record potential effects in EST: <ul style="list-style-type: none"> <li>● Direct effects</li> <li>● Indirect effects</li> <li>● Cumulative effects</li> </ul> Create Summary Report	Record/update potential effects in EST: <ul style="list-style-type: none"> <li>● Direct effects</li> <li>● Indirect effects</li> <li>● Cumulative effects</li> </ul> Create Summary Report	Document: <ul style="list-style-type: none"> <li>● Project File</li> <li>● Environmental Document</li> <li>● Conceptual Stage Relocation Plan (CSRP)</li> </ul>

The remainder of [Section 4.2](#) focuses on SCE evaluations conducted during PD&E and subsequent phases. For more information about SCE evaluations in the ETDM process, see the [Practical Application Guides for SCE Evaluations: ETDM Process](#).

In the PD&E phase, project detail is developed to the level necessary to accurately assess and address potential project effects on the natural, cultural, physical, and social environments and support project decisions. The PD&E Study considers the potential environmental impacts of a project and the community's need for safe and efficient transportation. The SCE evaluation is the portion of the study that considers potential effects, both positive and negative, on the sociocultural (or human) environment. It also addresses Environmental Justice, Civil Rights, and related issues.

The SCE evaluation supports the development of an Environmental Document. Information on the various types of Environmental Documents is provided in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#), and [Part 1, Chapter](#)

**10, State, Local, or Privately Funded Project Delivery.** The level of assessment and documentation varies by project depending on the:

- Scale and complexity of the project
- Level of controversy involved
- Potential for significant impacts
- Degree and quality of information available from previous activities

SCE evaluations are conducted for projects with minimal or no impact potential to those with greater impact potential. While SCE issues are considered, they are not usually evaluated in detail for projects with minimal or no impact. [Table 4-4](#) compares the difference between SCE evaluations for these different types of projects.

**Table 4-4 SCE Evaluations Vary Based on Impact Potential**

Projects with Minimal or No Impact Potential	Projects with Greater Impact Potential
<ul style="list-style-type: none"> <li>• These projects might include:                             <ul style="list-style-type: none"> <li>○ Type 1 Categorical Exclusion (CE)</li> <li>○ Non-Major State Action (NMSA)</li> </ul> </li> <li>• Typically, do not qualify for ETDM screenings</li> <li>• SCE evaluations typically focus on:                             <ul style="list-style-type: none"> <li>○ Local traffic patterns</li> <li>○ Property access</li> <li>○ Community cohesiveness</li> <li>○ Planned community growth or land use patterns</li> </ul> </li> <li>• SCE evaluations include sufficient detail to rule out any significant community impacts</li> </ul>	<ul style="list-style-type: none"> <li>• These projects might include:                             <ul style="list-style-type: none"> <li>○ Type 2 CE</li> <li>○ Environmental Assessment (EA)</li> <li>○ Environmental Impact Statement (EIS)</li> <li>○ State Environmental Impact Report (SEIR)</li> </ul> </li> <li>• SCE evaluations include detailed evaluation of issues of concern and methods to avoid, minimize, or mitigate potential project impacts</li> <li>• Level of analysis and documentation will vary based on the project context and intensity of effects</li> <li>• If previously screened as an ETDM project, the project SCE evaluation may build upon the Sociocultural Data Report</li> </ul>

In the PD&E phase, further evaluation of sociocultural effects may be unnecessary if:

- SCE evaluation process steps for each SCE issue (identified in [Section 4.1.2](#)) were adequately completed and potential sociocultural effects were adequately considered and documented during a previous phase;
- Conditions in the project area have not changed appreciably since the prior SCE evaluation, and
- A community concern is not identified during PD&E.



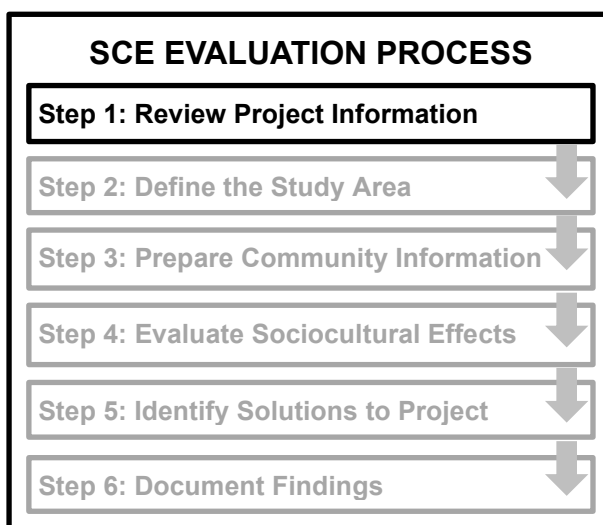
Any SCE issue that was not adequately evaluated and documented during Planning must be evaluated in the PD&E phase. Each of the six SCE issues ([Table 4-2](#)) must be discussed in the Environmental Document to show when and how they were considered in project decision making. If no involvement for a particular issue is indicated, then a statement to that effect is included in the Environmental Document.

Each step of the SCE evaluation process is described in the following subsections. Refer to the [ETDM Manual, Topic No. 650-000-002](#), the [Practical Application Guides for SCE Evaluations](#), the [SCE Evaluation Process](#) website and the [Public Involvement Handbook](#) for additional information regarding techniques and methodologies to support the SCE evaluation.

### 4.2.1 Step 1: Review Project Information

Information from an earlier project phase or acquired in preparation for the PD&E Study can help determine the level of analysis for the SCE evaluation. For some projects, this information may indicate previously identified community concerns or topics requiring additional consideration such as potentially underrepresented populations in the project vicinity.

During this step, existing project information is supplemented and verified through community outreach, field review of the project area, and data obtained from other sources, as necessary.



#### 4.2.1.1 Collect and Review Project Information

Establish a preliminary understanding of the project and potential impacts by reviewing current project information and information from previous phases (if applicable). Current information will include the project description and purpose and need, Preliminary Environmental Discussion (PED), personal knowledge of the project area, and, in some cases, contextual information including Geographic Information System (GIS) data analyses and maps from sources such as the Environmental Screening Tool (EST) or other GIS-based analysis tools. Information from previous project phases may also include agency and public commentary. Use available project information to:

- Understand the purpose and need of the project to identify anticipated benefits for the affected community.
- Define a preliminary study area for the SCE evaluation.

- Identify any changes in the project area since the prior project phase.
- Identify need for additional/updated information and targeted community outreach to enhance understanding of the project area and potential sociocultural effects.
- Determine the appropriate level of analysis for the SCE evaluation.
- Recognize community issues/preferences identified in prior project phases so adequate attention can be devoted to these results during the PD&E phase.
- Forward recommendations identified in prior project phases to support subsequent project phases.

In determining the appropriate level of analysis and need for additional information for the SCE evaluation process, consider if the project would:

- Require large amounts of Right of Way (ROW).
- Displace a large number of people.
- Disproportionately affect a potentially underrepresented population group.
- Cause a substantial increase or decrease in traffic through an area.
- Conflict with local government comprehensive plans.
- Impact community facilities, such as schools, parks, or churches.
- Impact historic districts or community landmarks.
- Adversely affect aesthetic features, such as a canopy road or scenic vista.
- Disrupt or divide a cohesive neighborhood.

Projects may have received consideration of sociocultural effects during the ETDM process. The results of the Programming Screen are documented in a **Programming Screen Summary Report**, available in the EST. For more details about using the EST, refer to the [EST Handbook](#). In addition, the following guidance documents are available on the [SCE Evaluation Process](#) website to help you find information on the EST:

- [Environmental Screening Tool Project Information](#) includes instructions on locating general project information.
- **Defining Context - Useful Environmental Screening Tool Information** identifies material which may help you establish a contextual overview of the project area.

Following the ETDM screening, additional project information may be obtained from the PD&E Project Manager.

For projects that do not qualify for ETDM screening, the District may use GIS analyses functionality (Area of Interest Tool) in the EST to enable a preliminary review of existing information. Other information may be available from the Project Manager or District Planning Office.

#### 4.2.1.2 Gather Community Information

Begin gathering community information describing the sociocultural context of the project area including community facilities/services; presence of certain population groups; and indications of community values, concerns, and preferences. Sources for this information may include:

- Most recent U.S. Census Bureau data (e.g., American Community Survey)
- EST [e.g., the ***Sociocultural Data Report (SDR)*** or Area of Interest Tool]
- City/county/regional planners within government planning, transit, economic development, housing, and other departments
- Community plans or studies and related public involvement (e.g., neighborhood plan, redevelopment plan, public infrastructure/service plan, and corridor study)
- County property appraiser (e.g., parcel data)
- State licensing agencies (e.g., social service agency and business data)
- Bureau of Economic and Business Research (BEBR)
- Commercially available data sources (e.g., employment data)
- Local historical society (if the project is in a historic district or historically significant area)
- PD&E Project Manager/team

Review the demographic data to help identify where potentially underrepresented populations are located. In order to support the Environmental Justice assessment of disproportional effects, make reasonable efforts to identify the presence of distinct minority and/or low-income communities residing both within and in proximity to the proposed project. Identify those minority and/or low-income groups who use or are dependent on the natural and community resources within the project area.

### 4.2.1.3 Support the PD&E Public Involvement Plan

Share information about population groups and potential meeting venues in the project area with the PD&E public involvement coordinator to support the development of the PD&E **Public Involvement Plan (PIP)**. To fulfill the **PIP's** purpose in verifying community concerns and preferences for alternatives, inform the public involvement coordinator of any special community outreach needs to support the SCE evaluation. If a project was evaluated during a previous phase, the project information may indicate a population group or neighborhood that should be a focus of the **PIP**. Close coordination between the PD&E team's SCE analyst and public involvement coordinator throughout the SCE evaluation process will help maximize effectiveness and minimize duplication of efforts in obtaining public input.

Identify community contact sources to assist in identifying whether potentially underrepresented populations live, work, or receive services in the project area. If any of these populations have been identified, contact the local government and area leadership organizations for input about the best ways to involve them in the SCE evaluation process. Examples of best practices for reaching potentially underrepresented populations include:

- Identifying community leaders who are willing to help identify common meeting places for people in their communities.
- Conducting a variety of activities to reach people at different times of day and during non-work hours. Also, consider methods for increasing participation of people who may work non-traditional hours.
- Ensuring workshops and hearings are located within safe walking distances from public transit stops.
- Providing information in appropriate languages for those with limited English proficiency.

For more information about the development of the **PIP** and public involvement techniques, see [Part 1, Chapter 11, Public Involvement](#) and the [FDOT Public Involvement Handbook](#).

### 4.2.1.4 Conduct Field Review

Visit the project area to get a first-hand look. The field review allows you to observe the physical conditions in the project area and how people use the project corridor or site. Pay particular attention to indications of low-income areas or communities of minority populations. In preparation for the field review, coordinate with the MPO/TPO, local government planners, and neighborhood groups to identify community/neighborhood boundaries (e.g., local government jurisdiction, delineated neighborhood, and residential subdivision); special districts (e.g., school, legislative, historic, redevelopment, and employment); and community focal points, history, and goals. When possible, include

PD&E team members representing other disciplines and MPO/TPO/local government staff knowledgeable about the project area to participate in the field review.

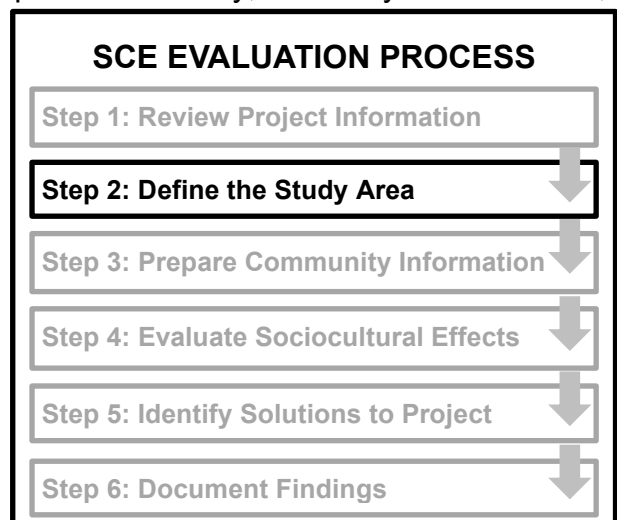
During the field review, check the currency and accuracy of the information you already have identified:

- Inconsistencies between the information and field conditions
- Additional community features or characteristics
- Additional information needed to support the SCE evaluation

View aerial maps to detect community resources, physical features, land use, and other features in the project area. Photograph features in the project area that could be affected by the project, including the existing transportation facility, roadway intersections, community resources, and human activity. Create a photo log as a supplement to the field review notes to enhance the information for the SCE evaluation and PD&E Study documentation. Additional resources are available on the [SCE Evaluation Process](#) website.

#### 4.2.2 Step 2: Define the Study Area

The study area for the SCE evaluation defines the geographic area encompassing the project alternatives and communities/community resources that may be affected by the project. If developed in a previous phase, the study area is further refined in the PD&E phase to encompass only those project alternatives moving forward and potentially affected communities/community resources.



##### 4.2.2.1 Review Field Notes and Project Information

Review field notes, if available, and project information to become familiar with the area encompassing the project alternatives and potentially affected communities/community resources. During the PD&E phase, the study area boundary will reflect the community context and potential sociocultural effects. Make refinements to the study area as needed to delineate a preliminary study area for the SCE evaluation.

##### 4.2.2.2 Define SCE Evaluation Study Area

The study area for the SCE evaluation may differ from the PD&E project area. The study area may extend beyond the immediate project area depending on the nature of the

project, affected communities, and SCE issue. The evaluation of relocation potential, for example, will likely require a finer level of analysis than the evaluation of land use effects. Consider that community cohesion could span a single neighborhood, multiple neighborhoods, or even a small town. An understanding of the characteristics of the community will assist in determining the extent of the study area.

When establishing the study area boundaries, the area should be large enough to include the area likely to experience effects and neither artificially dilute or inflate an affected minority population and/or low-income population. The study area should initially include the potentially underrepresented populations adjacent to the project and should not be adjusted to exclude these communities.

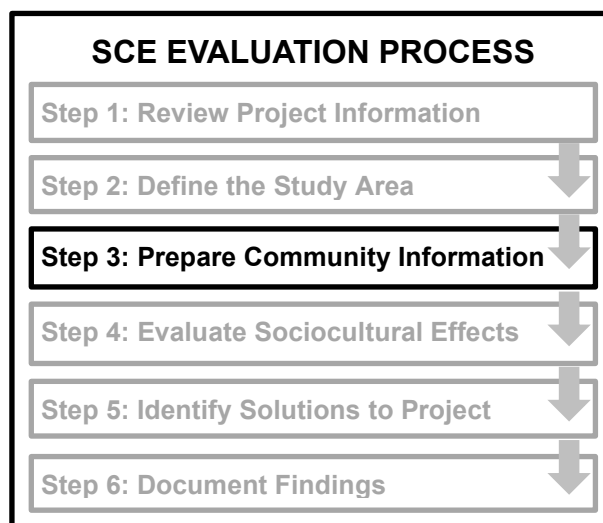
Using maps depicting the conceptual layout of the project alternatives and information collected during Step 1, delineate the area encompassing the communities/community resources having potential for effects. Describe existing conditions, including physical barriers (e.g., highways, waterways, and open spaces), activity centers, special districts and designations, average home values, neighborhood or block boundaries, selected demographic characteristics, and community input. Other sources of information include:

- Newspaper and business journal archives
- Community organization websites
- FDOT staff (e.g., District government liaisons)

Document the methodology used in defining the study area relative to Environmental Justice, Civil Rights and other related issues.

### 4.2.3 Step 3: Prepare Community Information

Community information for the SCE evaluation describes the history, present physical and sociocultural characteristics, and future trends in the study area for use in identifying and assessing sociocultural effects. The compiled information is organized, verified, and summarized for each SCE issue as it relates to specific communities and population segments in preparation for Steps 3-6, including community outreach activities. At this point, identify any population groups in the study area that require additional consideration under the Environmental Justice, Civil Rights, or other nondiscrimination regulations.



### 4.2.3.1 Supplement the Community Data

In Steps 1 and 2, you reviewed existing project information and existing conditions, collected a portion of the community information needed for the SCE evaluation, and defined the study area. In this step, supplement the community information as needed to enable you to identify:

- Community/neighborhood boundaries
- Demographic characteristics of communities within the study area, including minority, low-income, limited English proficiency, elderly, or other population subgroups
- Community focal points including service areas and user groups
- Community value placed on community focal points and resources

The type and extent of community information needed for the SCE evaluation depends on the potential for sociocultural effects. If the project was evaluated in a previous phase, focus on updating previously collected data and collecting more detailed data, as appropriate. If a community narrative was prepared, it may provide insights on community values, concerns, and preferences. Building on previous evaluations to deepen your understanding of potential sociocultural effects in the PD&E phase is particularly important.

If community data from a previous phase is unavailable, substantial time has elapsed or change has occurred within the project area, acquire or update the information needed to identify and evaluate potential sociocultural effects.

**Community Information for SCE Evaluation** - The type and extent of community information collected will depend on the potential for project effects. Refer to [Data Sources for Sociocultural Effects Evaluations](#) for guidance on where to locate community data (found on *Reading Materials* page of the [SCE Evaluation Process website](#)).

**Demographic Information** - Analyze the most recent data available from the U.S. Census Bureau to identify:

- Demographic characteristics of the county where the project is located and communities within the study area (Note: Initially look at a 1-mile buffer area for rural areas and a ¼-mile buffer area for urban areas).
- Percentage of each population group relative to the total population of the study area and the county/counties and municipality/municipalities where the project is located, as appropriate.

- Population groups that may be underrepresented in the project development process based on race, color, national origin, age, gender, religion, economic status, and disability present within the study area.
- Number of census blocks adjacent to the project with proportionately large potentially underrepresented populations.
- Any of the potentially underrepresented population groups representing a small proportion of the census block group population but having a concentrated presence in a smaller geographical unit (i.e., census block).

**Community Focal Points** - The community information should include an inventory of the places that are important to the community, such as:

- Schools
- Religious facilities
- Community centers
- Parks
- Fire stations
- Law enforcement facilities
- Government buildings
- Healthcare facilities
- Cultural facilities
- Civic centers
- Social service facilities
- Intermodal facilities
- Business districts
- Theme parks
- Major attractors/multi-use facilities
- Bridges
- Cemeteries
- Historic places
- Other significant quality-of-life features

**Community/Neighborhood Boundaries** - Community/neighborhood boundaries are geographic areas with similar characteristics (e.g., land use, property values, or demographic character) or divided from other areas by natural or constructed boundaries (e.g., water bodies or major roads). Areas of interest that are not official community boundaries, but delineated specifically for the SCE evaluation, should be verified through community outreach.

#### 4.2.3.2 Summarize Community Information

When the community information for the evaluation is collected, it should be summarized in a spreadsheet or other informal report. Indicate whether minority, low-income, or other potentially underrepresented populations are located in the study area. List any readily identifiable groups or clusters of minority or low-income persons in the study area.

The CEQ's ***Environmental Justice Guidance under NEPA*** states: "Minority populations should be identified where either: (a) the minority population of the affected area exceeds 50 percent or (b) the minority population percentage of the affected area is meaningfully greater than the minority percentage in the general population or other appropriate unit of geographic analysis" (CEQ, 1997). However, it is important to understand that Environmental Justice determinations are based on effects, not population size. It is essential to consider the comparative impact of an action among different population groups. A very small minority or low-income population in the project study area does not



eliminate the possibility of a disproportionately high and adverse effect on these populations.

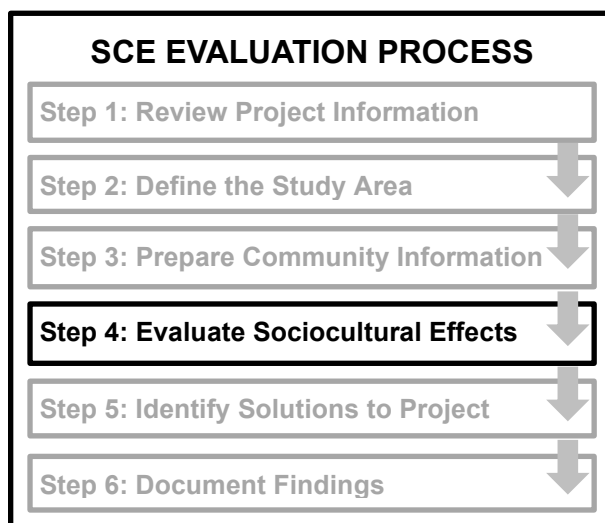
Depending on the complexity of the project and potential for adverse impacts, the summary format may vary. For example, more complex projects such as Environmental Assessments (EAs) or Environmental Impact Statements (EISs) will usually include the following:

- Narrative describing community characteristics, such as population demographics, socioeconomic history and community values, valued resources, and plans for the future
- Visual map or map series depicting physical characteristics, such as neighborhood boundaries, land uses, public facilities, and commercial/employment centers
- Tables, charts, and graphs summarizing important results, such as the presence of population groups, employment, and trends

#### 4.2.4 Step 4: Evaluate Sociocultural Effects

The inventory of community data and public commentary are examined relative to each SCE issue to evaluate potential project effects. Three general types of effects are evaluated as defined by CEQ regulations **40 CFR §§ 1500-1508**:

- **Direct effects** are caused by the action and occur at the same time and place.
- **Indirect (or secondary) effects** are caused by the action and are later in time or farther removed in distance but still reasonably foreseeable.
- **Cumulative effects** result from the incremental effects of an action when added to other past, present, and reasonably foreseeable actions regardless of which agency or person undertakes the action.



The SCE evaluation also analyzes interrelationships among the SCE issues and how various considerations contribute to the avoidance, minimization, or mitigation of project impacts. This analysis becomes a part of the section of the Environmental Document that discusses potential effects of the project. Details about the analysis may also be provided in a **SCE Technical Memorandum**. See [Section 4.3](#) for guidance about documenting the SCE evaluation results.

Project issues identified during previous project phases and review of current data and local knowledge are assessed relative to the project alternative(s), including the no-build alternative (refer to [Part 2, Chapter 3, Engineering Analysis](#) for further guidance on procedures relative to project alternatives). The SCE evaluation is documented in the appropriate Environmental Document in accordance with Part 1 of the PD&E Manual.

#### 4.2.4.1 Identify Community Resources and Level of Importance

Identify potentially affected community resources and the level of importance placed on those resources by the community. The SCE Considerations included in [Table 4-5](#) provide guidance on identifying community resources relative to the six SCE issues ([Table 4-2](#)).

#### 4.2.4.2 Perform Community Outreach

Community outreach should be performed throughout the public involvement process to provide opportunity for input on the project, verify community data, and identify community concerns and preferences for project alternatives/features. The focus of PD&E phase community outreach is specific to community groups and neighborhoods with potential for project effects. The methods and level of community outreach should be tailored to the specific community, the nature of the project, and the potential for project effects. Special considerations may be necessary to effectively involve potentially underrepresented populations.

Coordinate with the PD&E public involvement coordinator to identify any special community outreach needs for the SCE evaluation that could be accommodated during *PIP* activities (e.g., outreach materials tailored to a limited English proficient population). Suggest refinements to the *PIP* to ensure adequate participation and consultation of affected community groups and neighborhoods.

More information on community outreach for PD&E projects is provided in [Part 1, Chapter 11, Public Involvement](#) and in the [FDOT Public Involvement Handbook](#).

#### 4.2.4.3 Assess Potential Direct Effects

Assess the potential for both positive and negative direct effects from the project on the community and area of effect. An example of a direct effect is increased customer exposure to a grocery store due to a higher level of vehicle traffic on a widened road. The widened road might also make it more difficult for a local transportation-disadvantaged population to walk across the road to access the grocery store.

Use information from any previous project phases, community data, community commentary, and the SCE considerations listed in [Table 4-5](#) to assist in identifying direct effects for each SCE issue. Also refer to the *Practical Application Guides for SCE Evaluation: PD&E*, and *SCE Evaluation Aids* available on the [SCE Evaluation Process](#) website.

If an evaluation of direct effects was performed in a previous phase, verify those results and update as needed. If considerable time has passed since the prior evaluation, conditions have changed appreciably in the project area, or additional impacts are identified, additional study may be required in the PD&E phase.

## **Social**

Determine the potential for effects on community groups and community resources. Analyze the demographics of the study area and the potential for disproportionate impacts on populations addressed in Title VI and related nondiscrimination statutes. Consider whether the project could influence a significant influx or departure of residents. Look for signs of community cohesion. Assess the quantity and quality of human interaction and potential for the project to create/eliminate barriers to interaction. Be alert to potential changes in the environment affecting the safety of pedestrians, bicyclists, and motorists, and delivery of emergency services. Consider whether the project complements or detracts from the community's goals or special designations (e.g., community redevelopment area). Investigate the community's history, community goals, community focal points, unique attributes, and quality of life features to help identify potential project effects. The team members preparing the Cultural Resources Assessment Survey for the PD&E Study may be able to provide information about the community's history.

Useful information for this evaluation includes census data, public commentary, field review notes, local planner interviews, established community/neighborhood boundaries, community plans, special designations, and datasets for emergency services, transportation facilities, and community focal points.

## **Economic**

Identify potential project effects on economic activity in the study area, local area, and region. Note potential project effects on business and employment activity in the study area, including industries with special needs (e.g., freight distributor) or significance (e.g., regional employer). Identify economic-oriented land uses/designations, economic development plans/goals, special designations (e.g., truck routes), and community development priorities in the study area. Consider potential impacts on the local government tax base. Identify changes to routes, access, parking, or visibility that could benefit or impair businesses, employment centers, or community facilities. Note transportation modes serving special needs populations and identify potential effects on these populations, including any disproportionate economic effects.

Useful information for this assessment includes public commentary, field review notes, local planner interviews, community plans (e.g., local strategic economic development plan), datasets for existing/future land uses, special designations (e.g., community redevelopment area, enterprise zone, or brownfield), major employers, and freight-related features.

## Land Use Changes

Verify that the project is consistent with local and regional land use and transportation plans. Evaluate the project's consistency with the physical character of the area and applicable community plans. Consider the project's compatibility with the community's land use vision and existing/planned land use patterns and urban form. Review the local government comprehensive plan(s) and any special area plans to assess the project's consistency with community goals. Evaluate the potential for changes in the acreage devoted to recreational/open space and rural lands. Assess the project's potential to facilitate or deter urban sprawl. Explore the potential for effects on unique community features (e.g., historic landmarks/structures, water features, parks, landscaping, and natural vegetation).

If the project is due to a new, expanded, or substantial change in current or planned future development or land use, verify and document that appropriate coordination has occurred between the development and proposed transportation improvements.

Useful information for this evaluation includes public commentary, field review notes, local planner interviews, community plans (e.g., local government comprehensive plan), planned and approved development information, datasets for existing/future land uses and special designations (e.g., overlays, brownfields, and historic districts).

## Mobility

Identify potential project effects on mobility and accessibility in the study area with emphasis on non-driving population groups (i.e., elderly, young, disabled, and low-income individuals). Identify existing and planned transportation modes (e.g., pedestrian, bicycle, transit, and vehicle) and services (e.g., public bus routes, school bus routes, and transportation disadvantaged services), and examine the project's relationship to those modes and potential for effects. If a transportation-disadvantaged population is present in the study area, consider potential effects on the transportation system serving this population. Examine the travel behavior of residents, workers, shoppers, and others in the study area; and, evaluate how the project could impede or enhance mobility and accessibility. If changes to existing travel patterns, traffic circulation, or accessibility are envisioned, consider who might benefit or be impacted as a result. Identify if tolling is being considered and potential effects on low-income communities [***Environmental Justice and Tolling: A Review of Tolling and Potential Impacts to Environmental Justice Populations (USDOT, 2016)***]. Identify potential effects on public parking.

Useful information for this evaluation includes public commentary, field review notes, local planner interviews, census data, transportation plans, community plans, and datasets for mobility features and community focal points.

## Aesthetic Effects

Assess the project's compatibility with the community's aesthetic values such as noise, vibration, and physical appearance. Examine the type and intensity of project impacts on noise sensitive sites (e.g., residential areas, hotels, nursing homes, and parks); vibration sensitive sites (e.g., residential uses, eye clinics, dentist offices, and hospitals); special viewsheds and vistas; community focal points; historic structures, districts, and landmarks; and community character (e.g., existing and planned streetscaping, highway beautification, canopy roads, and development patterns). See [Part 2, Chapter 5, Aesthetic Effects](#) for further guidance on evaluating aesthetic effects.

Useful information for this evaluation includes public commentary, field review notes, local planner interviews, community plans, special designations, and datasets for historical/archeological sites, healthcare facilities, and points of interest.

## Relocation Potential

Identify residences, businesses, and institutional or community facilities that may require relocation to accommodate the project. Some facilities such as hospitals, sports arenas, and those involving industrial activities can be difficult to relocate. Estimate the number of parcels located in the project right of way that are occupied by residential, non-residential, institutional, and other community facility uses.

Title VIII of the Civil Rights Act of 1968 (**42 U.S.C. §§ 3601-3619**) guarantees each person equal opportunity in housing.

Useful information for this evaluation includes public commentary; field review notes; right of way maps; property appraiser parcel information; **Conceptual Stage Relocation Plan (CSRP)**; and datasets for existing land use, points of interest, and historical structures/archaeological sites. See [Section 4.3.4](#) for more information about the **CSRP** and how to include the information it contains into the Environmental Document.

### 4.2.4.4 Assess Potential Indirect Effects

Assess the potential for both positive and negative project-related indirect effects on the community, greater local area, and region. Indirect effects are caused by other actions that have an established relationship or connection to the project. These related actions would not or could not occur without the original project. For example, the displacement of an anchor tenant in a business complex as a result of a new road alignment could cause other tenants in unaffected buildings to relocate.

Use information from any previous project phases, community data, community commentary, and the SCE considerations listed in [Table 4-5](#) to assist in identifying indirect effects. Methods for analyzing indirect effects include quantitative methods, such as travel demand models and integrated land use and transportation models, and qualitative methods, such as scenario writing, focus groups, and expert panels. Additional

guidance for evaluating indirect effects is available on the ***American Association of State Highway and Transportation Officials (AASHTO) Center for Environmental Excellence*** website (See [Section 4.4](#) for website).

#### **4.2.4.5 Assess Potential Cumulative Effects**

Consider whether project effects, when combined with the effects of other actions, will contribute to cumulative effects on a community. Cumulative effects can result from individually minor but collectively significant actions taking place over time. If a Cumulative Effects Evaluation (CEE) is indicated, it is important to document the consideration of cumulative effects and the rationale for determining the level of analysis. Refer to the [FDOT Cumulative Effects Evaluation Handbook](#) for considerations and guidance.

#### **4.2.4.6 Describe Degree of Project Effects**

Information from the previous steps helps to identify the potential for project effects on the community/community resources, the community's values/desires, and the public's reaction to the proposed project. The next step in the process is to use this information, along with public input, to describe the project effects for each of the six SCE issues. Consider both positive effects (benefits) and adverse effects (burdens). When potentially underrepresented populations are in the affected area, describe the effects relative to these populations. Describe project effects in terms of the following factors:

- Magnitude - size or amount of effect
- Geographic extent - how widespread the effect may be
- Duration and frequency - whether the effect is a one-time event, intermittent, or chronic

When characterizing effects, consider the project context. Effects may vary depending on the setting, or context, of the project. Community input will help with this assessment.

#### **4.2.4.7 Identify Effects on Minority and Low-income Populations**

If minority or low-income populations are in the affected area, determine if there are potential adverse effects to those populations. For the purposes of Environmental Justice, other potential effects, not just the six SCE issues, may need to be considered. Coordinate with other members of the PD&E project team to obtain information about other potential effects. The ***USDOT Order 5610.2(a)***, defines adverse effects as: "the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a

community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of DOT programs, policies, or activities" (*USDOT, 2012*).

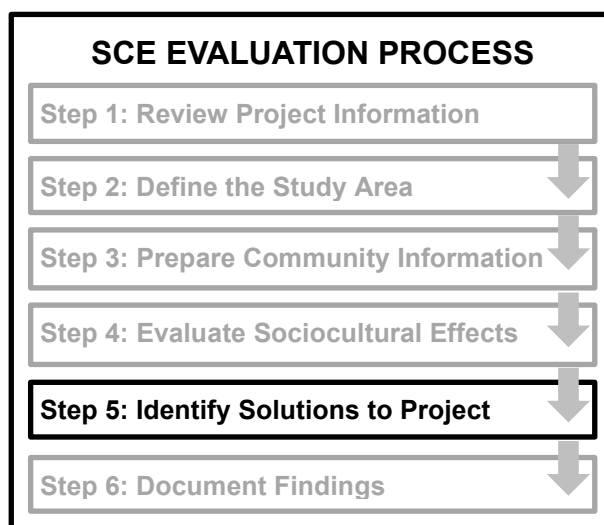
When evaluating whether a potential effect is "adverse," consider input from the affected community. What one group perceives as an adverse effect may be considered a benefit by another group. It is also possible for different individuals within a community to perceive the effect differently. Some may see it as a benefit, others as a burden. A robust *PIP* will assist with this part of the assessment. See [Part 1, Chapter 11, Public Involvement](#) for more information about public involvement.

#### 4.2.5 Step 5: Identify Solutions to Project Impacts

One of the functions of the PD&E phase SCE evaluation is to recommend methods to avoid, minimize, or mitigate potential project impacts or enhance the project's fit in the community. Recommendations to address potential project impacts may be carried forward from previous project phases or may originate during the PD&E phase. Refer to the [Resolving SCE Issues Guidance Sheet](#).

##### 4.2.5.1 Review Previous Recommendations

Review any recommendations made during a previous project phase to address project impacts or enhance the project. Evaluate whether the recommendations are still acceptable in light of any changes the community may have experienced since the previous project phase. This information will be the starting point for further discussion with the community about the project.



##### 4.2.5.2 Work with Communities to Evaluate/Devise Solutions

Work with project stakeholders to solicit input from affected communities on transportation solutions and design features to address project impacts. This can happen through targeted group meetings with project stakeholders, homeowners' associations, affected businesses. The range of solutions to address adverse project impacts fall into the following four categories:

1. **Avoidance** - Alterations to the project so that an adverse effect does not occur (e.g., minor alignment shifts or reduced cross-sections to avoid a community resource)
2. **Minimization** - Modifications to the project to reduce the severity of the effect (e.g., timing construction to coincide with the tourism off-season)
3. **Mitigation** - Actions to alleviate or offset an effect or replace a protected resource (e.g., replacement of impacted property or facilities)
4. **Enhancement** - Additional desirable or attractive features added to the project to make it fit more harmoniously into the community (e.g., landscaping to complement the existing or planned community aesthetics, placement of crosswalks, refuge areas, and transit stops to improve pedestrian mobility and accessibility)

Consider avoidance solutions first, moving sequentially to other approaches if initial solutions appear unviable (e.g., creates other impacts or is inconsistent with the project purpose and need, community preferences, or FDOT standards and requirements). Regardless of approach, coordination with appropriate FDOT offices (e.g., Design, Construction, ROW) must take place and any commitments must be documented consistent with [Procedure No. 650-000-003, FDOT Commitment Tracking](#) and [Part 2, Chapter 22, Commitments](#).

#### **4.2.5.3 Focus Outreach on Affected Populations and Neighborhoods**

Obtain public input on potential project solutions through community outreach. Focus outreach on populations and neighborhoods that may be potentially affected by the project. Refer to [Part 1, Chapter 11, Public Involvement](#) and the [FDOT Public Involvement Handbook](#) for additional guidance.

#### **4.2.5.4 Document Solutions to Project Impacts**

Work with the PD&E Project Manager and team to identify solutions to project impacts, incorporating community values and preferences as appropriate and feasible. When considering project commitments to address sociocultural effects, refer to FDOT [Procedure No. 650-000-003, Project Commitment Tracking](#), for requirements. The Project Manager is responsible for the coordination, documentation, and transmission of project commitments.



## 4.2.6 Step 6: Document Results

Refer to [Section 4.3](#) for instructions about documenting the SCE evaluation results.

## 4.2.7 Identify Disproportionately High and Adverse Effects

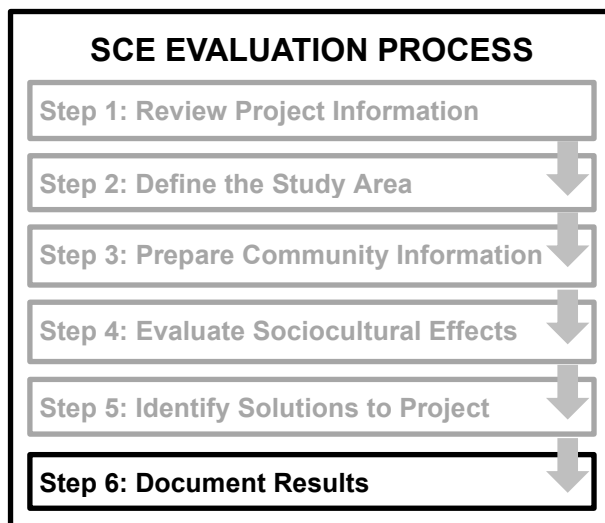
If the effects remain adverse after mitigation is considered, then a determination must be made whether those effects are disproportionately high and adverse with respect to minority and/or low-income populations. This sub-step is not necessary if minority or low-income populations are not affected by the project.

Per **USDOT Order 5610.2(a)**, a disproportionately high and adverse effect on a minority or low-income population means the adverse effect is predominantly borne by such population or is appreciably more severe or greater in magnitude on the minority or low-income population than the adverse effect suffered by the non-minority or non-low-income population. Compare the impacts on the minority and/or low-income populations with respect to the impacts on the overall population within the project area. Consider the results of the SCE evaluation as well as other topics such as air, noise, water pollution, hazardous waste, and construction.

If there are no disproportionately high and adverse effects on minority and/or low-income populations once mitigation and benefits are considered, that determination should be stated in the document. This completes the Environmental Justice evaluation.

If there is a disproportionately high and adverse effect on minority or low-income populations, after taking benefits and mitigation into account, evaluate whether there are practicable mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effects [**USDOT Order 5610.2(a)**]. When determining whether these options are possible, take into account the social, economic, and environmental effects as well as the cost of the options. Use appropriate outreach techniques to seek input from the affected communities. Consistent with **USDOT Order 5610.2(a)**, federal projects with disproportionately high and adverse effects will only be approved if further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effects are not practicable.

In addition, **Title VI** prohibits discrimination on the basis of race, color, and national origin. Accordingly, a project that results in a disparate impact to one of these groups may be carried out only if: 1) there is a substantial legitimate justification for the project; and 2) there are no reasonable alternatives that would be less adverse on protected population.



See FHWA's ***Guidance on Environmental Justice and NEPA*** and ***FTA circular 4702.1B*** for specific guidance regarding these factors.

## 4.2.8 Updating SCE Evaluations in Subsequent Phases

Projects are re-evaluated in accordance with **23 CFR Part 771** to document changes in the project design, project limits, scope, or environmental impacts since approval of the Environmental Document. Communities may change over time and potential effects and the community's perception of those effects may also change. Therefore, the SCE evaluation is reviewed during Re-evaluation. [Part 1, Chapter 13, Re-evaluations](#) provides more information on Re-evaluations.

If there are changes in the affected community, they are described in the Re-evaluation. Typical activities include:

- **Desktop data analysis** - Compare the previous SCE evaluation results with current information.
- **Windshield survey** - Review aerial photographs and drive through the project area to identify new community features or changes in the community characteristics.
- **Public Involvement** - Identify any new community concerns and potential solutions during public involvement activities conducted after approval of the Environmental Document and through the **CAP**. If potentially underrepresented populations will be affected by the project due to project changes, special considerations may be necessary to fully engage the community. See [Part 1, Chapter 11, Public Involvement](#) for more information about public involvement.

## 4.3 DOCUMENTATION

In the PD&E phase, the SCE evaluation results, recommendations, and supporting information (e.g., EST-generated **SDR**) are used to update the project file and prepare appropriate sections of the Environmental Document. Information from the **CSRP** or memorandum (See the [Right of Way Procedures Manual, Topic No. 575-000-000](#)), which supports the evaluation of potential relocation effects, is also used to prepare the Environmental Document.

### 4.3.1 Update Project File

Appropriate information for the project file includes:

- Information compiled and assessments performed for the SCE evaluation (e.g., demographic data, maps, analyses—including the **CSRP**—and public comments)

- Community outreach materials (e.g., contact lists, description of activities, project information handouts, and correspondence)

### 4.3.2 Prepare Environmental Document

Summarize the results and recommendations of the SCE evaluation in the appropriate sections of the project's Environmental Document. If a separate **SCE Technical Memorandum** is prepared (see [Figure 4-2](#) for a sample outline), summarize the results in the Environmental Document. These memorandums may be used at any time, and are recommended when there are substantial concerns about community effects.

When preparing a separate **SCE Technical Memorandum** for federal highway projects, include the following statement on the cover page:

*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.*

Documentation of the SCE evaluation in the Environmental Document varies by Environmental Document type and complexity of the project. Results of the SCE evaluation are documented in the Environmental Document as described below.

#### 4.3.2.1 Type 1 Categorical Exclusions or Non-Major State Actions

Minimal documentation on sociocultural effects is required for Type 1 Categorical Exclusions (CEs) and Non-Major State Actions (NMSA). For Type 1 CEs, the SCE evaluation results are recorded on the **Type 1 Categorical Exclusion Checklist** found in the StateWide Environmental Project Tracker (SWEPT). Guidance on preparing this form is found in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#). If there are relocations for a Type 1 CE project, the District should contact OEM. If relocation is required, document that the **Uniform Relocation Act** will be followed. For NMSAs, the SCE evaluation results are recorded on the **Non-Major State Action Checklist** found in SWEPT and detailed in [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

#### 4.3.2.2 Type 2 Categorical Exclusions

The Environmental Document for a Type 2 CE is the **Type 2 Categorical Exclusion Determination Form**. This form is prepared using SWEPT. For additional information on the components of a Type 2 CE, see [Part 1, Chapter 5, Type 2 Categorical Exclusion](#).

**Environmental Analysis** - The six SCE issues are documented in the Social and Economic section of the **Type 2 Categorical Exclusion Determination Form**. The evaluation may be incorporated directly into a Type 2 CE rather than requiring a separate

**SCE Technical Memorandum** or report. Include a reference to any supporting data sources (e.g., EST-generated **SDR**).

Summarize required minimization and mitigation actions or features that were developed in response to community impacts. Include summaries and analyses of community outreach and public involvement activities that supported the SCE evaluation. Describe ideas implemented in the preferred alternative that addressed community concerns.

To record that the project has fully considered effects to minorities and other groups under the **Civil Rights Acts of 1964**, Environmental Justice, and other nondiscrimination laws and regulations, the following standard statement is included on the **Type 2 Categorical Exclusion Determination Form**:

*This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.*

#### 4.3.2.3 Environmental Assessments

**Environmental Analysis** - Summarize the results of the SCE evaluation in the Social and Economic sub-section. The summary should be commensurate in scope with the impact analysis result and should provide sufficient information to briefly describe the communities and community resources that have the likelihood to be impacted by the project; descriptions of foreseeable impacts to the six SCE issues; and recommended avoidance, mitigation, minimization, or enhancement actions.

To record that the project has fully considered effects to minorities and other groups under the **Civil Rights Acts of 1964**, Environmental Justice, and other nondiscrimination laws and regulations, the following standard statement must be included in this section of the document:

*This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.*

**Comments and Coordination** - Include a summary of community outreach activities used in the SCE evaluation. Documentation of this section will be in accordance with the public involvement requirements found in [Part 1, Chapter 11, Public Involvement](#).

The processing of an EA and a Finding of No Significant Impact (FONSI) are discussed in [Part 1, Chapter 6, Environmental Assessment](#) and [Part 1, Chapter 7, Finding of No Significant Impact](#).

#### 4.3.2.4 Environmental Impact Statements

**Executive Summary** - To record that the project has fully considered effects to minorities and other groups under the **Civil Rights Acts of 1964**, Environmental Justice, and other nondiscrimination laws and regulations, the following standard statement must be included in this section of the document:

*This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.*

**Environmental Analysis** - Provide a concise summary of the existing sociocultural environment for each of the six SCE issues in the Social and Economic sub-section of the Environmental Analysis section of the EIS by using the compiled community information for the project. Include information demonstrating that special populations have received full consideration. Summarize the potential adverse community impacts for each alternative and strategies for resolving adverse impacts in this sub-section. A separate section addressing Environmental Justice is recommended for projects where this may be an issue. If any of the SCE issues has a significant impact, it should be clearly described in this section.

**Comments and Coordination** - Indicate project features developed in conjunction with community outreach and coordination with government agencies, private groups, and the public and provide documentation of coordination efforts.

EISs addressing a significant SCE issue typically include a separate **SCE Technical Memorandum**. See [Figure 4-2](#) for a recommended outline.

See [Part 1, Chapter 11, Public Involvement](#) for additional information related to **Title VI** and **Americans with Disabilities Act (ADA)** compliance. Refer to [Part 1, Chapter 8, Draft Environmental Impact Statement](#), and [Part 1, Chapter 9, Final Environmental Impact Statement](#) for more information about preparing EISs.

#### 4.3.2.5 State Environmental Impact Reports

**Environmental Analysis** - Include the SCE evaluation results in **Section 2** of the **State Environmental Impact Report Form, Form No. 650-050-43** (found in [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)). Place an "X" in the appropriate column indicating the level of impact in the Environmental Analysis section. The SCE evaluation issues are documented in section A "Social Impacts." If an SCE issue is not in any way involved with the project, mark the column indicating "NoInv." If an issue exists but there is minimal impact, mark the column indicating "No" and provide documentation. If a perceived impact is significant, mark the column "Yes" and provide documentation. Provide documentation in the Supporting Information column and supplement with attachments as necessary to substantiate the impact determination.

To record that the project has fully considered effects to minorities and other groups under the **Civil Rights Acts of 1964**, Environmental Justice, and other nondiscrimination laws and regulations, the following standard statement is included in **Section 9** of the **State Environmental Impact Report Form, Form No. 650-050-43**:

*This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.*

For more information about developing SEIRs, see [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

#### 4.3.2.6 Documentation for Nondiscrimination Considerations

When minority or low-income population groups will be adversely affected by the project, it is often addressed in a separate section of the Social and Economic sub-section titled Social of the Environmental Document. Otherwise, it may be incorporated into the discussion of the six SCE issues as appropriate. In either case, the documentation should include the following:

1. **Briefly describe EO 12898.** See the example below.

##### EXAMPLE

###### Describing Executive Order 12898 in the Environmental Document

*“Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations*, signed by the President on February 11, 1994, directs federal agencies to take appropriate and necessary steps to identify and address disproportionately high and adverse effects of federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law.”

2. **Provide Demographic Information** - The characteristics of the population in the study area, including those identified in [Table 4-1](#), should be listed in a table and compared to a larger reference community such as the county, census tract, or traffic analysis zone. The discussion should also describe the method used to identify minority and low-income populations (e.g., analysis of Census data, minority business directories, direct observation, or a public involvement process).

When minority or low-income populations will not be adversely affected by the proposed project, the Environmental Document should reflect that determination (see example text below).

##### EXAMPLE

###### Determination of No Adverse Effects

“No minority or low-income populations have been identified that would be adversely impacted by the proposed project, as determined above. Therefore, in accordance with the provisions of *Executive Order 12898* and *FHWA Order 6640.23a*, no further Environmental Justice analysis is required.”

- 3. Explain Coordination, Access to Information, and Participation** - In the appropriate section of the Environmental Document, discuss the major proactive efforts used in the project to ensure meaningful opportunities for public participation, including activities to increase participation of low-income and minority populations. Include in the document the views of the affected populations about the project and any proposed mitigation, and describe what steps are being taken to resolve any controversies that exist. Document the degree to which the affected groups of minority and/or low-income populations have been involved in the decision-making process related to the alternative selection, impact analysis, and mitigation.
- 4. Describe Project Effects** - Summarize the direct, indirect, and cumulative effects of the project on the community. References to other sections in the Environmental Document can be cited, as appropriate. The beneficial and adverse effects on the overall population and on minority and low-income populations, in particular, need to be addressed under the applicable social & economic, cultural, natural, or physical topics.

Discuss what measures are being considered for alternatives to avoid or mitigate the adverse effects. Any activity that demonstrates sensitivity to special needs should be highlighted, such as accommodations for transit dependency and/or addressing the need for translators. For projects that travel through predominantly minority and low-income and predominantly non-minority and non-low-income areas, compare mitigation and environmental enhancement actions that affect each group.

If the effects remain adverse after mitigation is considered, then a determination must be made whether those effects are disproportionately high and adverse with respect to minority and/or low-income populations.

In selecting the preferred alternative, the Environmental Document should include a discussion of the magnitude and distribution of disproportionately high and adverse human health or environmental effects on minority and low-income populations for all alternatives. If there are no disproportionately high and adverse effects on minority and/or low-income populations once mitigation and benefits are considered, that determination should be stated in the document (see example below).

#### **EXAMPLE**

##### **Statement of a Determination of No Disproportionately High and Adverse Effects**

“Based on the above discussion and analysis, the XYZ alternative(s) will not cause disproportionately high and adverse effects on any minority or low-income populations in accordance with the provisions of **Executive Order 12898** and **FHWA Order 6640.23a**. No further Environmental Justice analysis is required.”

**5. Document Decision to Proceed when Disproportionately High and Adverse Effects Exist, if applicable** - When there is a disproportionately high and adverse effect on minority or low-income populations, the Environmental Document should describe how the impacted populations/communities were involved in the decision-making process. The document also needs to identify what practicable mitigation commitments have been made. In addition, if the affected population is a minority population protected under *Title VI (42 U.S.C. §§ 2000d – 2000d-7)*, the document must include the following determinations, as appropriate:

- There is a substantial need for the project, based on the overall public interest; and
- Alternatives that would have less adverse effects on protected populations have either:
  - Adverse social, economic, environmental, or human health impacts that are more severe; or
  - Would involve increased costs of an extraordinary magnitude

For Environmental Documents prepared for the Federal Transit Administration (FTA), refer to [Part 1, Chapter 14, Transit Project Delivery](#) and *FTA's Circular 4703.1, Environmental Justice Policy Guidance for FTA Recipients (FTA, 2012)*.

### 4.3.3 Conceptual Stage Relocation Plan

When relocations are anticipated for a project regardless of Class of Action, information regarding residences, businesses, and institutional or community facilities that may be relocated will be obtained and incorporated into the Environmental Document. A **CSRP** is prepared in accordance with [Chapter 9](#) of the [Right of Way Procedures Manual, Topic No. 575-000-000](#). The plan should include data about the demographics of the households and businesses being relocated, replacement property, and relocation assistance. For projects requiring minor relocation needs, a memorandum detailing the required relocation information may be prepared instead of a **CSRP**. If there are no relocatees, or if relocation assistance is not going to be provided on the project, then a **CSRP** is not required.

The information from the **CSRP** or memorandum must be incorporated into the appropriate sections of the Environmental Document to address anticipated relocation effects. The **CSRP** or memorandum is then placed in the project file for the administrative record. If the **CSRP** includes information that may be exempt from public records, the document should be identified as “potentially exempt” in the SWEPT project file.

Information about relocations is updated during a re-evaluation as the project progresses, consistent with [Part 1, Chapter 13, Re-evaluations](#).



### 4.3.4 Considerations for Evaluating Relocation Effects

Listed below are some important points to keep in mind in developing the information from the **CSRP** or memorandum for inclusion in the Relocation Potential section of the Environmental Document:

- All relocation information must be quantifiable (i.e., a general statement such as “There are sufficient resources available for residential relocatees” is not acceptable as quantifiable data).
- The **CSRP** or memorandum must document the sources of information used in developing the plan. Since most of the information provided in the **CSRP** or memorandum is secondary source information, the data are estimates. Ensure that the information provided in the Environmental Document is accurate, timely, and adequate with respect to identifying and discussing relocation effects within the project area.
- All pertinent data in the **CSRP** or memorandum must be summarized and discussed in the Environmental Document.
- A brief discussion of Last Resort Housing must be provided when comparable replacement housing is not available. [Section 4.3.4.1](#) of this chapter provides standard information to be incorporated into the Environmental Document.
- A brief summary of FDOT’s Relocation Assistance Program must also be provided. [Sections 4.3.4.2](#) and [4.3.4.3](#) provide standard information to be incorporated into the Environmental Document depending on whether there is involvement with relocatees.
- If “functional replacement” pursuant to **23 CFR § 710.509** may be provided, the results of discussions and decisions concerning “functional replacement” must be included in the Environmental Document. Any commitments must also be listed in the appropriate sections. See [Procedure No. 650-000-003, FDOT Commitment Tracking](#).

#### 4.3.4.1 Last Resort Housing

When comparable replacement housing is not available, the following standard paragraph must be included in the Relocation Potential section of the CE, EA, or EIS :

*Comparable replacement housing for sale or rent is not available in the area. In accordance with U.S.C. Title 42 Chapter 61 Section 4626, replacement housing of last resort will be used to assure that comparable decent, safe, and sanitary housing will be made available to a displaced person when such housing cannot otherwise be provided within the person's financial means.*

For a SEIR, include the following standard paragraph in the Relocation Potential section:

*Comparable replacement housing for sale or rent is not available in the area. In accordance with Florida Statute 421.55, Relocation of displaced persons, replacement housing of last resort will be used to assure that comparable decent, safe, and sanitary housing will be made available to a displaced person when such housing cannot otherwise be provided within the person's financial means.*

#### **4.3.4.2 Information Required When a Relocatee is Involved**

The following standard information must be included in the Relocation Potential section of a CE, EA, or EIS when there is involvement of a relocatee:

*In order to minimize the unavoidable effects of Right of Way acquisition and displacement of people, a Right of Way and Relocation Assistance Program will be carried out in accordance with Florida Statute 421.55, Relocation of displaced persons, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646 as amended by Public Law 100-17).*

For a SEIR, include the following standard information in the Relocation Potential section:

*In order to minimize the unavoidable effects of Right of Way acquisition and displacement of people, the Florida Department of Transportation will carry out a Right of Way and Relocation Assistance Program in accordance with Florida Statute 421.55, Relocation of displaced persons.*

#### **4.3.4.3 Information Required When There are No Relocations**

The following standard information must be included in the Relocation Potential section of a Type 2 CE, EA, or EIS whenever the proposed action does not involve a residential or business relocation:

*The proposed project, as presently conceived, will not displace any residences or businesses within the community. Should this change over the course of the project, a Right of Way and Relocation Assistance Program will be carried out in accordance with Florida Statute 421.55, Relocation of displaced persons, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646 as amended by Public Law 100-17).*

For a SEIR, include the following standard information in the Relocation Potential section:

*The proposed project, as presently conceived, will not displace any residences or businesses within the community. Should this change over the course of the project, the Florida Department of Transportation will carry out a Right of Way and Relocation Assistance Program in accordance with Florida Statute 421.55, Relocation of displaced persons.*

#### 4.4 REFERENCES

American Association of State Highway and Transportation Officials (AASHTO), Center for Environmental Excellence website. <http://environment.transportation.org/>

Americans with Disabilities Act of 1990. <http://www.ada.gov/pubs/ada.htm>

Council on Environmental Quality. 1997. Environmental Justice Guidance under NEPA. <https://www.epa.gov/environmentaljustice/ceq-environmental-justice-guidance-under-national-environmental-policy-act>

Executive Order No. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Federal Register 59, no. 32 (February 1994). <http://www.archives.gov/federal-register/executive-orders/pdf/12898.pdf>

Executive Order No. 13166, Improving Access to Services for Persons with Limited English Proficiency, Federal Register 65, no. 159 (August 2000). <http://www.gpo.gov/fdsys/pkg/FR-2000-08-16/pdf/00-20938.pdf>

Federal Aid Highway Act, U.S. Code 23. <http://www.gpo.gov/fdsys/>

FHWA. 1987. Technical Advisory T6640.8A. <http://environment.fhwa.dot.gov/projdev/impta6640.asp>

FHWA. 2011. Guidance on Environmental Justice and NEPA. [http://environment.fhwa.dot.gov/projdev/guidance\\_ej\\_nepa.asp](http://environment.fhwa.dot.gov/projdev/guidance_ej_nepa.asp)

FHWA. 2012. Order 6640.23a. <https://www.fhwa.dot.gov/legsregs/directives/orders/664023a.cfm>

FHWA. 2016. Environmental Justice and Tolling: A Review of Tolling and Potential Impacts to Environmental Justice Populations

FTA. 2012. FTA Circular 4703.1, Environmental Justice Policy Guidance for FTA Recipients. [http://www.fta.dot.gov/documents/FTA\\_EJ\\_Circular\\_7.14-12\\_FINAL.pdf](http://www.fta.dot.gov/documents/FTA_EJ_Circular_7.14-12_FINAL.pdf)

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## 4.5 FORMS

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## 4.6 HISTORY

11/10/2003, 11/9/2009, 2/21/2014, 8/25/2016, 6/14/2017: NEPA Assignment, re-numbered from Part 2, Chapter 9, 1/14/2019

## SCE CONSIDERATIONS

### ***Social***

1. What are the demographics of the potentially affected population?
2. What displacements of population, if any, would be expected as a result of the project?
3. Would any increases or decreases in population be expected as a result of the project?
4. Would any displacement of minority populations be expected as a result of the project?
5. Are there any disproportionate effects on special populations?
6. Have minority populations previously been affected by other public projects in the area?
7. Would the project result in any barriers dividing an established neighborhood(s) or would it increase neighborhood interaction?
8. What changes, if any, in traffic patterns through an established neighborhood(s) would be expected as a result of the project?
9. Would any changes to social relationships and patterns be expected as a result of the project?
10. Would the project result in any loss, reduction or enhancement of connectivity to a community or neighborhood activity center(s)?
11. Would the project affect community cohesion?
12. Would the project result in the creation of isolated areas?
13. Would any increase or decrease in emergency services response time (fire, police, and EMS) be expected as a result of the project?
14. Does the project affect safe access to community facilities?
15. Would any changes in social value be expected as a result of the project?
16. Would the project be perceived as having a positive or negative effect on quality of life?
17. Have community leaders and residents had opportunities to provide input to the project decision-making process in the present and/or past?
18. Have previous projects in this area been compatible with or conflicted with the plans, goals and objectives of the community?
19. Is the proposed project consistent with the community vision?
20. Are transportation investments equitably serving all populations?

### ***Economic***

1. Would any changes to travel patterns be expected that would eliminate or enhance access to any businesses?
2. Would any increases or decreases in traffic through traffic-based business areas be expected?

**Table 4-5 SCE Considerations**

<ol style="list-style-type: none"><li>3. Would any changes in travel patterns be expected that would result in a business or district being bypassed?</li><li>4. Would access for special-needs patrons increase or decrease as a result of the project?</li><li>5. Would any increase or decrease in business visibility for traffic-based businesses be expected as a result of the project?</li><li>6. Would the loss of any businesses be expected as a result of the project?</li><li>7. Would any increases or decreases in employment opportunities in the local economy be expected as a result of the project?</li><li>8. Would regional employment opportunities be enhanced or diminished as a result of the project?</li><li>9. What is the effect of the project on military installations?</li><li>10. Would any real property be removed from the tax roles as a result of the project?</li><li>11. Is it likely that taxable property values would increase or decline as a result of the project?</li><li>12. Would changes in business activities increase or decrease the tax base?</li></ol>
<p><b><i>Land Use Changes</i></b></p> <ol style="list-style-type: none"><li>1. Would the project result in a change in the character or aesthetics of the existing landscape?</li><li>2. Would the amount of recreation/open space be expected to increase or decrease as a result of the project?</li><li>3. Would the project be compatible with local growth management policies?</li><li>4. Would the project be compatible with adopted land use plans?</li></ol>
<p><b><i>Mobility</i></b></p> <ol style="list-style-type: none"><li>1. Would access to public transportation facilities be increased or reduced as a result of the project?</li><li>2. Would pedestrian mobility be increased or decreased as a result of the project?</li><li>3. Would non-motorist access to business and service facilities be increased or reduced as a result of the project?</li><li>4. How does the project affect intermodal connectivity?</li><li>5. Would any change in connectivity between residential and nonresidential areas be expected as a result of the project?</li><li>6. What are the expected changes to existing traffic patterns as a result of the project?</li><li>7. Would a change in any public parking areas be expected as a result of the project?</li><li>8. Would access for transportation disadvantaged populations be affected?</li></ol>

**Table 4-5 SCE Considerations (Page 2 of 3)**



***Aesthetic Effects***

1. Are there noise or vibration sensitive sites near the project?
2. Is the project likely to affect a vista or viewshed?
3. Does the project blend visually with the area?
4. Is the project adjacent to any community focal point?
5. Is the project likely to be perceived as being compatible and in character with the community's aesthetic values?
6. What feature(s), if any, of the project might be perceived by the community as inconsistent with the character of that community?

Also see requirements in [Part 2, Chapter 5, Aesthetic Effects](#).

***Relocation Potential***

1. Would any displacement of residences and/or dwellings be expected as a result of the project?
2. Would any displacement of non-residential land uses be expected as a result of the project?
3. Do any potentially displaced non-residential uses have any unique or special characteristics that are not likely to be reestablished in the community?
4. Would any displacement of community or institutional facilities be expected as a result of the project?

See additional requirements in [Section 4.3.4](#), Considerations for Evaluating Relocation Effects.

**Table 4-5 SCE Considerations (Page 3 of 3)**

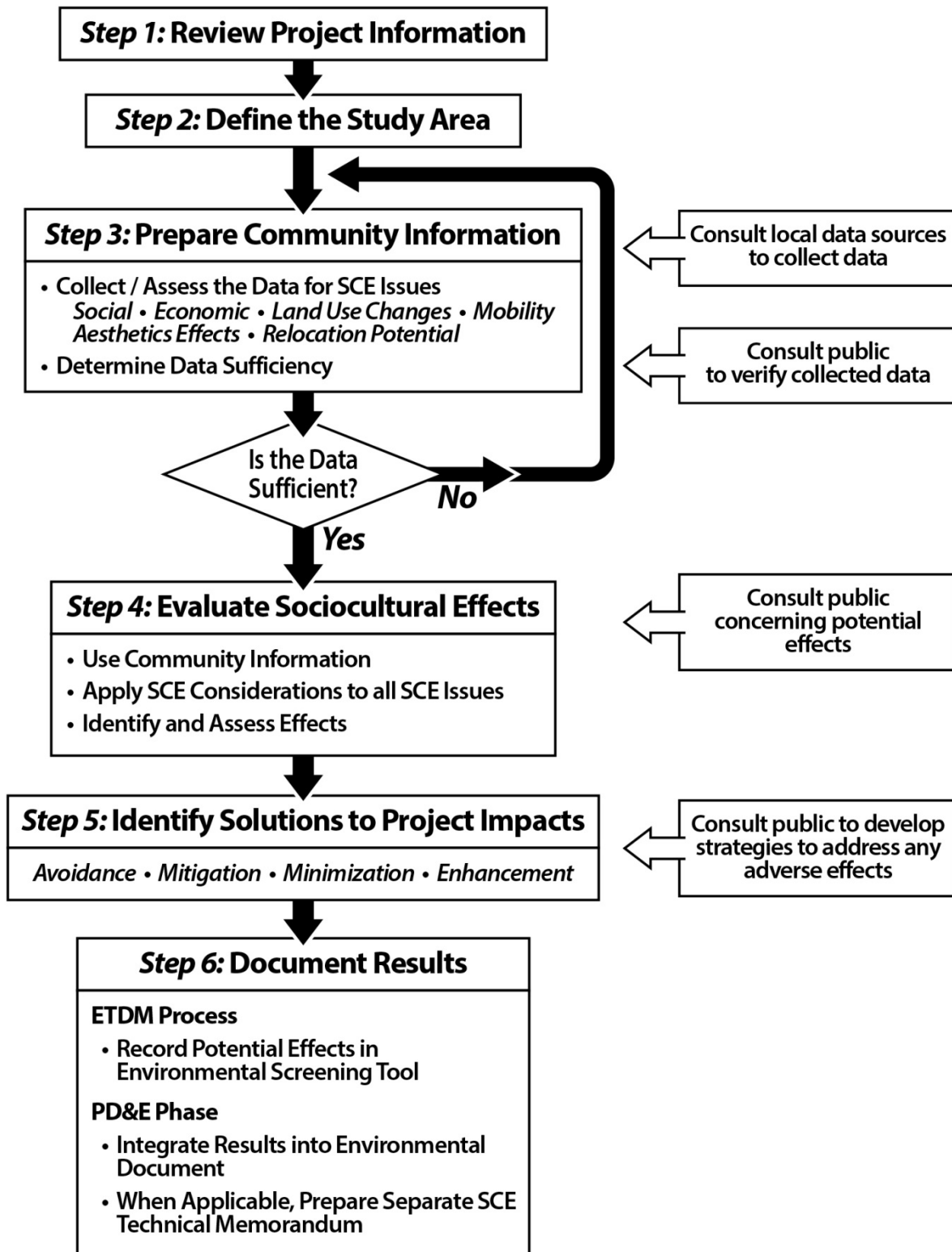
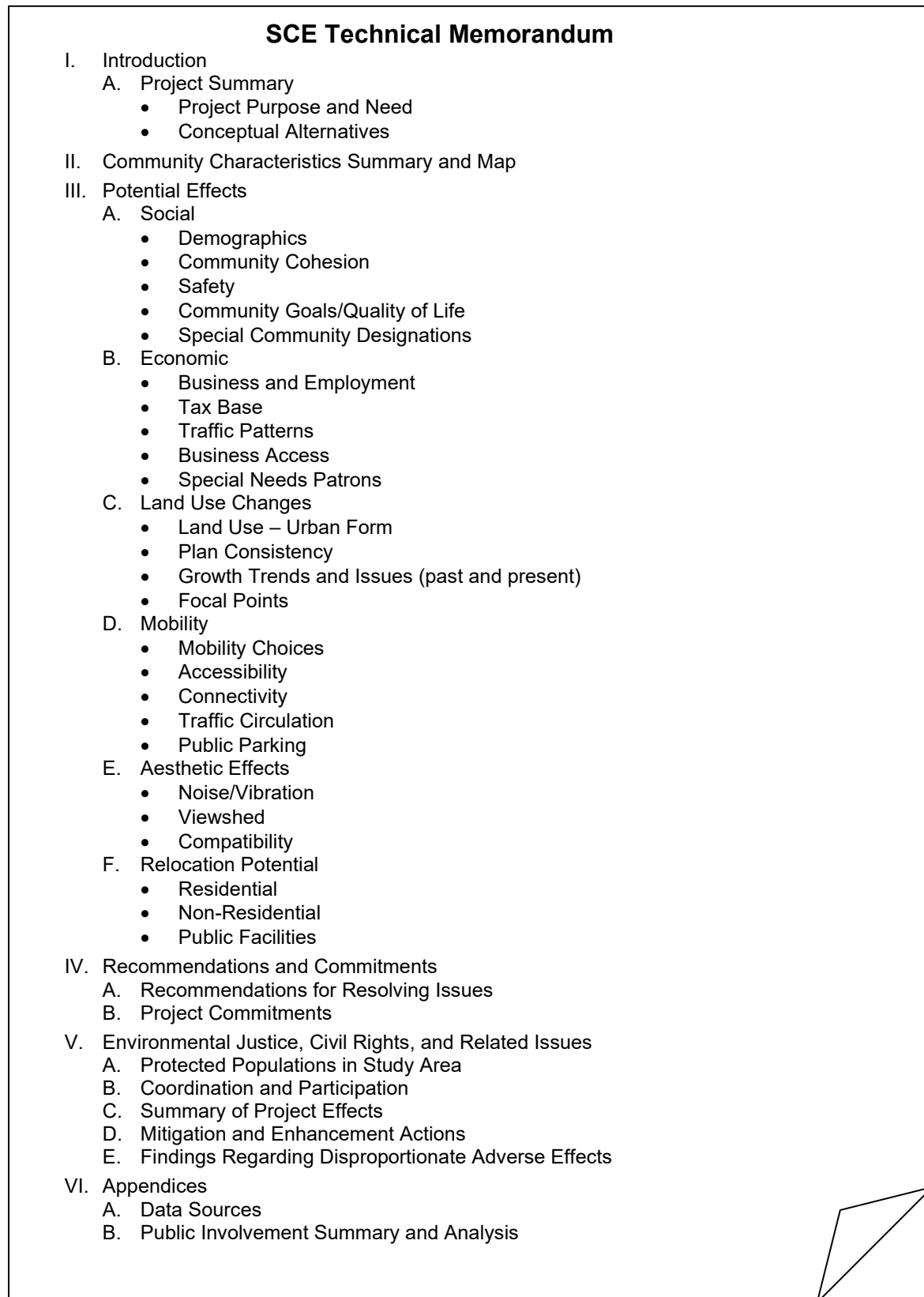


Figure 4-1 SCE Evaluation Process Diagram



**Figure 4-2 Recommended SCE Technical Memorandum Outline**

## **PART 2, CHAPTER 5**

# **AESTHETIC EFFECTS**

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## PART 2, CHAPTER 5

### AESTHETIC EFFECTS

#### 5.1 OVERVIEW

##### 5.1.1 Purpose

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).

Transportation actions can affect communities and influence aesthetic qualities. The FDOT [Highway Beautification Policy, Topic 000-650-011](#) was created to conserve, protect, restore and enhance Florida's natural resources and scenic beauty when constructing and maintaining the SHS. FDOT considers Aesthetic Effects (AE) during project development because it influences community cohesion, community values, and can affect the travel experience. As such, FDOT identifies practical and feasible opportunities to improve project aesthetics during project delivery.

This chapter contains FDOT's procedures for evaluating AE during project delivery. The chapter also includes special considerations for outdoor advertising (ODA) and scenic highways. AE can be either positive or negative and should be evaluated based on the existing and proposed context of the project area. The aesthetic qualities of a community or area are defined by a combination of visual resources and other qualities that define the character of that community. The evaluation of AE should address the community's aesthetic ideals while producing an affordable, biddable, constructible, and maintainable design.

The AE process assesses the existing aesthetic context of the project area, evaluates a proposed project's aesthetic effects, and determines the most appropriate opportunities for enhancement within the project area while remaining consistent with federal and state aesthetic requirements by:

1. Developing transportation facilities that are compatible with the surrounding natural and/or man-made environment;

2. Balancing transportation design concepts with the community vision;
3. Selecting appropriate design approaches, materials, forms, styles, scale, color, pattern and texture; and
4. Preserving existing plants or landscape, when feasible, and considering opportunities for new landscaping.

## 5.2 PROCEDURE

The evaluation of AE begins in the Planning phase with data collected as part of the Efficient Transportation Decision Making (ETDM) process. The evaluation continues through the Project Development & Environment (PD&E) process and into the Design and Construction phases ([Figure 5-1](#)).

An AE evaluation for a proposed transportation project should meet the following objectives:

1. Identify current aesthetic resources (e.g., Florida Scenic Highways, other special roadway designations, existing forested areas, wildflower areas, trees, landscape, community features, stormwater ponds and drainage features, bridge structures and other architectural features);
2. Analyze and categorize the aesthetic resources that could be affected;
3. Assess the value of the aesthetic resources to the community or study area;
4. Assess potential impacts; and,
5. Identify potential avoidance, minimization, mitigation and enhancement measures.

The typical considerations that should be weighed as part of an AE evaluation are summarized in [Table 5-1](#).

**TABLE 5-1 Typical Aesthetic Effects Considerations**

<b>CHARACTER</b>	Used to understand the aesthetic resources unique to the studied community and its environment(s). Each of the following may be identified and described before any value and/or impact assessments begin: adjoining architectural styles; adjoining land uses; available transportation modes; corridor width and alignment; context classification; level of (historical) maintenance; lighting; common materials; visual rhythms, patterns, forms, lines, colors and textures; vegetation; and vehicle speed; sounds; odors; and vibrations.
<b>COMPATIBILITY</b>	These base considerations may be evaluated in the land use context proposed: access; community cohesiveness; existing design characteristics; planned growth and land use patterns; sense of ownership /public boundaries; traffic patterns/congestion; design compatibility with community setting; and color and materials coordination (with evident patterns).

<b>COMMUNITY VALUES</b>	To utilize in understanding how the transportation project can contribute to public perceptions, and will inform the determination of the intensity of potential AE impact. May include the following: community goals; cultural significance; gateways and focal points; local plan consistency; open space; quality of life; safety; and special community designations.
<b>SENSITIVE AREAS</b>	Many of these contribute subtly to a community's identity and may need to be considered in the broader Community Values context (level of sensitivity to each): areas of recognized beauty; bicycle routes; commercial centers; historic or other culturally-important resources; parks and recreation areas; pedestrian facilities; public facilities (hospitals, colleges, universities); public parking areas (and access to them); residential areas; specific historic or cultural features; transit facilities; and specially designated water bodies.
<b>VISUAL FEATURES</b>	These are usually rated as very important and highly valuable by communities. They should be considered in the context of potential for both short- and long-term impacts of the project. They may include: scenic spaces (views and vistas); tree cover; natural shade/shadow patterns; vegetation and screening; water bodies; light features and evident lighting levels; other natural green spaces; recognized safety features; visual clutter (if present); and, simplicity and attractiveness of signage.

### 5.2.1 Efficient Transportation Decision Making Screening Evaluations

Projects qualifying for screening through the ETDM process receive early consideration of AE during the sociocultural effects (SCE) evaluation ([Part 2, Chapter 4, Sociocultural Effects Evaluation](#)). Additional information regarding SCE evaluations can be found in the [FDOT Sociocultural Effects Handbook](#). The results of the SCE evaluations conducted during the ETDM Planning and Programming Screens provide descriptions of the existing visual resources, experiences and features that could be affected (both positively or negatively) by the proposed transportation project, including forested areas, wildflower areas, trees, landscaping and other aesthetic features. The evaluation should include input provided by the public, local planning organizations, and the Environmental Technical Advisory Team (ETAT). The AE evaluation builds upon information gathered during the SCE evaluation, and is used to determine the level of effort necessary to adequately address aesthetic issues during the PD&E Study. The level of effort and expertise required are dependent upon the context, complexity and scope of the project and its potential for effects.

Generally, evaluating AE during ETDM includes the following:

1. Planning Screen Evaluation – When conducted, identification of existing visual resources and features that could be affected or improved by the proposed transportation project, including forested areas, wildflower areas, trees, landscaping and other aesthetic features and the identification of issues related to aesthetics.
2. Programming Screen Evaluation - provide commentary about effects, summarize scoping recommendations, and identify public concerns to further understand the extent of potential aesthetic impacts and to determine methods for further evaluation during the PD&E phase.

## 5.2.2 Project Development & Environment

The AE evaluation during the PD&E phase builds upon previous planning and programming screening information by filling information gaps, analyzing issues of concern identified in ETDM, gathering public or community input, and completing the appropriate level of analysis.

### 5.2.2.1 Aesthetics Effects Evaluation

The AE evaluation should be tailored to the context, scope, complexity and public comments associated with the project. The District may use the ***Guidelines for the Visual Impact Assessment for Highway Projects*** for methods for determining the level of AE evaluation. The typical AE considerations presented in [Table 5-1](#) should be considered during each step of the AE evaluation. If the District determines the evaluation completed during ETDM screening efforts is sufficient to address aesthetic issues, then effects should be summarized in the Environmental Document and include evaluation in the project file within the StateWide Environmental Project Tracker (SWEPT). These steps are not necessarily followed in this order, and may also be combined.

PD&E projects that require AE evaluation should follow the steps below.

**Step 1: Describe Existing Conditions** - The study area is determined by the District and will vary depending on the project context, resources involved, visual effects, and potential project impacts. Once the study area has been defined, the District will describe the existing aesthetic characteristics, such as existing forested areas, wildflower areas, trees, special highway designations and landscape.

This step may include using AE information available on the Environmental Screening Tool (EST) Area of Interest (AOI) tool, the SHS Video log, aerial photography, Roadway Characteristics Inventory (RCI), and other online tools. The analysis should include field reviews to verify data collected during the desktop review.

**Step 2: Evaluate Effects** - This evaluation should identify the effects a project may have on the visual resources and qualitative physical characteristics of a study area.

Using the typical AE considerations in [Table 5-1](#), assess the positive and negative effects of the project on the study area's aesthetic resources. The interrelationship of effects varies with the type of transportation action and the affected community. The District should coordinate with appropriate program specialists (e.g., cultural resources, landscape architecture, scenic highways, water quality, noise, air quality) to determine how the project affects these areas from an aesthetic perspective. The District should describe the intensity of the effects providing sufficient information to determine their magnitude. If there are multiple alternatives, provide sufficient information to differentiate between them (including the no-build alternative).

**Step 3: Determine Impacts** - Based on knowledge of the affected area and the impact analysis, the District must determine if the perceived AE is significant. Significance is a



function of both context and intensity. Significance of the impact will vary with the setting of the proposed action and the surrounding area. To determine significance, the severity of the aesthetic impact should be examined in terms of the type, quality and sensitivity of the aesthetic resource involved; the location of the proposed project; the duration of the impact (short or long term); and the community's value of the aesthetic resource. The determination of each impact must be documented in the Environmental Document.

**Step 4: Recommend Measures to Resolve AE Issues** - As a project moves through the PD&E process and AE are identified, the District considers potential solutions to address effects or enhance the aesthetics of the proposed transportation project. In keeping with FDOT's [Context Sensitive Solutions, Policy No. 000-650-002](#) and [Complete Streets, Policy No. 000-625-017](#); consideration of solutions that would make the project fit the needs of the community may be warranted. The District should consider both standard and unique aesthetic enhancements based on community input. The District should coordinate with other District offices to determine if a potential solution is feasible. There may be engineering, financial and maintenance reasons that make a potential solution not feasible.

Methods for resolving negative aesthetic effects associated with a transportation project can include: **avoidance, minimization, mitigation, and enhancement measures**, for example, the preservation of existing forested areas, wildflower areas, or relocation of trees, landscape and other aesthetic features. Measures should consider short-term effects (during construction), and long-term effects as appropriate. The District considers the effects of these measures on the community and determines whether the approach supports the project's purpose and need. The public is given the opportunity to provide input on measures to avoid, minimize or mitigate adverse AE, or measures to enhance aesthetics through the public involvement process ([Part 1, Chapter 11, Public Involvement](#)).

Application of aesthetic enhancements that are to be considered on structural elements, such as bridges and noise or retaining walls, should reflect documented community desires. Possible options for a project should be identified, and evaluated for safety, constructability, maintainability and costs. Project enhancements may need to be funded and maintained by local government agencies.

Aesthetic features should avoid conflicts with permitted ODA.

### 5.2.2.2 Commitments

Prior to finalizing any aesthetic commitments, the District must coordinate with the District Design, Construction, Maintenance and other offices as appropriate, to ensure that FDOT standards are considered and that proposed commitments are feasible. Some aesthetic enhancements may require a local agreement before such commitments can be made. AE commitments are documented and transmitted to the Design Office according to [Part 2, Chapter 22, Commitments](#) and [Procedure No. 650-000-003, Project Commitment Tracking](#).

### 5.2.2.3 Documentation

The AE evaluation findings are documented in the appropriate Environmental Document as described below:

1. **Type 2 Categorical Exclusions (CE)** - The AE evaluation should be a brief summary documented in the ***Type 2 Categorical Exclusion Determination Form***. In some cases the summary can serve as the AE evaluation depending on the projects involvement with AE. Additional supporting information should be included in the SWEPT project file, if applicable.
2. **Environmental Assessments (EA) and Environmental Impact Statements (EIS)** - The AE evaluation is summarized in the AE section of the EA or EIS. The AE summary should present the impact analysis and recommend avoidance, minimization, mitigation, and enhancement measures. AE information and documentation may also be included in the Comments and Coordination, and Commitments sections.
3. **State Environmental Impact Report (SEIR)** - The results of the AE evaluation are included in the Environmental Analysis section of the ***State Environmental Impact Report Form, Form No. 650-050-43***.

### 5.2.2.4 Re-evaluation

The District must, as part of the re-evaluation, identify any changes that have occurred since the approval of the Environmental Document, ensure commitment compliance, and document changes in Aesthetic Effects in the re-evaluation per [Part 1, Chapter 13, Re-evaluations](#). If major design changes have taken place since approval of the Environmental Document, the Re-evaluation must assess changes to AE. Changes in AE will need to be documented and may need to be coordinated with other internal offices and the community.

### 5.2.3 Outdoor Advertising

ODA regulations are found in ***Chapter 479, Florida Statutes (F.S.)***, and in ***Chapter 14-10, Florida Administrative Code (F.A.C.)***. When there are existing permitted ODA signs and when there is a potential to impact the location of ODA signs or their view zones, the District must review the ODA permit status, and the (ODA) view zones, as early as possible during project development. The District should coordinate with FDOT's Outdoor Advertising Office (OAO), as appropriate, as issues with the anticipated blocking of the view of or impacts to ODA signs are identified. Consideration of the view of or impacts to ODA signs being affected by the proposed project should be carried throughout project delivery as summarized below:

1. **ETDM Screenings** – During the screening process, current permitted sign locations can be identified utilizing the EST or the OAO website and confirmed by

contacting the OAO as needed. The District should begin to consider how the view or disposition of the permitted sign could be affected by the proposed project. Consider for example, whether a sign is conforming or non-conforming (coordinate with OAO). Also note if any community preferences have been identified regarding the role of ODA in the proposed project.

2. **PD&E** – Identify or confirm the presence of existing signs and their permit status. Determine how each sign and/or its view zone is affected by the proposed project. Guidance on ODA sign impacts based on view zone is provided in [Part 2, Chapter 18, Highway Traffic Noise](#). Continue coordination with OAO, and the District Right of Way (ROW) Office as appropriate.
3. **Re-evaluation**– The District should initiate or continue coordination with OAO to identify or confirm existing signs and their permit status along with the status of any plans for proposed signs. The District should also update any pertinent signage related commitments as appropriate and advise the PD&E staff of any changes. Review design plans and consider view zones (see [FDOT Design Manual, Part 1 Chapter 127, Topic No. 625-000-002](#)).

## 5.2.4 Florida Scenic Highways and Other Specially Designated Highways

There are four types of specially designated highways: local, state, national and legislative. Each designation may have different levels of protection, preservation, and public involvement.

The intent of the Florida Scenic Highways Program (FSHP) is to protect and to promote awareness of community resources that are valued by Florida’s residents and tourists. These can include scenic, natural, historic, cultural, recreational and archaeological resources in accordance with the [Florida Scenic Highways Program Guidance; July 2016](#) and FDOT [Procedure No. 650-050-005, Florida Scenic Highways Program](#).

The AE evaluation of potential project impacts to Florida Scenic Highways includes identification of intrinsic qualities or resources that are present on the project corridor and a determination of how a proposed project will potentially affect these resources. This evaluation also considers community preferred opportunities to conserve or enhance scenic highway qualities.

The District should, when practical and feasible, identify opportunities to avoid, minimize, or mitigate impacts to the documented resources on scenic highways. Accommodation of scenic resources on a designated highway within the limits of a project may require the application of flexibility in highway design through use of appropriate Design Exceptions and Design Variations. Each Florida Scenic Highway is associated with a Byway Organization and a Byway Management Plan (BMP). The concept of Context Sensitive Solutions (CSS) allows for collaboration with the Byway Organization and other corridor stakeholders and should be considered during the development of projects.

Consideration of designated scenic highways affected by the proposed project should be carried throughout project delivery as summarized below:

1. **ETDM Screenings** – Contact the District Scenic Highways Coordinator (DSHC) for identification of designated Florida Scenic Highways. The District should also review the [FDOT Legislatively Designated Scenic & Historic Highways Report](#) which identifies many of the scenic and historic highways and provides limitations on altering these highways. Use guidance in [Part 2, Chapter 8, Archaeological and Historical Resources](#) to evaluate historic highways designated by special legislation. The presence of locally designated scenic or historic highways should be coordinated with the local authorities.
2. **PD&E Evaluation** – The District should confirm results from the ETDM screenings to determine whether the proposed project would impact these resources. Additionally, the District, in coordination with the DSHC should become familiar with the regulations and BMP for a designated scenic or historic highway. Based on a review of scenic or historic highway legislation, the District will be able to coordinate with the District Scenic Highways Coordinator and District Environmental Manager to evaluate the regulations and potential impact of the project on the designated corridor.

Review the project setting to determine which scenic highway intrinsic qualities exist and analyze project data to determine potential impacts. The scenic highway evaluation should include an assessment of potential opportunities for FDOT to help fulfill goals identified in the BMP or partner on resource related issues. The evaluation should also recognize the relationship between existing intrinsic qualities on the scenic highway and community goals and objectives for the corridor as expressed in the BMP. The AE section of the Environmental Document should discuss whether the project has the potential to affect the scenic or historic highway.

If the project impacts the resources of a scenic highway, the byway organization and the public can provide additional input to identify ways to avoid, minimize or mitigate adverse impacts or identify aesthetic enhancements during the public involvement process ([Part 1, Chapter 11, Public Involvement](#)). If impact(s) to a scenic highway is unavoidable, the District will identify mitigation strategies consistent with FDOT's [Policy No. 000-650-002, Context Sensitive Solutions](#). The Byway Organization's vision, goals and objectives as outlined in the BMP may be considered to collaboratively identify, preserve, maintain, or enhance the intrinsic qualities or resources while maintaining safety and mobility. Commitments are transferred to Design in accordance with [Part 2, Chapter 22, Commitments](#) and [Procedure No. 650-000-003, Project Commitment Tracking](#).

3. **Re-evaluation** – The District should work with the DSHC or District Environmental Manager to reconfirm/identify the presence of designated Florida Scenic Highways or other specially designated highways within the project boundaries. For Florida

Scenic Highways, continue coordination with the Byway Organization through the DSHC providing updates on project status and AE commitments.

### 5.3 REFERENCES

American Association of State Highway and Transportation Officials (AASHTO) Highway Subcommittee on Design Task Force for Environmental Design. June 1991. A Guide for Transportation Landscape and Environmental Design

FDOT. FDOT Design Manual, Topic No. 625-000-002

FDOT. Construction Project Administration Manual, Topic No. 700-000-000

FDOT. Project Commitment Tracking, Topic No. 650-000-003

FDOT. Complete Streets, Topic No. 000-625-017

FDOT. Highway Beautification, Topic No. 000-650-011-c

FDOT. Florida Scenic Highways Program Guidance, July 2016

FDOT. Florida Scenic Highways Program, Topic No. 650-050-005-d

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>

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

FHWA. January 2015. Guidelines for the Visual Impact Assessment of Highway Projects, Washington D.C., Publication No. FHWA-HEP-15-029

FHWA. June 1997. Flexibility in Highway Design, Publication No. FHWA-PD-97-062; HEP-30/7-97(10M)E

FHWA. May 1999. Procedures for Considering Environmental Impacts, Order 5610.4, Docket No. EP-1, Notice 5

USDOT. November 1980. Aesthetics in Transportation, Contract No. DOT-OS-90040; Report No. DOT.OST.P-20.30, U.S. Government Printing Office, Washington D.C.

## **5.4 FORMS**

[State Environmental Impact Report Form, Form No. 650-050-43](#)

## **5.5 HISTORY**

2/15/1999, 11/14/2012, 9/30/2014, 8/7/2015, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 15, 1/14/2019

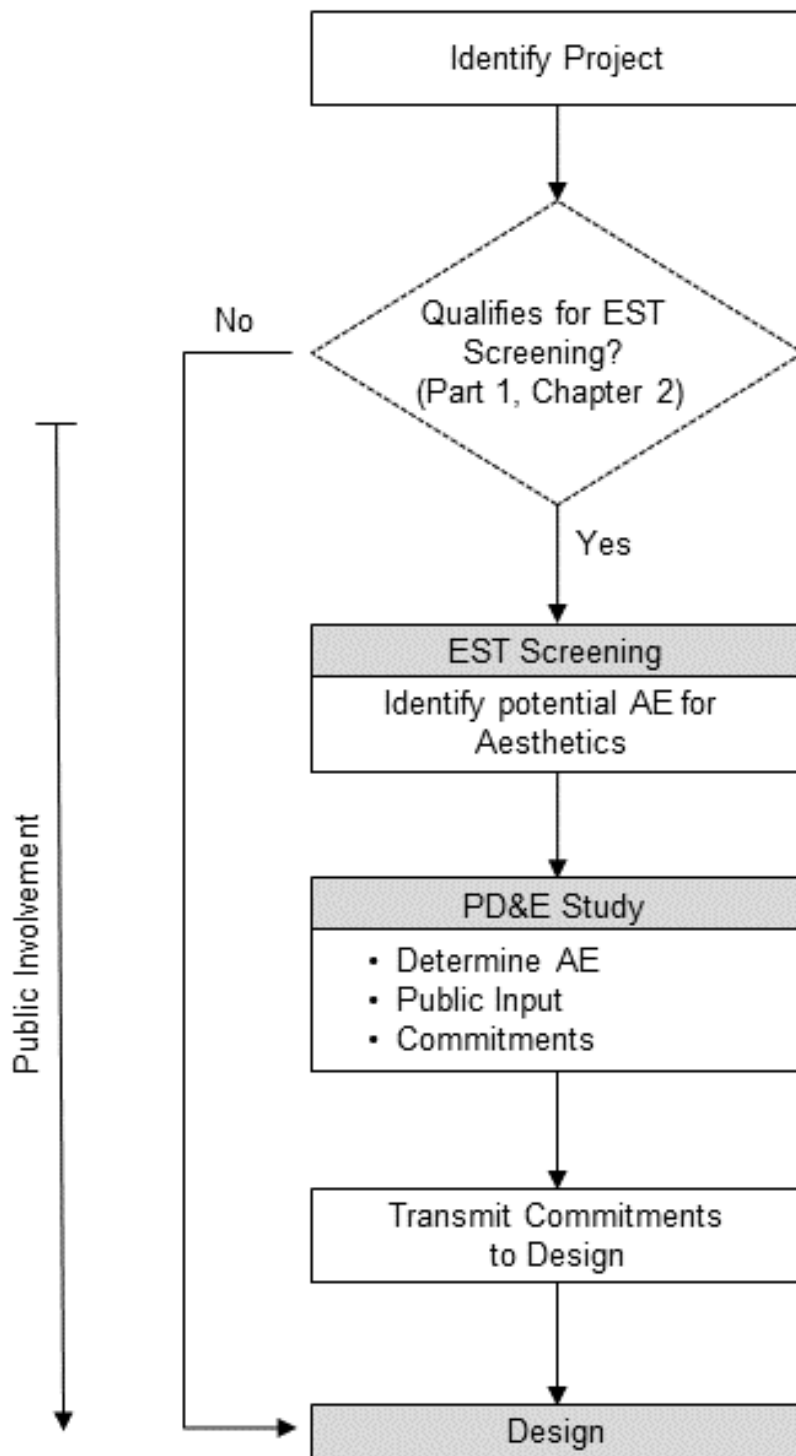


Figure 5-1 Aesthetic Effects Process Flow Chart

## **PART 2, CHAPTER 6**

### **FARMLAND**

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## PART 2, CHAPTER 6

### FARMLAND

#### 6.1 OVERVIEW

##### 6.1.1 Purpose

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).

This chapter outlines the procedure for evaluating project impacts on farmland (see [Figure 6-1](#)). The **Farmland Protection Policy Act (FPPA) of 1981, 7 CFR Part 658**, was established to minimize the conversion of farmland to nonagricultural uses by federal programs or by projects using federal assistance. The Natural Resources Conservation Service (NRCS), an agency under the United States Department of Agriculture (USDA), is responsible for ensuring that **FPPA** is implemented.

The term "farmland" as used in this chapter means prime or unique farmlands as defined in **7 CFR § 658.2(a)**, or farmland that is determined by the appropriate state or unit of local government agency or agencies with concurrence of the USDA Secretary to be farmland of statewide or local importance. **FPPA** requirements apply to farmlands even if not in active use as cropland. Qualifying farmlands can be forest land, pastureland, cropland or other land, but not land already in or committed to urban development or water storage.

Potential effects on farmlands may be identified in the Planning or Programming Screens during the Efficient Transportation Decision Making (ETDM) process (Chapters 3 and 4 of the [Efficient Transportation Decision Making Manual, Topic No. 650-000-002](#)). However, a farmland evaluation occurs later in the project development process after Right of Way (ROW) needs have been identified.

The **FPPA** applies only to projects which are completed by a federal agency or completed with financial or technical assistance from a federal agency. Non-Major State Actions

(NMSA) and State Environmental Impact Reports (SEIR) are not subject to the provisions of the **FPPA** as there is no federal involvement.

## 6.2 PROCEDURE

The farmland evaluation starts by determining if the project is subject to the **FPPA**. For projects screened through the ETDM process, Environmental Technical Advisory Team (ETAT) comments for the “Farmlands” issue in the **Programming Screen Summary Report** should be reviewed. Comments by NRCS may state specifically that the project may affect farmland. While screening information is preliminary, it is useful in determining the scope of the Project Development and Environment (PD&E) Study. Farmland evaluation during PD&E requires coordination with the NRCS.

[Figure 6-1](#) shows the process that Districts must use to document a farmland evaluation for a project. Most FDOT projects will be linear or corridor type projects requiring use of the **Farmland Conversion Impact Rating for Corridor Type Projects Form NRCS-CPA-106**; other projects such as parking areas, buildings, or rest areas require use of the **Farmland Conversion Impact Rating Form AD-1006**.

During the PD&E Study, the District must follow the steps listed below:

1. Determine whether the project is excluded from coordination with NRCS as discussed in [Section 6.2.1](#); No further evaluation is required if the project is not subject to provisions of **FPPA**. Documentation of projects excluded from coordination with NRCS is provided in [Section 6.2.2](#);
2. Complete the appropriate Farmland Conversion Impact Rating Form for projects requiring coordination with NRCS as discussed in [Section 6.2.4](#); and
3. Evaluate and document projects requiring coordination with NRCS to determine whether they have farmland involvement and are subject to the provisions of **FPPA** as discussed in [Section 6.2.5](#).

**Form NRCS-CPA-106** is completed for linear or corridor type projects that convert farmland into nonagricultural use. It is anticipated that most projects will use this form. **Form AD 1006** is used for all other proposed projects (e.g., parking areas, buildings, rest areas) that may convert farmland to nonagricultural use. The District completes Parts I and III of **Form NRCS-CPA-106** or **Form AD 1006** and sends the form to the State Soil Scientist with the NRCS for farmland involvement determination. See [Section 6.3](#) for a link to these forms; copies are also provided in [Figure 6-2](#) and [Figure 6-3](#), respectively.

If NRCS determines the project does not involve farmlands, then the **Form NRCS-CPA-106** or **Form AD 1006** will be returned to the District. The District will include the Form in the project file within the StateWide Environmental Project Tracker (SWEPT), and document the information in the project’s Environmental Document. No further evaluation is required.

If NRCS determines the project involves farmlands, then NRCS will complete Parts II and IV of **Form NRCS-CPA-106** or **Form AD 1006** and compile a total point score on Part V of the Form before it is returned to the District. The District will then complete Part VI of the Form and add the total points in Parts V and VI to determine the suitability of the site for protection as farmland.

### 6.2.1 Projects Excluded from Coordination with NRCS

The following project categories **do not** require coordination with the NRCS:

1. Project activities not subject to provisions of **FPPA**:
  - a. Federal permitting and licensing;
  - b. Projects planned and completed without the assistance of a federal agency;
  - c. Projects beyond the planning stage or constructed prior to August 4, 1984 [**FPPA, 7 CFR § 658.2(c)(1)(ii)**];
  - d. Project construction is within an existing ROW acquired on or before August 4, 1984; and,
  - e. Small acreage (i.e., 10 acres or less per linear mile or 3 acres where there is a project for an existing bridge or interchange) projects where a statewide, local, or tribal land evaluation site assessment (LESA) system has been approved by the State Conservationist. Acreage includes both direct and indirect conversions. These exemptions are to encourage improvements to existing highways, instead of new construction.

For additional exemptions see, **NRCS FPPA Manual**.

2. Projects situated **entirely** within urbanized areas on the Census Bureau maps **with no farmlands located adjacent to a project corridor**. Maps for urbanized areas are located in each District's planning section and include urbanized areas listed in [Table 6-1](#).

**Table 6-1 Urbanized Areas in Florida (U.S. Census Bureau 2010)**

Brooksville - Spring Hill	Bonita Springs – Naples	Cape Coral (includes Ft. Myers)
Deltona	Ft. Walton Beach	Gainesville
Homosassa Springs – Beverly Hills – Citrus Springs	Jacksonville	Kissimmee
Lady Lake – The Villages	Lakeland	Leesburg – Eustis
Miami (includes Boca Raton, Delray Beach, Ft. Lauderdale, Hialeah, Hollywood, Pompano Beach, West Palm Beach)	North Port – Punta Gorda	Ocala
Orlando	Palm Bay – Melbourne	Palm Coast – Daytona Beach – Port Orange
Panama City	Pensacola	Port St. Lucie
St. Augustine	Sarasota – Bradenton	Sebastian – Vero Beach
Sebring – Avon Park	Tallahassee	Tampa – St. Petersburg (includes Clearwater)
Titusville	Winter Haven	Zephyrhills

Note that the land use designation on the maps takes precedence over actual land use (i.e., lands currently being used for agricultural purposes but shown on the map as non-agricultural are considered as non-agricultural).

### **6.2.2 Documentation of Projects Excluded from Coordination with NRCS**

Projects are excluded from coordination with NRCS if they fall within the categories listed in [Section 6.2.1](#); however, documentation is still required in the Farmland section of the applicable Environmental Document as follows:

a. Type 1 Categorical Exclusions

Provide and include in the project file a statement why the provisions of the **FPPA** do not apply to the project.

b. Projects not subject to **FPPA** provisions:

*This project is not subject to the provisions of the Farmland Protection Policy Act of 1981 because (State the reason).*

- c. Projects located in urbanized areas:

*Lands within the project vicinity do not meet the definition of farmland as defined in 7 CFR § 658 and the provisions of the Farmland Protection Policy Act of 1981 do not apply because the entire project area is located in the urbanized area of (Name of urban area) with no designated farmlands adjacent to the project corridor.*

### 6.2.3 Projects Requiring Coordination with NRCS

The following projects require the completion of **Form NRCS-CPA-106** as specified in [Section 6.2.5](#), and coordination with the NRCS.

1. Projects situated **entirely** within urbanized areas on the Census Bureau maps **with designated farmlands adjacent to the project corridor**. These maps are located in each District's planning section and include those urbanized areas listed in [Table 6-1](#).
2. All non-urbanized areas.

These areas may have been identified during the Programming Screen; however, it is recommended that the urbanized area maps be reviewed during the PD&E phase when ROW needs have been conceptually defined.

### 6.2.4 Completion of the Farmland Conversion Impact Rating Form

For projects which are not excluded from coordination with the NRCS per [Section 6.2.1](#), the District will complete Parts I, III, VI, and VII of **Form NRCS-CPA-106** or **Form AD-1006** after ROW needs have been conceptually defined during the project development.

#### 6.2.4.1 Initial Evaluation - Completion of Parts I and III

The initial evaluation consists of the District completing Parts I and III of **Form NRCS-CPA 106** or **Form AD-1006**, as described below, and submitting the form to the NRCS, which completes Part II. Note, descriptions are specific to **Form NRCS-CPA-106** and similar to **Form AD 1006**.

#### PART I

##### **Name of Project:**

Provide the local name of the project and Financial Management number (e.g., SR-7, Volusia Avenue, 79060-1514).

**Type of Project:**

Provide type of the project such as new construction, widening, or intersection improvements.

**Date of Land Evaluation Request:**

Provide the month, day, and year when Parts I and III are completed.

**Federal Agency Involved:**

Enter FDOT per **23 U.S.C. §327** and the **FDOT/FHWA MOU**, or other Lead Federal Agency when the project is not a highway project whose source of federal funding comes from FHWA or which do not constitute a federal action through FHWA.

**County and State:**

Enter county and state (Florida) where project is located.

**PART III**

**A. Total Acres to be Converted Directly:**

Provide an estimate of the number of farmland acres of additional ROW required for each project alternative.

**B. Total Acres to be Converted Indirectly:**

Provide the estimated number of acres for each alternative that would be unusable for farmland due to access restriction.

**C. Total Acres in Corridor:**

Provide an estimate of the total number of acres of existing plus additional ROW required for each alternative.

**6.2.4.2 Actions Taken After Completion of Parts I and III**

Upon completion of Parts I and III, the District must send **Form NRCS-CPA 106** or **Form AD-1006** and a project location map (preferably GIS shapefiles of project boundaries and alternatives) to:

State Soil Scientist  
USDA - Natural Resources Conservation Service  
2614 NW 43<sup>rd</sup> Street  
P.O. Box 141510

Gainesville, FL 32614-1510  
(352) 338-9535

The NRCS prefers to receive these forms by email. The Soil Scientist's email address may be obtained by calling the phone number above.

NRCS will either complete Parts II, IV, and V or mark a NO in Part II indicating that no farmlands are involved. NRCS will respond within 10 working days of receipt except unless a site visit or land evaluation system design is needed (30 working days are allowed if a land evaluation must be completed or a site visit must be made). If more than 10 days are required, NRCS will notify the agency of the need for additional time, up to 30 working days.

Where NRCS fails to provide its response within the required period and if further delay would interfere with construction activities per **FPPA, 7 CFR § 658.4(a)**, the proposed project can proceed as though the site were not farmland. The Environmental Document must contain a statement that NRCS failed to provide land evaluation information within the required period, allowing the agency to proceed as if the site were not farmland.

If no farmland involvement is indicated on the form then provide the appropriate documentation in the Environmental Document as shown in [Sections 6.2.5.1](#).

If farmland involvement is indicated on the form, then refer to [Section 6.2.4.3](#) for direction on completing Parts VI and VII of the form. Once **Form NRCS-CPA 106** or **Form AD-1006** has been updated, the District will send a copy of the completed form to the NRCS.

### **6.2.4.3 Final Evaluation - Completion of Parts VI and VII**

#### **PART VI**

Part VI contains corridor assessment criteria to be completed by the District. These criteria assess the impact of each specific design alternative within a project corridor alignment for conversion of farmland. See **7 CFR § 658.5(c)** for an explanation of assessment and scoring criteria.

Upon assigning points to all criteria, add all the points and write the total in the row with the heading **TOTAL CORRIDOR ASSESSMENT POINTS**.

#### **PART VII**

##### **Relative Value of Farmland (From Part V):**

Enter the relative value of farmland to be converted indicated in Part V.

##### **Total Corridor Assessment (From Part VI or a local site assessment):**



Enter the total site assessment points from Part VI.

#### **6.2.4.4 Actions Taken After Completion of Parts VI and VII**

The total number of points indicated in Part VII is used to determine the site assessment given to farmland involved as stated below:

1. Corridors receiving a total score of **less than 160** points need not be given further consideration, and no additional corridors need to be evaluated.
2. Corridors receiving a total score of **160 points or more** require stronger consideration for protection of farmland and additional coordination with NRCS. Return the form to NRCS, who will make a determination of adverse impact for the project. The NRCS response will include a recommendation of ways to minimize the adverse impact.

The NRCS recommendation for minimizing the adverse effects to protected farmland should be considered during alternative evaluation. The alternative with the lowest number of points should be selected. In the event this alternative is not selected, the Environmental Document should discuss the reasons.

#### **6.2.5 Documentation of Projects Requiring Coordination with NRCS**

Documentation of the assessment of farmland in a Type 2 Categorical Exclusion (CE), Environmental Assessment (EA) or Environmental Impact Statement (EIS) will be in the form of standard statements, except where farmlands are involved. The following standard statements or documentation are to be included in the Environmental Document, depending on the level of involvement.

##### **6.2.5.1 Projects with No Farmland Involvement**

For Type 2 CE, EA, and EIS projects with no farmland involvement, the following standard statements should be included in the Farmland section:

- a. In urbanized areas:

*Through coordination with the Natural Resources Conservation Service, it has been determined that the project area which is located in the urbanized area of (Name of urban area) does not meet the definition of farmland as defined in 7 CFR Part 658. Therefore, the provisions of the Farmland Protection Policy Act of 1981 do not apply to this project.*

b. In non-urbanized areas:

*Through coordination with the Natural Resources Conservation Service, it has been determined that no farmlands as defined by 7 CFR Part 658 are located in the project vicinity.*

Coordination documents with NRCS or **Form NRCS-CPA-106** or **Form AD-1006** indicating no involvement should be referenced in the Farmlands section of the Environmental Document and included in the Appendix of an EA or EIS and the project file within SWEPT.

When applicable, the standard statements should also be included in the Final Environmental Impact Statement (FEIS) Executive Summary.

### **6.2.5.2 Projects with Farmland Involvement**

The following information is to be discussed in the Farmland section of the Environmental Document, regardless of whether the project is a Type 2 CE, EA, or EIS:

1. Quantification of farmland involvement
2. Coordination with NRCS
3. Viable alternative corridors
4. Project impacts and mitigation

The Environmental Document must document the assessment and coordination processes, and provide the rationale for decisions made during the farmland evaluation. In addition, the Environmental Document should address any farmland issues that may have been raised by the ETAT during the project's ETDM Screening and address any comments received through project development, the public involvement process, or public hearing, as applicable.

Coordination documents with NRCS or **Form NRCS-CPA-106** or **Form AD-1006**, should be referenced in the Farmlands section and included in the Appendix. Retain the completed NRCS form and supporting documentation in the project file within SWEPT.

When a FEIS is prepared separately from a Record of Decision (ROD), the FEIS Executive Summary should summarize the extent of farmland involvement, reference consultation documentation and coordination efforts with the NRCS, and discuss whether or not mitigation is proposed. Appropriate text references should be provided.

## 6.3 REFERENCES

FDOT, Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002

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>

NRCS Farmland Conversion Impact Rating Form (AD-1006),

[http://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1045394.pdf](http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045394.pdf)

NRCS Farmland Conversion Impact Rating Form for Corridor Type Projects (NRCS-CPA-106),

[http://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1045395.pdf](http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045395.pdf)

NRCS, Farmland Protection Policy Act Manual

[http://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1097009.pdf](http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1097009.pdf).

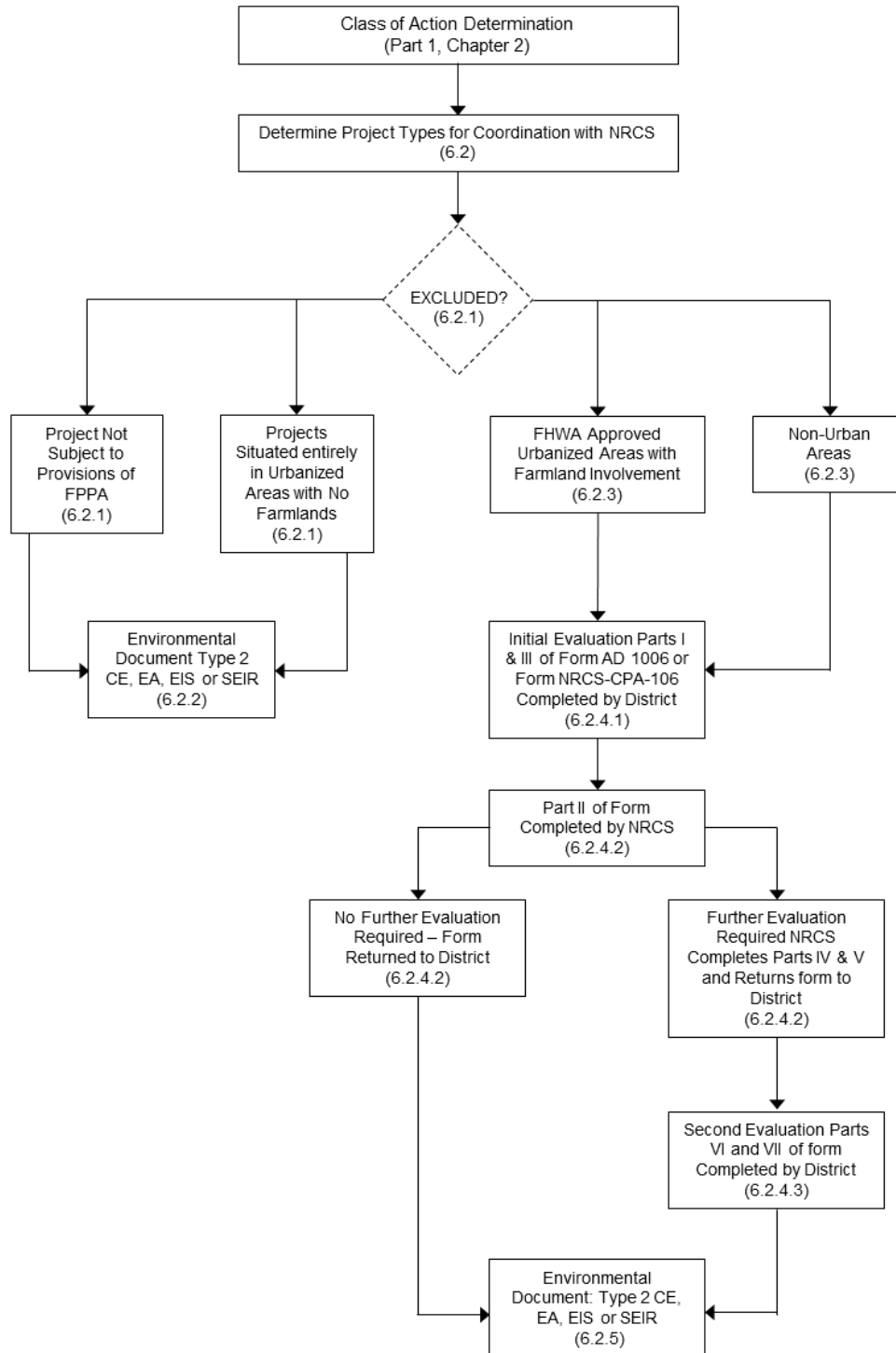
<http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/landuse/fppa/>

U.S. Census Bureau, Florida 2010, 2010 Census of Population and Housing, Pgs. 29-33, issued September 2012

USDA, Farmland Protection Policy Act, 7 CFR Part 658

## 6.4 HISTORY

6/26/2000, 9/14/2005, 5/11/2010, 7/14/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 28, 1/14/2019



**Figure 6-1 Farmland Evaluation Process**

U.S. DEPARTMENT OF AGRICULTURE Natural Resources Conservation Service		NRCS-CPA-106 (Rev. 1-91)	
<b>FARMLAND CONVERSION IMPACT RATING FOR CORRIDOR TYPE PROJECTS</b>			
<b>PART I (To be completed by Federal Agency)</b>		3. Date of Land Evaluation Request	Sheet 1 of _____
1. Name of Project		5. Federal Agency Involved	
2. Type of Project		6. County and State	
<b>PART II (To be completed by NRCS)</b>		1. Date Request Received by NRCS	2. Person Completing Form
3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form). YES <input type="checkbox"/> NO <input type="checkbox"/>		4. Acres Irrigated   Average Farm Size	
5. Major Crop(s)	6. Farmable Land in Government Jurisdiction Acres: _____ %		7. Amount of Farmland As Defined in FPPA Acres: _____ %
8. Name Of Land Evaluation System Used	9. Name of Local Site Assessment System		10. Date Land Evaluation Returned by NRCS
<b>PART III (To be completed by Federal Agency)</b>		<b>Alternative Corridor For Segment</b>	
		Corridor A	Corridor B
		Corridor C	Corridor D
A. Total Acres To Be Converted Directly			
B. Total Acres To Be Converted Indirectly, Or To Receive Services			
C. Total Acres In Corridor			
<b>PART IV (To be completed by NRCS) Land Evaluation Information</b>			
A. Total Acres Prime And Unique Farmland			
B. Total Acres Statewide And Local Important Farmland			
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted			
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value			
<b>PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)</b>			
<b>PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))</b>		Maximum Points	
1. Area in Nonurban Use		15	
2. Perimeter in Nonurban Use		10	
3. Percent Of Corridor Being Farmed		20	
4. Protection Provided By State And Local Government		20	
5. Size of Present Farm Unit Compared To Average		10	
6. Creation Of Nonfarmable Farmland		25	
7. Availability Of Farm Support Services		5	
8. On-Farm Investments		20	
9. Effects Of Conversion On Farm Support Services		25	
10. Compatibility With Existing Agricultural Use		10	
TOTAL CORRIDOR ASSESSMENT POINTS		160	0
		0	0
<b>PART VII (To be completed by Federal Agency)</b>			
Relative Value Of Farmland (From Part V)		100	0
Total Corridor Assessment (From Part VI above or a local site assessment)		160	0
TOTAL POINTS (Total of above 2 lines)		260	0
1. Corridor Selected:		2. Total Acres of Farmlands to be Converted by Project:	3. Date Of Selection:
			4. Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input type="checkbox"/>
5. Reason For Selection:			
Signature of Person Completing this Part:			DATE
NOTE: Complete a form for each segment with more than one Alternate Corridor			

[Clear Form](#)

**Figure 6-2 Form NRCS-CPA-106 (Page 1 of 2)**

NRCS-CPA-106 (Reverse)

### CORRIDOR - TYPE SITE ASSESSMENT CRITERIA

The following criteria are to be used for projects that have a linear or corridor - type site configuration connecting two distant points, and crossing several different tracts of land. These include utility lines, highways, railroads, stream improvements, and flood control systems. Federal agencies are to assess the suitability of each corridor - type site or design alternative for protection as farmland along with the land evaluation information.

- (1) How much land is in nonurban use within a radius of 1.0 mile from where the project is intended?  
More than 90 percent - 15 points  
90 to 20 percent - 14 to 1 point(s)  
Less than 20 percent - 0 points
- (2) How much of the perimeter of the site borders on land in nonurban use?  
More than 90 percent - 10 points  
90 to 20 percent - 9 to 1 point(s)  
Less than 20 percent - 0 points
- (3) How much of the site has been farmed (managed for a scheduled harvest or timber activity) more than five of the last 10 years?  
More than 90 percent - 20 points  
90 to 20 percent - 19 to 1 point(s)  
Less than 20 percent - 0 points
- (4) Is the site subject to state or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?  
Site is protected - 20 points  
Site is not protected - 0 points
- (5) Is the farm unit(s) containing the site (before the project) as large as the average - size farming unit in the County ?  
(Average farm sizes in each county are available from the NRCS field offices in each state. Data are from the latest available Census of Agriculture, Acreage or Farm Units in Operation with \$1,000 or more in sales.)  
As large or larger - 10 points  
Below average - deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more below average - 9 to 0 points
- (6) If the site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?  
Acreage equal to more than 25 percent of acres directly converted by the project - 25 points  
Acreage equal to between 25 and 5 percent of the acres directly converted by the project - 1 to 24 point(s)  
Acreage equal to less than 5 percent of the acres directly converted by the project - 0 points
- (7) Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?  
All required services are available - 5 points  
Some required services are available - 4 to 1 point(s)  
No required services are available - 0 points
- (8) Does the site have substantial and well-maintained on-farm investments such as barns, other storage building, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?  
High amount of on-farm investment - 20 points  
Moderate amount of on-farm investment - 19 to 1 point(s)  
No on-farm investment - 0 points
- (9) Would the project at this site, by converting farmland to nonagricultural use, reduce the demand for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?  
Substantial reduction in demand for support services if the site is converted - 25 points  
Some reduction in demand for support services if the site is converted - 1 to 24 point(s)  
No significant reduction in demand for support services if the site is converted - 0 points
- (10) Is the kind and intensity of the proposed use of the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of surrounding farmland to nonagricultural use?  
Proposed project is incompatible to existing agricultural use of surrounding farmland - 10 points  
Proposed project is tolerable to existing agricultural use of surrounding farmland - 9 to 1 point(s)  
Proposed project is fully compatible with existing agricultural use of surrounding farmland - 0 points

**Figure 6-2 Form NRCS-CPA-106 (Page 2 of 2)**

U.S. Department of Agriculture <b>FARMLAND CONVERSION IMPACT RATING</b>					
<b>PART I</b> (To be completed by Federal Agency)			Date Of Land Evaluation Request		
Name of Project			Federal Agency Involved		
Proposed Land Use			County and State county and state		
<b>PART II</b> (To be completed by NRCS)			Date Request Received By NRCS		Person Completing Form:
Does the site contain Prime, Unique, Statewide or Local Important Farmland? (If no, the FPPA does not apply - do not complete additional parts of this form)			YES <input type="checkbox"/>	NO <input type="checkbox"/>	Average Farm Size
Major Crop(s)		Farmable Land In Govt. Jurisdiction Acres: %	Acres Irrigated		Amount of Farmland As Defined in FPPA Acres: %
Name of Land Evaluation System Used		Name of State or Local Site Assessment System	Date Land Evaluation Returned by NRCS		
<b>PART III</b> (To be completed by Federal Agency)			Alternative Site Rating		
			Site A	Site B	Site C
A. Total Acres To Be Converted Directly					
B. Total Acres To Be Converted Indirectly					
C. Total Acres In Site					
<b>PART IV</b> (To be completed by NRCS) Land Evaluation Information					
A. Total Acres Prime And Unique Farmland					
B. Total Acres Statewide Important or Local Important Farmland					
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted					
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value					
<b>PART V</b> (To be completed by NRCS) Land Evaluation Criterion Relative Value of Farmland To Be Converted (Scale of 0 to 100 Points)					
<b>PART VI</b> (To be completed by Federal Agency) Site Assessment Criteria (Criteria are explained in 7 CFR 658.5 b. For Corridor project use form NRCS-CPA-106)		Maximum Points	Site A	Site B	Site C
1. Area In Non-urban Use		(15)			
2. Perimeter In Non-urban Use		(10)			
3. Percent Of Site Being Farmed		(20)			
4. Protection Provided By State and Local Government		(20)			
5. Distance From Urban Built-up Area		(15)			
6. Distance To Urban Support Services		(15)			
7. Size Of Present Farm Unit Compared To Average		(10)			
8. Creation Of Non-farmable Farmland		(10)			
9. Availability Of Farm Support Services		(5)			
10. On-Farm Investments		(20)			
11. Effects Of Conversion On Farm Support Services		(10)			
12. Compatibility With Existing Agricultural Use		(10)			
TOTAL SITE ASSESSMENT POINTS		160	0	0	0
<b>PART VII</b> (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)		100	0	0	0
Total Site Assessment (From Part VI above or local site assessment)		160	0	0	0
TOTAL POINTS (Total of above 2 lines)		260	0	0	0
Site Selected:		Date Of Selection	Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input type="checkbox"/>		
Reason For Selection:					
Name of Federal agency representative completing this form:					Date:

(See Instructions on reverse side)

Form AD-1006 (03-02)

**Figure 6-3 Form AD-1006 (Page 1 of 2)**

**STEPS IN THE PROCESSING THE FARMLAND AND CONVERSION IMPACT RATING FORM**

- Step 1 - Federal agencies (or Federally funded projects) involved in proposed projects that may convert farmland, as defined in the Farmland Protection Policy Act (FPPA) to nonagricultural uses, will initially complete Parts I and III of the form. For Corridor type projects, the Federal agency shall use form NRCS-CPA-106 in place of form AD-1006. The Land Evaluation and Site Assessment (LESA) process may also be accessed by visiting the FPPA website, <http://fppa.nrcs.usda.gov/lesa/>.
- Step 2 - Originator (Federal Agency) will send one original copy of the form together with appropriate scaled maps indicating location(s) of project site(s), to the Natural Resources Conservation Service (NRCS) local Field Office or USDA Service Center and retain a copy for their files. (NRCS has offices in most counties in the U.S. The USDA Office Information Locator may be found at [http://offices.usda.gov/scripts/ndISAPI.dll/oip\\_public/USA\\_map](http://offices.usda.gov/scripts/ndISAPI.dll/oip_public/USA_map), or the offices can usually be found in the Phone Book under U.S. Government, Department of Agriculture. A list of field offices is available from the NRCS State Conservationist and State Office in each State.)
- Step 3 - NRCS will, within 10 working days after receipt of the completed form, make a determination as to whether the site(s) of the proposed project contains prime, unique, statewide or local important farmland. (When a site visit or land evaluation system design is needed, NRCS will respond within 30 working days.
- Step 4 - For sites where farmland covered by the FPPA will be converted by the proposed project, NRCS will complete Parts II, IV and V of the form.
- Step 5 - NRCS will return the original copy of the form to the Federal agency involved in the project, and retain a file copy for NRCS records.
- Step 6 - The Federal agency involved in the proposed project will complete Parts VI and VII of the form and return the form with the final selected site to the servicing NRCS office.
- Step 7 - The Federal agency providing financial or technical assistance to the proposed project will make a determination as to whether the proposed conversion is consistent with the FPPA.

**INSTRUCTIONS FOR COMPLETING THE FARMLAND CONVERSION IMPACT RATING FORM**

*(For Federal Agency)*

**Part I:** When completing the "County and State" questions, list all the local governments that are responsible for local land use controls where site(s) are to be evaluated.

**Part III:** When completing item B (Total Acres To Be Converted Indirectly), include the following:

1. Acres not being directly converted but that would no longer be capable of being farmed after the conversion, because the conversion would restrict access to them or other major change in the ability to use the land for agriculture.
2. Acres planned to receive services from an infrastructure project as indicated in the project justification (e.g. highways, utilities planned build out capacity) that will cause a direct conversion.

**Part VI:** Do not complete Part VI using the standard format if a State or Local site assessment is used. With local and NRCS assistance, use the local Land Evaluation and Site Assessment (LESA).

1. Assign the maximum points for each site assessment criterion as shown in § 658.5(b) of CFR. In cases of corridor-type project such as transportation, power line and flood control, criteria #5 and #6 will not apply and will, be weighted zero, however, criterion #8 will be weighed a maximum of 25 points and criterion #11 a maximum of 25 points.
2. Federal agencies may assign relative weights among the 12 site assessment criteria other than those shown on the FPPA rule after submitting individual agency FPPA policy for review and comment to NRCS. In all cases where other weights are assigned, relative adjustments must be made to maintain the maximum total points at 160. For project sites where the total points equal or exceed 160, consider alternative actions, as appropriate, that could reduce adverse impacts (e.g. Alternative Sites, Modifications or Mitigation).

**Part VII:** In computing the "Total Site Assessment Points" where a State or local site assessment is used and the total maximum number of points is other than 160, convert the site assessment points to a base of 160.

Example: if the Site Assessment maximum is 200 points, and the alternative Site "A" is rated 180 points:

$$\frac{\text{Total points assigned Site A}}{\text{Maximum points possible}} = \frac{180}{200} \times 160 = 144 \text{ points for Site A}$$

For assistance in completing this form or FPPA process, contact the local NRCS Field Office or USDA Service Center.

NRCS employees, consult the FPPA Manual and/or policy for additional instructions to complete the AD-1006 form.

**Figure 6-3 Form AD-1006 (Page 2 of 2)**



Federal Highway Administration, Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents.

[https://www.environment.fhwa.dot.gov/legislation/nepa/guidance\\_preparing\\_env\\_documents.aspx](https://www.environment.fhwa.dot.gov/legislation/nepa/guidance_preparing_env_documents.aspx)

Natural Resources Conservation Service (NRCS) Web Soil Survey, <http://websoilsurvey.nrcs.usda.gov/app/>

US Census Bureau Mapper, <http://tigerweb.geo.census.gov/tigerweb/>

U.S. Department of Agriculture (USDA), 1993. Agricultural Handbook 18, Soil Survey Manual,

[http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/planners/?cid=nrcs142p2\\_054261](http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/planners/?cid=nrcs142p2_054261)

USDA NRCS National Soil Survey Handbook,

[http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/survey/?cid=nrcs142p2\\_054242](http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/survey/?cid=nrcs142p2_054242)

#### **Figure 6-4 Additional Resource Information**

## **PART 2, CHAPTER 7**

### **SECTION 4(f) RESOURCES**

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## PART 2, CHAPTER 7

### SECTION 4(f) RESOURCES

#### 7.1 OVERVIEW

##### 7.1.1 Background and Guidance

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 the 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).

This chapter outlines FDOT's procedures governing the use of land from publicly owned parks and recreation areas, wildlife and waterfowl refuges, and publicly or privately owned historic sites by Federal Aid Highway projects in the State of Florida. These requirements are currently codified at **23 U.S.C. § 138** and **49 U.S.C. § 303**. They originated in **Section 4(f)** of the **Department of Transportation Act of 1966 (Pub. L. 89-670, 80 Stat. 931)** and, as a result, practitioners commonly refer to this subject matter as **Section 4(f)**. The resource types listed in the law are referred to as **Section 4(f)** protected properties and the use of land from any one of these resources by a transportation project is referred to as a **Section 4(f)** use. **Section 4(f)** regulations only apply to the U.S. Department of Transportation (USDOT) and its agencies, i.e., FHWA, Federal Aviation Administration (FAA), Federal Transit Administration (FTA), and Federal Railroad Administration (FRA). FHWA and FTA adopted rules under **23 Code of Federal Regulations (CFR) Part 774** to implement the requirements of the federal statutes.

**Section 4(f)** requires USDOT agencies to make specific findings when a USDOT funded or approved transportation project requires the use of land from a **Section 4(f)** protected property. During the planning and development of transportation facilities being funded by FHWA or other agencies of the USDOT, FDOT may approve a transportation project requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance, or land of an historic or archeological site of national, State, or local significance only when the following conditions are met:

- There are no feasible and prudent avoidance alternatives to the use of land; and

- The program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the proposed use.

Or

- The use of the property will have a *de minimis* impact as defined in the statutes and regulations.

This chapter focuses on the processes associated with the development of highway projects funded by the FHWA that have the potential to “use” lands from any property designated or functioning as a **Section 4(f)** resource as set forth in the statutes and implementing regulations, including actions which, though not requiring the acquisition of lands from the property, could significantly impair the function of the property for its protected purposes (see [Figure 7-1](#)). Also, this chapter addresses the conversion of park and recreational properties funded wholly or in part under **Section 6(f)** of the **Land and Water Conservation Fund Act (LWCFA) (16 U.S.C. § 4601-4 et seq., 36 CFR § 59)**, as well as other federal and state encumbrances and requirements which may overlap with **Section 4(f)**.

FDOT is the Lead Agency for environmental review of FHWA funded highway projects in Florida. For transportation projects funded by the Office of Federal Lands Highway, FTA, FRA, or FAA, these agencies will act as the Lead Agency for **Section 4(f)** analysis. In these situations, the District will contact the OEM Project Delivery Coordinator (PDC) and work with the officials of the lead transportation agency. **Section 4(f)** processes, evaluations, and alternative analyses vary depending upon on the type of transportation project being developed. In addition, certain approval options are not available for projects which are not FHWA funded transportation projects. For example, the nationwide programmatic evaluations discussed in this chapter are not available to other agencies within the USDOT.

Regardless of which USDOT agency is the Lead Agency, the basic requirements set forth in the statutes for the approval of a project using **Section 4(f)** protected lands are the same.

## 7.1.2 Definitions

**de minimis Impact (23 CFR § 774.17)** - For parks, recreation areas, and wildlife and waterfowl refuges, a *de minimis* impact is one that is minimal and the use of the protected property is one that will not adversely affect the features, attributes, or activities qualifying the property for protection under **Section 4(f)**, and the Official With Jurisdiction (OWJ) has concurred with this finding. For projects using land from historic properties, a *de minimis* impact finding means that OEM has determined, in accordance with **36 CFR Part 800**, that no historic property is affected by the project or that there is no adverse effect to the historic property in question and that the State Historic Preservation Officer (SHPO) or, as appropriate, the Tribal Historic Preservation Officer (THPO) has concurred with this determination.

**Feasible and prudent avoidance alternative (23 CFR § 774.17)** - An alternative that avoids using the **Section 4(f)** property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the **Section 4(f)** property.

**Officials with Jurisdiction (23 CFR § 774.17)** - The entities and individuals who own and/or administer the property are considered the OWJ.

- In the case of public parks, recreation areas, and wildlife and waterfowl refuges, the OWJs are the officials of the agency or agencies that own or administer the property in question and who are empowered to represent the agency on matters related to the property.
- In the case of historic sites (including archaeological sites), the OWJ are the SHPO, or, if the property is located on tribal land, the THPO.
  - If the property is located on tribal land but the relevant Indian tribe has not assumed the responsibilities of the SHPO, then a representative designated by the tribe shall be recognized as an OWJ in addition to the SHPO.
  - When the Advisory Council on Historic Preservation (ACHP) is participating in consultation concerning a property under **Sections 110 or 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470)**, the ACHP is considered a consulting party.
  - When the historic property is also a public park, recreation area, wildlife or waterfowl refuge, or is located within the boundaries of such lands, the OWJ for the historic site is the SHPO/THPO or, if participating, the ACHP. If the project uses land from both protected properties, coordination with the officials of the agencies that own or administer the property in question is required.
- When the **Section 4(f)** property is also a National Historic Landmark (NHL), the designated official of the National Park Service (NPS) is an OWJ over that resource for the purposes of **Section 4(f)**.

### **Significance -**

- For public parks, recreation areas, or wildlife and waterfowl refuges, significance means that in comparing the availability and function of the property in question to similar properties in the area, the resource plays an important role in meeting the park, recreational, or refuge objective of the community it serves. Except for certain multiple use land holdings, significance determinations apply to the entire property; not just to the portions being acquired for the transportation project. Significance determinations of these types of publicly owned lands are made by the OWJ over the property. In the absence of a determination by the OWJ, the property will be presumed to be significant for the purposes of **Section 4(f)** [see **23 CFR § 774.11** and **FHWA Section 4(f) Policy Paper**, Question 1A].

- For historic properties, significance normally means that the historic resource is either listed in or eligible for listing in the National Register of Historic Places (NRHP) in accordance with **36 CFR Part 63** (regulations for Determinations of Eligibility for Inclusion in the NRHP) or is otherwise determined significant by the Lead Federal Agency during the consultation process with the OWJs over the historic resource as required under **36 CFR Part 800** and **23 CFR Part 774** [see definition of historic site in **23 CFR § 774.17** and **FHWA Section 4(f) Policy Paper**, Question 2A].

**Use (23 CFR § 774.17)** - The “use” of a **Section 4(f)** resource occurs when a project:

- permanently incorporates land from a **Section 4(f)** property into a transportation facility; or
- requires a temporary occupancy of land within a **Section 4(f)** property that is adverse in terms of the statute’s preservation purpose [see criteria in **23 CFR § 774.13(d)** or the [FHWA Section 4\(f\) Policy Paper](#) Question 7]; or
- has proximity impacts that, while not incorporating land from a protected property and which includes all possible measure to minimize harm, still results in a substantial impairment of the activities, features, and attributes which qualify the property for protection under **Section 4(f)**. [i.e., constructive use (**23 CFR § 774.15**)].

## 7.2 SECTION 4(f) PROPERTIES AND EVALUATIONS

### 7.2.1 Substantive Requirements of Section 4(f)

**Section 4(f)** requires agencies of the USDOT to perform a substantive review as part of its decision-making process whenever approving a proposed project’s use of a protected property. Congress intended **Section 4(f)** to bar unnecessary conversions of the property types identified in the statutes into transportation facilities. This “preservationist intent” requires agencies of the USDOT to avoid the use of protected property whenever (1) there is a prudent and feasible alternative to this use or (2) the use of the property is so negligible as to represent a *de minimis* impact to the protected resource.

If the **Section 4(f)** resources cannot be avoided, the agency’s goal is to reduce the project impacts to a level where the impacts are *de minimis*. If the impacts cannot be reduced to the level of *de minimis*, the agency may only approve the use of protected land by the project following an effort to identify any prudent and feasible alternatives which do not require the use of land from the protected property. In cases where no prudent and feasible avoidance alternatives exist, the USDOT agency must include all possible planning to minimize harm to the protected property resulting from the chosen alternative.

In situations where there are no feasible and prudent avoidance alternatives and there are two or more alternatives requiring the use of **Section 4(f)** property, the agency may approve only the alternative which results in the least overall harm.



## 7.2.2 Applicable Projects

**Section 4(f)** applies to all FDOT transportation projects that utilize federal aid funds or require the approval of a USDOT agency, and involve the “use” of a **Section 4(f)** property or resource. For the **Section 4(f)** statute to apply, the project must meet the following criteria:

1. Must require an approval from USDOT in order to proceed;
2. Must be a transportation project;
3. Must require the use of land from property protected under **Section 4(f)** [see **23 U.S.C. § 138(a)** and **49 U.S.C. § 303(a)**]; and
4. None of the exclusions, exceptions, or rules set forth in the statutes, regulations, or USDOT policies apply to the project or the property (see the FDOT [Section 4\(f\) References and Guides](#) web page or [Section 7.2.3.1](#) and [Section 7.3.3](#)).

Examples of situations where **Section 4(f)** would not apply include, but are not limited to:

1. A transportation project constructed solely using state or local funds, and not requiring OEM approval;
2. A project intended to address a purpose that is unrelated to the movement of people, goods, and services from one place to another (i.e., not a transportation purpose);
3. A project to be located adjacent to a **Section 4(f)** property, causing only minor proximity impacts to the **Section 4(f)** property (i.e., no constructive use); and
4. A project that will take land from a privately-owned park, recreation area, or refuge.

## 7.2.3 Section 4(f) Protected Resources

For clarity in determinations and approvals, it is best to divide **Section 4(f)** resources into two categories: (1) publicly owned parks, recreation areas, and wildlife or waterfowl refuges, and (2) significant historic and archaeological sites in public or private ownership. **Section 4(f)** only applies to publicly owned parks, recreation areas, and wildlife and waterfowl refuges that have been determined to be significant. **Section 4(f)** does not apply to privately owned parks, recreation areas, and wildlife or waterfowl refuges even if such areas are open to the general public. **Section 4(f)** applies to significant historic and archeological sites regardless of ownership.

Except in cases of certain multiple use land holdings, **Section 4(f)** applies to the entire resource, not just the portion being used by the proposed project (see [Section 7.2.3.1](#)).

To be considered a **Section 4(f)** protected resource, a property must meet the following criteria:

#### A. For Public Parks and Recreation Areas

- Must be publicly owned which refers to ownership by local, state or federal government (this can also include permanent easements and long-term leases or other public proprietary interests)
- Must be open to the public during normal hours of operation
- The major purpose must be for park or recreation activities
- Must be designated or function as a significant park or recreational area

#### B. For Wildlife and Waterfowl Refuge

- Must be publicly owned which refers to ownership by local, state or federal government (this can also include permanent easements and long-term leases or other public proprietary interests)
- Must be open to the public unless public access is restricted for the protection of refuge habitat, function, or species
- The major purpose must be for wildlife or waterfowl refuge functions
- Must be designated or function as a significant wildlife or waterfowl refuge

#### C. For Historic Sites

- Must be eligible for listing or is listed in the NRHP unless OEM determines that the application of **Section 4(f)** is otherwise appropriate.

For more detail related to determining when a property represents one of these **Section 4(f)** protected site types, see the Questions and Answers numbered 1 through 6 in Part II of the **FHWA Section 4(f) Policy Paper** which can be accessed from the [FDOT Section 4\(f\) References and Guides](#) web page.

### 7.2.3.1 Additional Considerations when Identifying Section 4(f) Properties

The **FHWA Section 4(f) Policy Paper** provides guidance regarding the applicability of **Section 4(f)** to a variety of property types. This is not an all-inclusive list. If the practitioner believes there is a property that is also protected under **Section 4(f)** not listed here, please refer to the **FHWA Section 4(f) Policy Paper** or contact the PDC. See [Section 7.6](#) for a link to the **FHWA Section 4(f) Policy Paper**.

- A. **Historic Districts** - When a project uses land from an individually eligible property within a historic district, or a property that is a contributing element to the historic district, **Section 4(f)** is applicable. All elements within historic districts are presumed to be contributing resources to the district unless FDOT, in consultation with the SHPO/THPO, determines that the element is not contributing. When a

project requires land from a non-historic or non-contributing property lying within a historic district, and does not use other land within the historic district that is considered contributing to its historic significance, there is no direct **Section 4(f)** use of the historic district.

- B. **Wild and Scenic Rivers** - Certain portions of designated Wild and Scenic Rivers may be protected under **Section 4(f)**. However, designation as a Wild and Scenic River, Study River, or listing on the Nationwide Rivers Inventory does not in itself confer **Section 4(f)** protections. Only those portions of the river or the river corridor which function as, or are designated as being significant publicly owned park or recreational areas, significant wildlife or waterfowl refuge areas, or which are significant historic sites are protected under **Section 4(f)**. In certain cases, the river may be designated under the **Wild and Scenic Rivers Act (WSRA) (16 U.S.C. § 1271 et seq. and 36 CFR 297.3)** as a recreational river or is identified as a recreational resource in the river management plan. If a river meets either of those two conditions and it is publicly owned, then the river is protected under **Section 4(f)** as well as under the **WSRA**. When determining the applicability of **Section 4(f)** to portions of designated Wild and Scenic Rivers or Study Rivers, contact the PDC to discuss **Section 4(f)** applicability, see [Part 2, Chapter 12, Wild and Scenic Rivers](#) and the **Overview of the Wild and Scenic Rivers System** on the FDOT [Section 4\(f\) References and Guides](#) web page.
- C. **School Playgrounds** - Publicly owned school playgrounds, running tracks, and ball fields that provide recreational opportunities for the public during non-school hours may qualify as **Section 4(f)** properties.
- D. **Trails and Shared Use Paths** - **Section 4(f)** applies to publicly owned shared use trails, paths, bikeways, or sidewalks (or portions thereof) designated or functioning primarily for recreation, unless the OWJ determines that it is not significant for such purpose [**FHWA Section 4(f) Policy Paper**, Question 15] or when an exception to **Section 4(f)** applies under **23 CFR § 774.13(f)**.
- E. **Golf Courses** - **Section 4(f)** applies to golf courses that are owned, operated, or managed by a public agency for the primary purpose of public recreation, and that are determined to be significant by the OWJ. Golf courses that are owned by a public agency but are managed and operated by a private entity may still be subject to **Section 4(f)** requirements depending on the operating agreement. Golf courses listed in the NRHP are treated as other historic sites as described above.
- F. **Museums, Aquariums, and Zoos** - Publicly owned museums, aquariums and zoos are not subject to **Section 4(f)** unless they are significant historic sites. These facilities will need to be evaluated on a case by case basis to determine if they provide additional park and recreational opportunities and if that is their primary purpose, which would make them subject to **Section 4(f)**.
- G. **Fairgrounds** - When fairgrounds are open to the public and function primarily for public recreation, **Section 4(f)** applies to those portions of the land determined significant for park or recreational purposes (see the Public Multiple Use Land

Holdings discussion below). A fairground may also qualify as a historic site which would require consideration under **Section 4(f)**.

- H. **Bodies of Water - Section 4(f)** applies to lakes and rivers, or portions thereof, which are contained within the boundaries of a park, recreation area, refuge, historic site or adjacent to publicly owned lands to which **Section 4(f)** otherwise applies.
- I. **Public Multiple Use Land Holdings** - Public multiple use land holdings, by definition, are comprised of multiple areas that serve different purposes. Generally, these properties are large and are usually established by legislation to serve a variety of functions, some of which are protected by **Section 4(f)** and some of which are not. For these kinds of properties (frequently these are State or National Forests, large tracts of conservation lands, or Water Management District properties), **Section 4(f)** does not apply to those areas within a multiple-use public property that function primarily for any purpose other than significant park, recreation or refuge purposes, or which are significant historic sites. For example, within a National Forest, there could be some areas that qualify as **Section 4(f)** resources (e.g., campgrounds, trails, picnic areas) while other areas, such as those utilized for timber sales or mineral extraction, would not. Coordination with the OWJ and examination of the management plan for the area will be necessary to determine if **Section 4(f)** should apply to an area of a multiple-use property that would be used by a transportation project.
- J. **Planned Facilities - Section 4(f)** applies to a planned facility when a public entity owns the property and has formally designated and determined it to be significant for park, recreation area, or wildlife and waterfowl refuge purposes. Evidence of formal designation could be the inclusion of the planned facility in an approved City or County Master plan. The key is whether the planned facility is presently publicly owned, presently formally-designated for **Section 4(f)** purposes, and presently significant. A simple expression of interest in developing a property, or a plan to purchase privately held land to develop a property does, not suffice to consider the property to be a planned facility.
- K. **Jointly Planned Rails to Trails Projects** - A *January 1996 MOU between the Florida Department of Environmental Protection (FDEP) and FDOT and Concurred in by FHWA* established an automatic joint planning provision for planned Rails to Trails project corridors which may intersect or exist alongside a highway corridor. In accordance with this MOU, FDEP and FDOT will jointly plan Rail to Trail projects which may coincide with a planned transportation project to accommodate the recreational and highway objectives of both agencies. When such planning occurs, the requirements of **Section 4(f)** are satisfied.

### 7.2.3.2 Leases and Easements

A property may be considered publicly owned for **Section 4(f)** purposes if the land is being managed for a significant recreational or refuge purposes under a long-term lease or easement. The following should be considered when examining the applicability of

**Section 4(f)** to a property subject to lease or easement: the purpose, terms, property management, parties involved, termination clauses, and other restrictions as set forth in the lease or easement agreement.

Additionally, FDOT has easements, such as Right of Way (ROW) easements, for transportation facilities that cross through property protected under **Section 4(f)**. If there is an existing ROW easement, the property is already part of the transportation facility due to the easement encumbrance, and is not subject to **Section 4(f)** protection.

If a project is proposing a new easement across an existing **Section 4(f)** property, then it could constitute a “use” within the meaning of **Section 4(f)** and require a **Section 4(f)** determination. For historic properties, existing property lines may be irrelevant because historic property boundaries are established based upon historical records, settings, and characteristics of the historic or archaeological site. As a result, even within existing ROW or easement, a **Section 4(f)** approval may be required for transportation improvements which involve historic properties.

Any questions on **Section 4(f)** applicability to a lease or easement should be referred to OEM and the Office of General Counsel (OGC).

### 7.2.3.3 Tribal Properties and Section 4(f)

Federally recognized Indian Tribes are sovereign nations and the lands owned by them are not considered publicly owned within the meaning of **Section 4(f)**. If a potential **Section 4(f)** resource is identified on tribal lands that serves a public function, the property will need to be evaluated for **Section 4(f)** applicability. In cases involving tribal trust lands, the Bureau of Indian Affairs (BIA) should be contacted to determine if they should participate in any required consultations.

Also, Traditional Cultural Places (TCPs) may be subject to the provisions of **Section 4(f)** if the TCP is eligible for listing in or is listed in the NRHP [see **FHWA Section 4(f) Policy Paper**, Question 6]. SHPO will also comment on TCP involvement. For the requirements related to TCPs under **Section 106**, see [Part 2, Chapter 8, Archaeological and Historical Resources](#).

Questions regarding whether tribally owned property is protected under **Section 4(f)** and how to proceed should be referred to the PDC and the OGC.

### 7.2.4 Overview of Section 4(f) Analysis

**Section 4(f)** analysis includes the following:

1. Identification of properties which may represent **Section 4(f)** resources.
2. Initial consultations between the FDOT District and the appropriate OWJ regarding potential **Section 4(f)** properties, including determinations of significance. If the property is not significant, then **Section 4(f)** does not apply.

3. Identification and documentation of the findings of “use” or “no use” of **Section 4(f)** resources. When there is no use of lands protected by **Section 4(f)**, then the project does not require an approval under **Section 4(f)**.
4. Documentation of the appropriate **Section 4(f)** approval option when an approval under **Section 4(f)** is required.

FDOT recognizes the following types of documentation for **Section 4(f)** applicability and approval (see [Section 7.3](#)):

- No **Section 4(f)** Involvement – there are no existing or formally planned **Section 4(f)** properties within or adjacent to the project area, or properties exist but there is no temporary or permanent acquisition of land from a potentially protected resource and no meaningful proximity impacts to the property.
- No Use Determinations – **Section 4(f)** properties exist within or adjacent to the project area, but the proposed project has no use of the properties within the meaning of **Section 4(f)** (see [Section 7.3.2](#), [Section 7.3.4](#), and [Section 7.3.5.4](#)).
- Exceptions and Exemptions – situations and circumstances regarding specific actions or properties that are not subject to the requirements of **Section 4(f)** when meeting the conditions identified in the Statutes, regulations, or policies as discussed in [Section 7.3.3](#).
- *de minimis* – a **Section 4(f)** use that is so inconsequential that it will have no adverse effects on the attributes, features, or activities of the **Section 4(f)** property.
- Programmatic Evaluations – a timesaving, procedural option that allows transportation officials to approve certain minor uses of **Section 4(f)** properties for projects meeting specific conditions without completing an individual **Section 4(f)** evaluation.
- Individual Evaluation – the standard, full **Section 4(f)** evaluation and approval that is prepared when the use of a **Section 4(f)** property does not meet the Programmatic Evaluation criteria and exceeds the definition of a *de minimis* impact.
- Constructive Use – occurs when the transportation project does not incorporate land from a **Section 4(f)** property, but the project’s proximity impacts are so severe that the protected activities, features, or attributes that qualify the property for protection under **Section 4(f)** are substantially impaired. Substantial impairment occurs only when the protected activities, features, or attributes of the property are substantially diminished. Pursuant to the **NEPA Assignment MOU**, if a determination of Constructive Use is anticipated on a project, the District must notify OEM to initiate consultation with FHWA. Both the applicability and approval for a Constructive Use can only be made in consultation with FHWA Headquarters in Washington D.C. For more detail on Constructive Use, see [Section 7.3.5.4](#).

## 7.2.5 Coordination with the Officials with Jurisdiction

The **Federal-Aid Highway Act of 1968** requires consultation with the OWJ over the **Section 4(f)** property when the use of a protected property is anticipated and/or more information is needed regarding the purpose and function of a property. The OWJ is the federal, state, or local agency official that owns or administers a **Section 4(f)** property or represents an agency on matters related to the property.

For public parks, recreation areas, and wildlife and waterfowl refuges, the OWJ(s) are the official(s) of an agency or agencies that own and/or administer the property in question and who are empowered to represent the agency on matters related to the property.

The OWJ for historic sites is the SHPO/THPO (in some cases the NPS and the ACHP may also serve as OWJs) and significance for historic sites is based upon listing in, or eligibility for listing in the NRHP. Most coordination with the OWJ for historic sites (including archaeological sites) within the **Section 4(f)** process takes place parallel to the coordination required by **Section 106**. **Sections 106 and 4(f)** are different laws which require different findings and include different considerations. However, decisions and findings made while following one of these processes often serve to guide the decisions and findings of the other.

When coordinating with the OWJ(s) regarding a project and its impacts, FDOT must have a clear understanding of the property, its designated purpose, and its management plan. Coordination with the OWJ(s) will confirm the purpose of the property and its significance to the community, and whether the property is protected under **Section 4(f)**. If the property is determined to meet the criteria for protection under **Section 4(f)**, additional coordination with the OWJ will follow as appropriate.

When requesting a determination of significance from the OWJ over the property, FDOT must define the term significance for the purposes of **Section 4(f)**. Therefore, when providing the coordination letter to the OWJ for parks, recreation areas, and wildlife and waterfowl refuges, the FDOT District must include the following statement:

*Significance means that in comparing the availability and function of the [name of the recreation area, park or wildlife and waterfowl refuge area] with the [appropriate function of the recreational, park and refuge] objectives of that community, the land in question plays an important role in meeting those objectives.*

In the absence of a determination of significance from the OWJ, FDOT presumes the property to be significant and the District continues the **Section 4(f)** process [**23 CFR § 774.11(c)**]. All determinations of significance, whether stated or presumed, are subject to review by OEM for reasonableness pursuant to **23 CFR § 774.11**. When OEM changes a determination of significance, the basis for this change will be included in the project file and discussed in the environmental documentation for the proposed action.

For historic and archaeological sites, the determinations of significance for historic properties generally occurs when the OWJ, FDOT, and other appropriate consulting

parties agree with the findings contained in the **Cultural Resources Assessment Survey (CRAS) Report** completed pursuant to the requirements of **Section 106** of the **NHPA**. If the OWJ does not respond within 30 days of the receipt of the **CRAS Report**, FDOT may presume that the OWJ has concurred with the findings made in the report [**36 CFR § 800.3(c)(4)**]. The **CRAS Report** identifies the historic resources which are either listed in or eligible for listing in the NRHP, and are therefore considered significant under **Section 4(f)**.

Once FDOT has determined there is a use of land protected by **Section 4(f)** by the proposed transportation project, the District can work with the OWJ over the property to identify measures to avoid using land from the property or to minimize harm to the protected resource resulting from the “use” of the property. The District will prepare and send a letter (on FDOT letterhead) to the OWJ for concurrence. This letter includes a description of the property and its significance, anticipated impacts resulting from the project’s use of the protected property, the FDOT’s determination that **Section 4(f)** applies to the use of the property, and any measures to minimize harm to the protected resource. The agreed upon minimization/mitigation measures will be incorporated as environmental commitments in the **NEPA** document (see [Part 2, Chapter 22, Commitments](#)). After the OWJ has been notified of the “use”, the District must continue coordination to identify measures to minimize/mitigate harm to the property and to determine which of the available approval options is the most appropriate analysis for the action. OEM is available to review draft OWJ correspondence prepared by the District or LAP agencies. Drafts may be sent to the PDC for review.

### **7.2.6 Standard Statement for NEPA Assignment and Section 4(f) Documentation**

Technical memorandums, reports or other documents prepared for a project in which OEM serves as the Lead Agency under the **NEPA** Assignment Program must include the following 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 December 14, 2016 and executed by FHWA and FDOT.*

## **7.3 PROCEDURE**

The procedural and documentation requirements outlined below are to be used for **Section 4(f)** analysis and file documentation.

### **7.3.1 Determination of Applicability Process and Documentation**

#### **7.3.1.1 Initial Section 4(f) Review**

To initiate the assessment of potential **Section 4(f)** involvements, District environmental staff should gather preliminary information to examine the following questions:



- Will the transportation project require funds, approvals, or permits from any agency of the USDOT (primarily FHWA, FRA, FTA, and FAA)?
- Are there any **Section 4(f)** properties as defined in **23 CFR § 774.11** within or adjacent to the project area that have been determined to be significant?
- Is it anticipated that the project will require any temporary occupancy or permanent incorporation of a **Section 4(f)** property during the project?
- Is it anticipated that the project's proximity impacts, as defined in **23 CFR § 774.15**, could substantially impair the protected activities, features, or attributes that qualify the property for protection under **Section 4(f)** in a way that would meaningfully reduce or eliminate the value of the property in terms of its **Section 4(f)** purpose and significance?

If the project does not require funding or approvals by an agency of the USDOT, then the project will not need an approval pursuant to **Section 4(f)**. If the USDOT agency is any agency other than OEM (as set forth in the **NEPA Assignment MOU**), then District staff must consult with the appropriate USDOT agency to determine the applicability of **Section 4(f)** to the project and, if it is applicable, the appropriate approval option. Occasionally, state-only projects are reconsidered for federal (USDOT) funding during project development. When this occurs, consideration of the requirements of **Section 4(f)** must be included in the PD&E process for the proposed project.

When there are no **Section 4(f)** properties present, within, or adjacent to the project area or when a protected property is adjacent to the proposed project and a determination of "No Section 4(f) Involvement" or a "Section 4(f) No Use" is made by the District, the basis for this determination must be noted in the file and summarized in the Environmental Document.

As appropriate, this record must include:

- (1) the determination that there will be no acquisition of land from the protected property on either a temporary or permanent basis,
- (2) that there will be no meaningful proximity impacts to protected properties,
- (3) no impacts to the access and usage of protected properties, and
- (4) no temporary occupations of the protected properties.

Prior to making this determination, the evaluation of other issues that could impact the potential to use any **Section 4(f)** resources should be completed. If the determination of no involvement or no use becomes complex, the District will utilize either the **Section 4(f) Determination of Applicability Form, Form No. 650-050-45** or the **Section 4(f) No Use Determination, Form No. 650-050-49** (as appropriate) to support the determination for projects being documented as Type 1 Categorical Exclusions (CEs). In these cases, indicate No Involvement or No Use on the **Type 1 Categorical Exclusion Checklist** and attach the appropriate documentation with the finding of non-applicability of **Section 4(f)**

from OEM, or after the submission and OEM concurrence with a **Section 4(f) No Use Determination, Form No. 650-050-49** or, when appropriate, **Section 4(f) Exceptions/Exemptions Determination, Form No. 650-050-48**.

In cases where **Section 4(f)** has been determined not applicable for the approval of the proposed project, the following standard statement should be included in the appropriate location in the Environmental Document for projects processed as an Environmental Impact Statement (EIS) or Environmental Assessment (EA) with Finding of No Significant Impact (FONSI) along with the appropriate documentation and information supporting the determination that **Section 4(f)** is not applicable:

*The proposed project [Project ID number and name] does not involve a use of any property that qualifies for protection under Section 4(f) of the USDOT Act of 1966, as amended.*

For proposed projects processed as CE type projects, the standard statement should be included in the Environmental Document and supplemented, as appropriate, in the justification for a no involvement or a no use finding as described above in points 1 through 4 above, or by attaching the appropriate **Section 4(f)** determination of applicability document, such as the No Use Determination and the Exemptions and Exceptions to **Section 4(f)** forms as discussed in [Section 7.3.2](#).

If the status of a property in terms of **Section 4(f)** changes, or if a permanent acquisition or a temporary occupation of a protected property is found to be necessary subsequent to the original No **Section 4(f)** Involvement or No **Section 4(f)** Use determination, the District must notify the PDC and develop the proper documentation for the approval of the project. Similarly, if subsequent analysis indicates that there may be meaningful proximity impacts to the property resulting from the project, the District must notify the PDC.

### 7.3.1.2 ETDM Screening and Section 4(f) Determination of Applicability

Within FDOT's Efficient Transportation Decision Making (ETDM) process, certain projects qualify for screening through the Environmental Screening Tool (EST). For projects not qualifying for screening through EST, FDOT environmental staff has the option to review the project against the geographic information contained in the Area of Interest (AOI) Tool in order to determine if the proposed project may impact potential **Section 4(f)** protected properties. For more information on ETDM and qualifying projects for screening, see FDOT's [ETDM Manual, Topic No. 650-000-002](#).

Often, it is not difficult to determine if a property is protected by **Section 4(f)**. The proposed "use" and level of **Section 4(f)** evaluation may likewise be obvious. In these cases, a **Section 4(f)** Determination of Applicability (DOA) is not necessary. A **Section 4(f)** DOA is used if the criteria that qualify a property for protection under **Section 4(f)**, or the proposed "use" of the property are in question. When determining the **Section 4(f)** applicability, FDOT may complete a **Section 4(f) Determination of Applicability Form, Form No. 650-050-45** to assist in determining the appropriate level of **Section 4(f)**

evaluation or to document the applicability or inapplicability of **Section 4(f)** for certain alternatives or locations. The form directs the District to provide information about the property and the relationship of the project to the property, including a description of the resource, the characteristics and functions of the property and potential “uses” of the resource. The form is signed by the form preparer and the District Environmental Manager prior to submission to OEM. OEM will then concur with the District determination, request additional information, or provide a determination.

### 7.3.1.3 Resource Mapping for Section 4(f) Determinations of Applicability and Approvals

Separate from the ETDM Screening, the boundaries and attributes of a **Section 4(f)** property must be mapped. As it is crucial to clearly depict the relationship between the project and the potential **Section 4(f)** resource, a map of each resource must be created regardless of the level of **Section 4(f)** documentation. The map should be at an appropriate scale to clearly depict the relationship between the resource and the project. When preparing a resource map, the following items should be shown and clearly labeled:

- Boundaries of any potential **Section 4(f)** properties in or adjacent to the project area (when identifying the historic boundaries, the **Section 4(f)** resource’s boundaries, the current ownership boundaries may differ);
- Location of elements (activities, features, and attributes) contributing to the significance of each potential **Section 4(f)** property;
- Locations, types of use, and the area of the potential **Section 4(f)** property that will be impacted [existing and proposed ROW lines, removal of **Section 4(f)** protected features, and so forth], measured and depicted in acres if known.

### 7.3.2 Section 4(f) Applicability and Section 4(f) No Use Determinations

Districts must include the determination as to whether **Section 4(f)** does or does not apply in the project files and in the appropriate Environmental Document. The record of this determination must include sufficient documentation to support it. The complexity and detail necessary to achieve this varies based upon the complexity of the project, the resources involved, and the relationships between the two.

As with the discussion in [Section 7.3.1.1](#) on findings of no **Section 4(f)** involvement, the supporting documentation may be simple to present, or it may be more complex requiring detailed maps or the citing of passages from the regulations. In all cases, the supporting documentation must be clear and must present sufficient information to show that **Section 4(f)** does or does not apply.

A “No **Section 4(f)** Use” determination is one where a project has no permanent acquisition of land from a **Section 4(f)** property; no temporary occupancies of land that are adverse in terms of the statute’s preservation purpose; and no proximity impacts which significantly impair the protected functions of the property. This determination is

similar to the determination of no **Section 4(f)** involvement, but it usually requires more detailed or nuanced supporting information and documentation.

The determination required for this finding is documented by:

1. Completing the **Section 4(f) No Use Determination, Form No. 650-050-49** or receipt of a finding of the non-applicability of **Section 4(f)** from OEM after the submission of a completed **Section 4(f) Determination of Applicability Form, Form No. 650-050-45** to the PDC.
2. Including all related communication with the OWJ.
3. An explanation as to why **Section 4(f)** does not apply to the project or the property involved. This will require, at a minimum:
  - a. the inclusion of a map or maps of sufficient scale to show the relationship of the proposed action and existing facility including the important activity areas, contributing features, and the intrinsic attributes of the protected property including the proposed and existing ROW and the existing boundaries of the property in question; if there are none, then provide that information;
  - b. a clear discussion of the planned project activities (both temporary and permanent) and necessary structural characteristics (bridges, retaining walls, silt fences, etc.) in relation to the important activity areas and facilities on the property, including placing project activities and structural characteristics on the maps as appropriate;
  - c. a discussion of the property as it functions currently and as it will function once the project is completed, including discussions of ownership and any leases, covenants, restrictions, conveyances, encumbrances, and so forth, which may impact the property and its function, any terrain or other factors which limit or enhance all, or certain areas of the property, and differentiate between the primary functions of the property and any secondary functions, as appropriate and characterize the general or specific setting of the property.
4. If applicable, provide and cite the appropriate policy or guidance associated with the proposed activity or the property in question which was considered in recommending a “No Use” determination (note: most of these policies can be found in the **FHWA Section 4(f) Policy Paper** and other documents which can be accessed through the FDOT [Section 4\(f\) References and Guides](#) web page; an example would be citing and quoting Question 28A of the **FHWA Section 4(f) Policy Paper** when bridging a recreational area). Then, provide sufficient supporting documents as to how the identified policy or guidance statement referenced applies to the action and property in question. When required, provide any appropriate coordination and concurrence documents from the OWJ.

5. Include the identification of any additional **Section 4(f)** approvals or determinations for the proposed project.

The **Section 4(f) No Use Determination, Form No. 650-050-49** or the **Section 4(f) Determination of Applicability Form, Form No. 650-050-45** and supporting documentation are sent to OEM for concurrence or for OEM's finding. Once completed, the appropriate form must be saved in the StateWide Environmental Project Tracker (SWEPT) project file. When completing the **Type 1 Categorical Exclusion Checklist** check the "No Use" option for **Section 4(f)** and follow the instructions provided in the form. For Type 2 CEs, EAs, and EISs the determination is also included in the **Section 4(f)** section of the Environmental Document.

### 7.3.3 Exceptions and Exemptions to Section 4(f) Approval

There are multiple exceptions and exemptions to the requirement for a **Section 4(f)** approval. Most of these are included in the regulations implementing **Section 4(f)** at **23 CFR Part 774** (revised November 2018). In addition, many exceptions and exemptions are a matter of FHWA policy as reflected in the **FHWA Section 4(f) Policy Paper**. For the purposes of documenting the applicability or inapplicability of **Section 4(f)** for FDOT projects under these exemptions and conditions, the appropriate legislative, regulatory, or procedural provision or provisions, must be referenced on the **Section 4(f) Exceptions/Exemptions Determination, Form No. 650-050-48** or the **No Section 4(f) No Use Determination, Form No. 650-050-49**, as appropriate.

In order for a project and/or resource to be eligible for a **Section 4(f)** Exception, the project and/or resource must meet the criteria defined within the regulation or the Statutes. The Administration (FDOT) has identified various exceptions under **23 CFR § 774.13** to the requirement for **Section 4(f)** approval. These exceptions include, but are not limited to:

- a. The use of historic transportation facilities in certain circumstances:
  1. common post-1945 concrete or steel bridges and culverts that are exempt from individual review under **54 U.S.C. § 306108** (see [Part 2, Chapter 7, Archaeological and Historic Resources](#) for specific information on the Program Comment related to the Post-1945 common historic bridges), and
  2. improvement of railroad or rail transit lines that are in use or were historically used for the transportation of goods or passengers, including, but not limited to, maintenance, preservation, rehabilitation, operation, modernization, reconstruction, and replacement of railroad or rail transit line elements, except for
    - i. stations;
    - ii. bridges or tunnels on railroad lines that have been abandoned, or transit lines not in use, over which regular service has never operated, and that have not been

- railbanked or otherwise reserved for the transportation of goods or passengers; and
- iii. historic sites unrelated to the railroad or rail transit lines.
3. Maintenance, preservation, rehabilitation, operation, modernization, reconstruction, or replacement of historic transportation facilities, if the Administration concludes, as a result of the consultation under **36 CFR § 800.5**, that:
- i. such work will not adversely affect the historic qualities of the facility that caused it to be on or eligible for the NRHP, or this work achieves compliance with **Section 106** through a program alternative under **36 CFR § 800.14**; and
  - ii. the OWJs over the **Section 4(f)** resource have not objected to the Administration conclusion that the proposed work does not adversely affect the historic qualities of the facility that caused it to be on or eligible for the NRHP, or the Administration concludes this work achieves compliance with **54 U.S.C. § 306108 (Section 106)** through a program alternative under **36 CFR § 800.14**.
- b. Archeological sites that are on or eligible for the NRHP when:
1. the Administration (FDOT) concludes that the archeological resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place. This exception applies both to situations where data recovery is undertaken and where the Administration (FDOT) decides, with agreement of the official(s) with jurisdiction, not to recover the resource; and
  2. the SHPO/THPO or appropriate Tribes over the **Section 4(f)** resource have been consulted and have not objected to the Administration (FDOT) finding in paragraph (b)(1) of this section.
- c. Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites that are made, or determinations of significance that are changed, late in the development of a proposed action. With the exception of the treatment of archeological resources in **23 CFR § 774.9(e)** (see next paragraph), the Administration (FDOT) may permit a project to proceed without consideration under **Section 4(f)** if the property interest in the **Section 4(f)** land was acquired for transportation purposes prior to the designation or change in the determination of significance and if an adequate effort was made to identify properties protected by **Section 4(f)** prior to acquisition. However, if it is reasonably foreseeable that a property would qualify as eligible for the NRHP prior to the start of construction, then

the property should be treated as a historic site and does not qualify for the **Section 4(f)** exception.

**Section 4(f)** may apply to archeological sites discovered during construction, as set forth in **23 CFR §774.11(f)**. In such cases, the **Section 4(f)** process will be expedited, and any required evaluation of feasible and prudent avoidance alternatives will take account of the level of investment already made. The review process, including the consultation with other agencies, will be shortened as appropriate.

- d. Temporary occupancies of land that are so minimal as to not constitute a use within the meaning of **Section 4(f)**. The following conditions must be satisfied:
  1. duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land;
  2. scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the **Section 4(f)** property are minimal;
  3. there are no anticipated permanent adverse physical impacts, nor will there be interference with the protected activities, features, or attributes of the property, on either a temporary or permanent basis;
  4. the land being used must be fully restored, i.e., the property must be returned to a condition which is at least as good as that which existed prior to the project; and
  5. there must be documented agreement of the OWJ over the **Section 4(f)** resource regarding the above conditions.
- e. Projects for the Federal lands transportation facilities described in **23 U.S.C. § 101(a)(8)**.
- f. Certain trails, paths, bikeways, and sidewalks, in the following circumstances:
  1. trail-related projects funded under the Recreational Trails Program, **23 U.S.C. § 206(h)(2)**;
  2. national Historic Trails and the Continental Divide National Scenic Trail, designated under the **National Trails System Act, 16 U.S.C. §§ 1241-1251**, with the exception of those trail segments that are historic sites any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the NRHP. The term includes properties of traditional religious and cultural

importance to an Indian tribe that are included in, or are eligible for inclusion in the NRHP (**23 CFR § 774.17**);

3. trails, paths, bikeways, and sidewalks that occupy a transportation facility ROW without limitation to any specific location within that ROW, so long as the continuity of the trail, path, bikeway, or sidewalk is maintained; and
  4. trails, paths, bikeways, and sidewalks that are part of the local transportation system and which function primarily for transportation.
- g. Transportation enhancement activities, transportation alternatives projects, and mitigation activities, where:
1. the use of the **Section 4(f)** property is solely for the purpose of preserving or enhancing an activity, feature, or attribute that qualifies the property for **Section 4(f)** protection; and
  2. the OWJ over the **Section 4(f)** resource agrees in writing to paragraph (g)(1) of this section.

Exemptions from **Section 4(f)** approval are identified within **23 CFR § 774.11** and in **Sections 1303 and 11502 of the Fixing America's Surface Transportation (FAST) Act of 2015**.

Exemptions under the regulations and the **FAST Act**, as well as those resources which are exceptions (that is, excluded) from the exemptions are identified below:

1. **23 CFR § 774.11(e)(2)** - The interstate highway system is exempt from being treated as a historic resource under **Section 4(f)** with the exception of those individual elements of the Interstate System formally identified for **Section 4(f)** protection on the basis of national or exceptional historic significance.
  - a. Interstate highway-related facilities in Florida determined historically significant and therefore not exempt under **Section 4(f)** are:
    - (i) I-275 Bob Graham/Sunshine Skyway Bridge
    - (ii) I-75 Alligator Alley - Milepost range 19.6-49.3
    - (iii) I-75 Snake Wall
    - (iv) I-95 Myrtle Avenue Overpass



2. **23 CFR § 774.11(h)** - When a property formally reserved for a future transportation facility temporarily functions for park, recreation, or wildlife and waterfowl refuge purposes in the interim, the interim activity, regardless of duration, will not subject the property to **Section 4(f)**.
3. **23 CFR § 774.11 (i)** - When a property is formally reserved for a future transportation facility before or at the same time a park, recreation area, or wildlife and waterfowl refuge is established, and concurrent or joint planning or development of the transportation facility and the **Section 4(f)** resource occurs, then any resulting impacts of the transportation facility will not be considered a use as defined in **23 CFR § 774.17**.
  - (1) Formal reservation of a property for a future transportation use can be demonstrated by a document of public record created prior to or contemporaneously with the establishment of the park, recreation area, or wildlife and waterfowl refuge. Examples of an adequate document to formally reserve a future transportation use include:
    - (i) A map of public record that depicts a transportation facility on the property;
    - (ii) A land use or zoning plan depicting a transportation facility on the property; or
    - (iii) A fully executed real estate instrument that references a future transportation facility on the property.
  - (2) Concurrent or joint planning or development can be demonstrated by a document of public record created after, contemporaneously with, or prior to the establishment of the **Section 4(f)** property. Examples of an adequate document to demonstrate concurrent or joint planning or development include:
    - (i) A document of public record that describes or depicts the designation or donation of the property for both the potential transportation facility and the **Section 4(f)** property; or
    - (ii) A map of public record, memorandum, planning document, report, or correspondence that describes or depicts action taken with respect to the property by two or more governmental agencies with jurisdiction for the potential transportation facility and the **Section 4(f)** property, in consultation with each other.

### 7.3.3.1 Documentation and Coordination

An Exception/Exemption or a No Use determination by the District requires OWJ concurrence or no objection, as appropriate. The District must provide all

Exception/Exemption determinations and all No Use determinations to OEM for concurrence.

If a project is eligible for a **Section 4(f)** Exception/Exemption, the District completes the **Section 4(f) Exceptions/Exemptions Determination, Form No. 650-050-48** or the **No Section 4(f) No Use Determination, Form No. 650-050-49** and, if required by the specific exception, exemption, or exclusion must include a letter from the OWJ concurring with the conditions and actions that qualify the project for the associated exception as well as the appropriate finding from the District.

The complete **Section 4(f) Exceptions/Exemptions Determination, Form No. 650-050-48** or the **No Section 4(f) No Use Determination, Form No. 650-050-49** and documentation will be sent to OEM for concurrence. Once complete the **Section 4(f) Exceptions/Exemptions Determination, Form No. 650-050-48** or the **No Section 4(f) No Use Determination, Form No. 650-050-49** and documentation must be saved in the SWEPT project file. When completing the **Type 1 Categorical Exclusion Checklist** check the Exception/Exemption option for **Section 4(f)** and follow the instructions provided in the form. For a Type 2 CE, check the appropriate option for **Section 4(f)** and follow the instructions provided in the **Type 2 Categorical Exclusion Determination Form**. For EAs and EISs, the determination is also included in the **Section 4(f)** section of the Environmental Document.

### 7.3.4 “Use” under Section 4(f)

Once the District has determined the resource is protected under **Section 4(f)**, the District, in consultation with OEM, must determine whether the project will require a transportation “use” of the protected resource.

The following sections describe uses within the meaning of **Section 4(f)**.

#### 7.3.4.1 Permanent Incorporation

The most common type of use occurs when land from a **Section 4(f)** protected resource is permanently incorporated into a transportation facility, e.g. fee simple purchase. It can include the acquisition of an easement for the maintenance or operation of a transportation facility or a transportation-related facility.

#### 7.3.4.2 Temporary Occupancy

Temporary occupancy is when there is a temporary occupancy for the purpose of project construction-related activities that is adverse in terms of the statute’s preservation purpose. When temporary occupancies meet the conditions listed in **23 CFR § 774.13(d)** the use of the resource does not constitute a use within the meaning of **Section 4(f)**. If the temporary occupancy does not meet the conditions, there is a **Section 4(f)** use and the appropriate **Section 4(f)** approval process must be followed.

### 7.3.4.3 Constructive Use

Constructive use occurs when a transportation project does not incorporate land from **Section 4(f)** property but when the project's proximity impacts are so severe that the protected activities, features, attributes that qualify the protected resource are substantially impaired (see **23 CFR § 15** and [Section 7.3.5.4](#)). In cases where the District believes that a **Section 4(f)** use may arise due to proximity impacts and there is no acquisition of land from the protected property, the District must inform OEM. Once OEM is informed, FDOT will determine if there is a potential for a substantial impairment to the protected property. If FDOT concludes that such a potential exists, OEM will inform FHWA-Headquarters (HQ) of the circumstances and proceed in consultation with FHWA-HQ in accordance with the **NEPA Assignment MOU**.

### 7.3.5 Section 4(f) Approvals

Except in situations involving a determination of **Section 4(f)** applicability arising from proximity impacts, once FDOT has determined that **Section 4(f)** applies, the District must prepare a *de minimis* finding or a **Section 4(f)** evaluation for submittal to OEM. When coordinating with the OWJ, external agencies or the public, the Districts should copy the PDC on outgoing correspondence.

As set forth in **23 CFR § 774.3**, FDOT **may not approve** the use of land from a significant publicly owned public park, recreation area, wildlife or waterfowl refuge, or any significant historic site unless it determines that:

1. there is no feasible and prudent alternative to the use of land from the property; and
2. the action includes all possible planning to minimize harm (as defined in **23 CFR § 774.17**) to the property resulting from such use; or
3. the use of the property, including any measures to minimize harm (such as avoidance, minimization, mitigation or enhancement), will have a *de minimis* impact on the property.

To receive approval for the use of a property protected by **Section 4(f)**, the District needs to submit one of the following documents to OEM:

1. a *de minimis* impact determination;
2. a programmatic **Section 4(f)** evaluation; or
3. an individual **Section 4(f)** evaluation.

Analyses of the “no prudent and feasible alternative” and the “all possible planning to minimize harm” standards are only required for approval of the individual and programmatic evaluations; it is not required for a *de minimis*.

### 7.3.5.1 The *de minimis* Section 4(f) Analysis

A *de minimis* impact is one that, after taking into account any measures to minimize harm (such as avoidance, minimization, mitigation, or enhancement measures), results in either:

1. a determination that the project would not adversely affect the activities, features, or attributes qualifying a park, recreation area, or refuge for protection under **Section 4(f)**; or
2. a finding under **36 CFR § 800**, that no historic property is affected by the project or that the project will have “no adverse effect” on the historic property in question.

The impacts of a transportation project on a park, recreation area, or wildlife or waterfowl refuge that qualifies for **Section 4(f)** protection may be determined to be *de minimis* if the transportation use of the **Section 4(f)** property, together with any measures to minimize harm, such as impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project, do not adversely affect the activities, features, or attributes that qualify the resource for protection under **Section 4(f)**.

In reaching an approval of the use of a **Section 4(f)** protected property, the project record must reflect that the following steps were completed in the order set forth in **23 CFR § 774.5(b)** and as outlined below:

1. The OWJ must be notified of the intent to pursue a *de minimis* and consulted on measures to minimize harm. For non-historic properties, the OWJ will also be informed that there will be an opportunity for the public comment on the project in relation to the protected resource.
2. For parks, recreation areas, or wildlife and waterfowl refuges, an opportunity for public review and comment must be provided [**23 CFR § 771.111(h)(2)(viii)** and **774.5(b)(2)(i), (ii)**]. For a *de minimis* determination no additional public involvement outside the regular **NEPA** process is required ([Part 1, Chapter 11, Public Involvement](#)). If a proposed action does not normally require public involvement, such as for certain minor projects covered by a Type 1 CE, an opportunity for the public to review and comment on the proposed *de minimis* impact determination must be provided as appropriate to the resource:
  - a. for historic and archaeological properties, the opportunity for the public to review and comment on the effects of the project on the protected activities, features, or attributes of the **Section 4(f)** property occurs within the **Section 106** process, as appropriate, or
  - b. for non-historic properties the opportunity for public comment should be appropriate to the nature of the resource and the public it serves. For most projects, this will be completed through the **NEPA** public involvement process. In cases where such opportunities do not exist or where a different method of notifying the public would be more appropriate (such as efforts directed to local bicycling groups for a project involving a bike trail); and

3. The OWJ, after being informed of the public comments and FDOT's intent to make a *de minimis* impact finding, must concur in writing that the project (including all measures to mitigate and minimize harm) will not adversely affect the activities, features, or attributes that qualify the property for protection under **Section 4(f)** [**23 CFR § 774.5(b)(2)** and **23 CFR § 774.17**].

In the case of historic properties, the SHPO/THPO must concur in writing to an FDOT finding of “no affects to historic properties” or “no adverse effects” to the property in question. FDOT includes its intent to pursue a *de minimis* approval in the signature block of the effects finding letter provided to the SHPO/THPO and in **Stipulation VIII of the Section 106 Programmatic Agreement (Section 106 PA)** executed between the ACHP, FHWA, SHPO, and FDOT on March 16, 2017.

4. Once these steps are completed, the District can submit the **Section 4(f) de minimis Determination for Historic Sites, Form No. 650-050-46** or, as appropriate, the **Section 4(f) de minimis Determination for Parks, Recreation Areas and Wildlife or Waterfowl Refuges, Form No. 650-050-47**.

Since a *de minimis* approval is an approval of the use of a **Section 4(f)** property, FDOT can only finalize the approval when it provides its approval of the project. However, OEM will inform the District of the appropriateness of a *de minimis* approval for the proposed project.

### 7.3.5.1.1 *de minimis* Consultation

To comply with the requirements for a *de minimis* approval for a project, follow the 4 steps outlined in [Section 7.3.5.1](#).

For parks, recreation areas, and wildlife and waterfowl refuges, the District must notify the OWJ that the activities, features, and attributes qualifying the property for **Section 4(f)** protection will be the basis for a *de minimis* impact determination [**23 CFR § 774.5(b)**]. The OWJ must concur that the project will not adversely affect the activities, features, or attributes that make the property eligible for **Section 4(f)** protection prior to the District seeking OEM concurrence with the *de minimis* finding.

The OWJ concurrence **must be in writing** [**23 CFR § 774.5(b)(2)(ii)**]. This concurrence can be in the form of a signed letter on agency letterhead, signatures in concurrence blocks on transportation agency documents or agreements provided via e-mail, or by other methods deemed acceptable by OEM.

For historic sites, the consulting parties identified in **36 CFR Part 800** must be afforded the opportunity to comment on the effects of the proposed project on historic resources. The OWJ over the historic property (usually the SHPO or THPO) must be informed of the intent to make a *de minimis* impact determination and must concur with a finding of “no historic properties affected” or “no adverse effect” to the property in question in accordance with **36 CFR Part 800**.

The **Section 106 PA** referenced above, programmatically informs the SHPO and the ACHP that such a finding may result in FDOT approving the use of the property as *de*

*minimis*. In addition, the signature block provided for SHPO concurrence on effect findings, also provides this statement (see [Part 2, Chapter 8, Archaeological and Historic Resources](#)).

Because neither the tribes nor the NPS are signatories to the **Section 106 PA**, in cases where either a THPO or a tribal **Section 106** official is acting as an OWJ (or in cases where the NPS is acting as an OWJ) the District and OEM, if participating, must ensure that those officials are informed in writing that a concurrence with either a “no affects to historic properties” or a “no adverse effects” to the historic property in question means that FDOT may pursue a *de minimis* approval for the use of those properties. As with other *de minimis* approvals, the concurrence of these officials to those findings must be in writing.

### 7.3.5.1.2 Public Involvement Requirements

For parks, recreation areas, or wildlife and waterfowl refuges, an opportunity for public review and comment must be provided [**23 CFR §774.5(b)(2)(i), (ii)**]. For a *de minimis* determination no additional public involvement outside the regular **NEPA** process is required ([Part 1, Chapter 11, Public Involvement](#)). However, during public involvement for the project, the public’s opinion must be specifically requested on the effects of the proposed action on the activities, features, and attributes. If a proposed action does not normally require public involvement, such as for certain minor projects covered by a Type 1 CE, an opportunity for the public to review and comment on the proposed *de minimis* impact determination must be provided as appropriate to the resource and prior to the *de minimis* and Type 1 CE approvals. In all cases, the public opportunity for review and comment must occur prior to the formal opinion of the OWJ.

Compliance with **36 CFR Part 800** satisfies the public involvement and agency coordination requirements for *de minimis* impact findings for historic and archeological properties. To document the public involvement activities for **36 CFR Part 800** the *de minimis* determination will not occur until after the public hearing and comment period for Type 2 CEs, EAs, and EISs. For lower level Type 1 CEs that involve *de minimis* approvals for historic properties, the **Section 106** process must be completed to make the *de minimis* determination and the *de minimis* approval coincides with the Type 1 CE approval.

### 7.3.5.1.3 Documenting the *de minimis* determination

Once it has been determined that the project is eligible for a **Section 4(f) de minimis** finding, the District completes the **Section 4(f) de minimis Determination for Historic Sites, Form No. 650-050-46** or the **Section 4(f) de minimis Determination for Parks, Recreation Areas and Wildlife or Waterfowl Refuges, Form No. 650-050-47** and submits it to OEM for concurrence.

### 7.3.5.1.4 Approval and Documentation Process

The District submits the *de minimis* Determination form and documentation to OEM for concurrence. Once OEM concurs and signs the determination, the final **Section 4(f) de**

***de minimis Determination for Historic Sites, Form No. 650-050-46*** or ***Section 4(f) de minimis Determination for Parks, Recreation Areas and Wildlife or Waterfowl Refuges, Form No. 650-050-47*** and its attachments must be uploaded to the SWEPT project file.

When completing the ***Type 1 Categorical Exclusion Checklist***, check the *de minimis* option for ***Section 4(f)*** and follow the instructions provided in the form. When completing the ***Type 2 Categorical Exclusion Determination Form*** check the appropriate option for ***Section 4(f)*** and follow the instructions provided in the form. For EAs and EISs, the determination is included in the ***Section 4(f)*** portion of the Environmental Document. In addition, any mitigation measures that were relied upon to reach a *de minimis* determination will be documented as commitments in the Environmental Document in accordance with [Part 2, Chapter 22, Commitments](#).

### 7.3.5.2 Programmatic Section 4(f) Evaluations

Programmatic ***Section 4(f)*** evaluations are administrative alternatives to completing an Individual ***Section 4(f)*** evaluation, but which still require appropriate findings using supporting studies and consultation. Programmatic evaluations are prepared for certain uses of ***Section 4(f)*** property that meet specific criteria as set forth in the conditions and findings sections of the specific programmatic evaluation.

The benefit of using a Programmatic ***Section 4(f)*** is that the conditions set forth for each of these have already received legal sufficiency review and have already been coordinated with the appropriate federal agencies. Therefore, these evaluations normally do not require an individual legal sufficiency review or coordination with the U.S. Department of the Interior (DOI), the U.S. DOA, or the U.S. Department of Housing and Urban Development (HUD). However, if a federal agency has to take specific action under a different federal law such as a DOI approval under ***Section 6(f) of the LWCF***, that federal approval will still be required (see Concurrent Requirements in [Section 7.5](#); also see the discussion of Wild and Scenic Rivers in [Section 7.2.3.1](#)).

The conditions vary among the programmatic types, and generally relate to:

1. the type of project or ***Section 4(f)*** property,
2. the degree of use and impact to the ***Section 4(f)*** property,
3. the evaluation of avoidance alternatives,
4. the establishment of a procedure for minimizing harm to the ***Section 4(f)*** property, and
5. coordination and agreement with the OWJ.

The Districts should coordinate their preparation of any programmatic evaluation with the PDC.

The five Nationwide Programmatic **Section 4(f)** Evaluations provided under **23 CFR § 774.3(d)** are only applicable to FHWA-funded projects. The Programmatic **Section 4(f)** Evaluations are (in order of publication):

1. **Section 4(f) Statement of Determination for Independent Walkways or Bikeway Construction Projects, Form No. 650-050-55**
2. **Programmatic Section 4(f) Evaluation and Approval for FHWA (Federal Aid) Projects that Necessitate the Use of Historic Bridges, Form No. 650-050-50**
3. Final Nationwide **Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites, Form No. 650-050-51**
4. Final Nationwide **Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges, Form No. 650-050-52**
5. **Nationwide Programmatic Section 4(f) Evaluation and Approval for Transportation Projects That Have a Net Benefit to a Section 4(f) Property; Section 4(f) Net Benefit Programmatic for Historic Sites, Form No. 650-050-53, and Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands, and Wildlife & Waterfowl Refuges, Form No. 650-050-54**

The specific applicability criteria and the required analyses for each of these programmatic evaluations can be reviewed by accessing the corresponding publication in the **Federal Register (FR)**. The references section below provides links to the associated **FR** for each programmatic evaluation. Additional information can be found in the **FHWA Environmental Toolkit** linked at the FDOT [Section 4\(f\) References and Guides](#) web page or at the FHWA **Section 4(f)** web page contained in their environmental tool kit. For further information, see [Section 7.6](#) for direct references.

The requirements for each Nationwide programmatic evaluation are also located on the forms associated with the appropriate programmatic evaluation. Should the District have any questions, please contact the PDC.

### **7.3.5.2.1 Programmatic Section 4(f) Evaluations, Submittals, and Coordination**

The Programmatic Evaluation form and documentation are submitted to OEM by the District via the Electronic Review and Comment System (ERC) for concurrence. OEM must review and concur with all Programmatic **Section 4(f)** Evaluations. Once the document has been finalized, the District uploads the evaluation into SWEPT.

The approval of the Programmatic Evaluation is concurrent with the signing and approval of the **NEPA** Environmental Document. Upon approval, the District will send a signed copy of the Programmatic Evaluation to the OWJ.



When completing the **Type 2 Categorical Exclusion Determination Form**, the Programmatic **Section 4(f)** Evaluation is summarized in the **Section 4(f)** section of the document and the Programmatic Evaluation is uploaded into SWEPT and linked to the form.

For EAs and EISs, results of the Programmatic Evaluation are summarized in the **Section 4(f)** section of the draft document and circulated as appropriate to the specific requirements of the draft Environmental Document and the requirements set forth by the specific Programmatic Evaluation. As all alternatives must remain viable until following the public opportunity to comment and the public hearing. The Programmatic Evaluation is approved concurrently and attached to the FONSI or Final Environmental Impact Statement (FEIS). In addition, any mitigation measures or commitments are documented in the Environmental Document and in accordance with [Part 2, Chapter 22, Commitments](#).

The Programmatic **Section 4(f)** Evaluation will include the following standard statement:

*Based upon the criteria and findings required by [insert name of appropriate Programmatic Section 4(f) Evaluation] the proposed [insert project name and number] meets the requirements set forth in Section 4(f) of the USDOT Act of 1966, as amended, that there is no feasible and prudent alternative to the use of [Section 4(f) property] and the proposed action includes all possible planning to minimize harm to the [Section 4(f) property] resulting from such use.*

### 7.3.5.3 Individual Section 4(f) Evaluations

An **Individual Section 4(f) Evaluation** must be completed when a project requires a use of **Section 4(f)** property resulting in greater than a *de minimis* impact and does not meet the conditions of a Programmatic **Section 4(f)** Evaluation (**23 CFR § 774.3**). The **Individual Section 4(f) Evaluation** documents the proposed use of **Section 4(f)** property for all alternatives within a project area.

Based on sufficient analysis, the **Individual Section 4(f) Evaluation** must find:

1. There is no feasible and prudent alternative that completely avoids the use of **Section 4(f)** property; and
2. The project includes all possible planning as defined in **§774.17** to minimize harm to the **Section 4(f)** property resulting from the transportation use [see **23 CFR § 774.3(a)**].

#### 7.3.5.3.1 Outline for Preparing Draft Individual Section 4(f) Evaluations

The **Draft Individual Section 4(f) Evaluation** must provide the analysis of project alternatives and the initial discussion and identification of avoidance, minimization, and mitigation opportunities. The Individual **Section 4(f)** analysis must provide the data which indicates that there is no feasible and prudent alternative which avoids using properties

protected by **Section 4(f)**. Additionally, when there is no prudent and feasible avoidance alternative and there are two or more alternatives that “use” **Section 4(f)** property, the individual evaluation must include a least overall harm analysis.

Draft evaluations should provide a comparative analysis of the various alternatives under consideration and should not include any preferences or recommendations. The draft is used by decision makers to select the preferred alternative. In addition, the evaluation must include an analysis for each project alternative at each **Section 4(f)** property location.

Formatting for the **Individual Section 4(f) Evaluation** is based on FHWA guidance as reflected in the [FHWA Section 4\(f\) Policy Paper](#).

**The Draft Individual Section 4(f) Evaluation must include the following information:**

1. appropriate statements concerning the applicability or non-applicability of **Section 4(f)** to the resources;
2. an identification and description of the relationships of each alternative to each location of **Section 4(f)** protected resources;
3. activities, features and attributes of each **Section 4(f)** property;
4. analysis of impacts to each **Section 4(f)** property by each alternative;
5. records of public involvement activities;
6. results of coordination with the OWJ for each protected property;
7. alternatives considered to avoid using the **Section 4(f)** property, including the analysis of the impacts caused by avoiding the **Section 4(f)** resource;
8. a least overall harm analysis, if appropriate;
9. all measures taken to minimize harm to the resources, including mitigation measures; and
10. comments submitted during the coordination procedures as required by **23 CFR § 774.5** and responses to those comments.

The following standard statement is included for the conclusion of the **Draft Section 4(f) Evaluation**:

*Upon final alternative selection the provision of Section 4(f) and 36 CFR Part 800 (if appropriate) will be fully satisfied.*

### 7.3.5.3.2 Feasible and Prudent Alternatives Analysis for Individual Section 4(f) Evaluations

The intent of the **Section 4(f)** statute is to avoid and, where avoidance is not feasible and prudent, to include all possible planning to minimize the harm caused by the use of the protected resource by the transportation project. When assessing the importance of protecting a **Section 4(f)** property, it is important to consider the relative value of its resources to the preservation purpose of the statute (**23 CFR § 774.17**). An avoidance “alternative analysis” [**23 CFR § 774.3(a) and (c)**] must be performed to determine if there is a feasible and prudent avoidance alternative.

#### 7.3.5.3.2.1 Identifying a Range of Alternatives

A project alternative that avoids one **Section 4(f)** property by using another is not an avoidance alternative; true avoidance alternatives avoid the use of all **Section 4(f)** resources. A feasible and prudent avoidance alternative avoids using **Section 4(f)** property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the **Section 4(f)** property.

The alternative analysis identifies a reasonable range of project alternatives, including those that avoid using **Section 4(f)** property [**FHWA Section 4(f) Policy Paper**]. Depending on the project context, the potential alternatives may include the following:

- Location Alternatives - a location alternative refers to the re-routing of the entire project along a different alignment.
- Alternative Actions - an alternative action could be a different mode of transportation, such as rail transit or bus service, or some other action that does not involve construction such as the implementation of transportation management systems or similar measures.
- Alignment Shifts - an alignment shift is the re-routing of a portion of the project to a different alignment to avoid a specific resource.
- Design Changes - A design change is a modification of the proposed design in a manner that would avoid impacts, such as reducing the planned median width, building a retaining wall, or incorporating design exceptions.

For more information on developing and analyzing alternatives see [Part 2, Chapter 3, Engineering Analysis](#).

#### 7.3.5.3.2.2 Feasible and Prudent Avoidance Analysis

The next step is to determine if each of the identified alternatives are feasible and prudent. “A feasible and prudent avoidance alternative avoids using **Section 4(f)** property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the **Section 4(f)** property” (**23 CFR § 774.17**). If it is determined an avoidance alternative is feasible and prudent and meets the purpose and need of the

project, this alternative must be selected by FDOT, and the **Section 4(f)** evaluation process is complete.

Under **23 CFR § 774.17** an avoidance alternative is not considered feasible if it cannot be built as a matter of sound engineering judgement.

Under **23 CFR § 774.17** an avoidance alternative is not considered prudent if it results in one of the following situations:

- it compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need;
- it results in unacceptable safety or operational problems;
- after reasonable mitigation, it still causes:
  - severe social, economic, or environmental impacts;
  - severe disruption to established communities;
  - severe disproportionate impacts to minority or low-income populations; or
  - severe impacts to environmental resources protected under other federal statutes;
- it results in additional construction, maintenance, or operational costs of an extraordinary magnitude;
- it causes other unique problems or unusual factors; or
- it involves multiple factors as outlined above that, while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude.

For more information on applying the prudent standard, see **Sections 3.3.1 and 3.4** of the **FHWA Section 4(f) Policy Paper** linked to the FDOT [Section 4\(f\) References and Guides](#) web page. If there is more than one alternative that uses **Section 4(f)** property then a Least Overall Harm Analysis of those alternatives is required (see [Section 7.3.5.3.2.4](#)).

### **7.3.5.3.2.3 All Possible Planning to Minimize Harm**

“All possible planning”, as defined under **23 CFR § 774.17**, means all reasonable measures identified in the **Section 4(f)** analysis to minimize harm or mitigate adverse effects to the resource resulting from the “use,” were considered and documented. Impacts to the **Section 4(f)** property should be reduced or eliminated by including mitigation in the analysis. In addition, the mitigation measures are relied upon as part of the comparison of alternatives.

For public parks, recreation areas, and wildlife and waterfowl refuges, the measures to minimize harm may include, but are not limited to: design modifications or design goals; replacement of land or facilities of comparable value and function; or monetary compensation to enhance the remaining property or to mitigate the adverse impacts of the project in other ways. For historic sites, the measures to minimize harm normally serve to preserve the historic activities, features, or attributes of the site as agreed upon by FDOT and the SHPO/THPO, in accordance with the consultation process under **Section 106 (36 CFR Part 800)**.

In evaluating the “reasonableness of measures to minimize harm” under **23 CFR § 774.3(a)(2)**, FDOT will consider the preservation purpose of the statute and the following as described in **23 CFR § 774.17(3)**:

- the views of the OWJ;
- whether the cost of the measures is a reasonable public expenditure in light of the adverse impacts of the project on the **Section 4(f)** property and the benefits of the measure to the property, in accordance with **23 CFR § 771.105(d)**;
- any impacts or benefits of the measures to communities or environmental resources outside of the **Section 4(f)** property.

#### 7.3.5.3.2.4 Least Overall Harm Analysis

Least overall harm analysis is conducted to determine which of the potential feasible and prudent alternatives that “use” a **Section 4(f)** property have the net impact that results in the “least overall harm” in accordance with **23 CFR § 774.3(c)(1)** and “includes all possible planning to minimize harm to **Section 4(f)** property” as required by **23 CFR § 774.3(c)(2)**. Not all uses of **Section 4(f)** property have the same magnitude of impact, and not all **Section 4(f)** properties are of the same quality; therefore, the least overall harm analysis is a qualitative analysis. When preparing and examining the alternatives which impact **Section 4(f)** property it is important to ensure that comparable mitigation measures are included for each alternative. The District is responsible for selecting the alternative that has the least overall harm to a **Section 4(f)** property. If the net harm to the **Section 4(f)** properties in all the feasible and prudent alternatives is equal, the District may select any one of them.

To determine which of the alternatives would cause the least overall harm, FDOT must compare the factors set forth in **23 CFR § 774.3(c)(1)** concerning the alternatives under consideration:

1. the ability to mitigate adverse impacts to each **Section 4(f)** property (including any measures that result in benefits to the property);
2. the relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each **Section 4(f)** property for protection;

3. the relative significance of each **Section 4(f)** property;
4. the views of the OWJ over each **Section 4(f)** property;
5. the degree to which each alternative meets the purpose and need for the project;
6. after reasonable mitigation, the magnitude of any adverse impacts to resources not protected by **Section 4(f)**; and
7. substantial differences in costs among the alternatives.

### **7.3.5.3.3 Submission and Coordination of Draft Individual Section 4(f) Evaluations**

The District must upload the **Draft Individual Section 4(f) Evaluation** in ERC, assigning the PDC for review and comment. The PDC must add OGC and may add any other relevant reviewers. For Type 2 CEs, the **Draft Individual Section 4(f) Evaluation** is uploaded into ERC as a separate document. For EAs and EISs, the **Draft Individual Section 4(f) Evaluation** is incorporated into the EA or Draft Environmental Impact Statement (DEIS).

Once OEM has completed its review of the **Draft Individual Section 4(f) Evaluation** and the comments have been addressed by the District, OEM approves it for public availability and the District circulates the document to the OWJ and DOI as well as any other appropriate agency for review and comment, such as the U.S. Forest Service and HUD. FDOT will use electronic media to distribute the draft to agencies, as appropriate.

The District must wait a minimum of 45 days for receipt of comments. If comments are not received within 15 days after the comment deadline, the District may assume a lack of objection and proceed with the action (**23 CFR § 774.5**).

If any of these agencies raise issues during coordination, the District will work with OEM and the agency to resolve the issues.

### **7.3.5.3.4 Public Involvement Requirements for Draft Individual Section 4(f) Evaluations**

There is no specific requirement to provide public notice or a public opportunity to comment on **Individual Section 4(f) Evaluations**. However, for most projects requiring the preparation of an **Individual Section 4(f) Evaluation**, public involvement occurs pursuant to the requirements of **Section 339.155(5)(b), Florida Statutes (F.S.)**, and **23 CFR § 771.111**. When public involvement is required for a proposed project which includes an **Individual Section 4(f) Evaluation**, the Draft Evaluation should be provided along with other project information and project documents and the public involvement effort must follow the procedures set forth in [\*\*Part 1, Chapter 11, Public Involvement\*\*](#). If a situation arises where the District staff is uncertain as what level of public involvement would be appropriate, they should contact the appropriate PDC.

For those actions that do not require public review and comment under **NEPA** or under **Section 339.155, F.S.**, public involvement may still be required under a concurrent law such as **Section 106** of the **NHPA** when the **Individual Section 4(f) Evaluation** is for the approval of the use of a historic property.

### 7.3.5.3.5 Final Section 4(f) Individual Evaluation Outline

When the preferred alternative uses **Section 4(f)** land, the **Final Individual Section 4(f) Evaluation** must contain:

1. Information developed in the draft evaluation.
2. A discussion of the basis for concluding that there are no feasible and prudent alternatives to the use of the **Section 4(f)** land. The supporting information must demonstrate that the proposed action “does not cause severe problems of a magnitude that substantially outweighs the importance of protecting the section 4(f) property” (**23 CFR § 774.17**). This language should appear in the document together with the supporting information.
3. A discussion of the basis for concluding that the proposed action includes all possible planning to minimize harm to the **Section 4(f)** property. The **Final Individual Section 4(f) Evaluation** must demonstrate that the preferred alternative is a feasible and prudent alternative with the least harm to the **Section 4(f)** resources after considering mitigation to the **Section 4(f)** resources.
4. When there is more than one alternative which uses **Section 4(f)** resources, a discussion of the reasons for concluding that the selected action is the alternative which results in the least overall harm must be included.
5. A summary of the formal coordination with the OWJs and the Headquarters Office of the DOI and other agencies as appropriate. Copies of all formal coordination comments and a summary of other relevant **Section 4(f)** comments received, and an analysis and response to any questions raised should be included.
6. Where **Section 6(f)** land is involved, documentation of the results of the coordination with the NPS must be included.
7. Final approval **Section 4(f)** language must include the following statement:

*Based upon the above considerations, there is no feasible and prudent alternative to the use of land from the [identify **Section 4(f)** property] and the proposed action includes all possible planning to minimize harm to the [**Section 4(f)** property] resulting from such use.*

#### 7.3.5.3.5.1 Submission of Final Individual Section 4(f) Evaluation and Legal Sufficiency Review [23 CFR § 774.7(d)]

After completion of the circulation and public comment period, the District submits the **Final Individual Section 4(f) Evaluation** to OEM in SWEPT.

SWEPT also provides a copy of the **Final Individual Section 4(f) Evaluation** to OGC for legal sufficiency review. OGC must certify that the evaluation is legally sufficient before the **Section 4(f)** Evaluation can be approved by the Director of OEM as part of the **NEPA** document.

For FDOT processing purposes, the standard approval statement will be included on the cover page of FEIS or FONSI. The name and description of the project and the name(s) of the **Section 4(f)** properties being used by the project must also be included. Where the **Section 4(f)** approval is documented in the FEIS, the basis for the **Section 4(f)** approval must be summarized in the Record of Decision (ROD).

For Type 2 CE documents, the approval of the separate **Final Individual Section 4(f) Evaluation** report should occur with and be referenced in the approval for the **NEPA** Document.

Once approved, the District will electronically distribute copies of the signed document to the agencies that received the **Draft Individual Section 4(f) Evaluation**.

### 7.3.5.3.5.2 Project File Documentation

When completing the **Type 2 Categorical Exclusion Determination Form** with an **Individual Section 4(f) Evaluation**, summarize the results of the evaluation in the **Section 4(f)** section of the form, and upload the **Final Individual Section 4(f) Evaluation** into SWEPT. For EAs the results of the **Final Individual Section 4(f) Evaluation** are summarized in the **Section 4(f)** portion of the FONSI and uploaded into SWEPT. For projects processed as an EIS, the **Final Individual Section 4(f) Evaluation** is included in the FEIS and uploaded into SWEPT. In addition, any mitigation measures or commitments are documented in the Environmental Document.

### 7.3.5.4 Constructive Use

A “Constructive Use” occurs when the transportation project does not incorporate land from a **Section 4(f)** property, but the proximity impacts of the project are so severe that the protected activities, features, or attributes qualifying the property for protection under **Section 4(f)** are substantially impaired. Substantial impairment occurs only when the protected activities, features, or attributes of the property are substantially diminished (**23 CFR § 774.15**).

If the District believes a project may involve a Constructive Use, the District contacts the PDC to verify the potential for a Constructive Use and to assess measures to minimize harm to the resource in order to avoid having a Constructive Use. When the District and OEM believe that a Constructive Use determination may be appropriate, OEM will initiate consultation with FHWA-HQ Office of Project Development and Environmental Review in accordance with the **NEPA Assignment MOU**.

Under **23 CFR § 774.15**, when a Constructive Use determination is made, it is based on the following:



1. identification of the current activities, or attributes of the property which qualify for protection under **Section 4(f)** and which may be sensitive to proximity impacts;
2. analysis of the proximity impacts of the proposed project on the **Section 4(f)** resource. If any of the proximity impacts will be mitigated, only the net impact need be considered in this analysis. The analysis should also describe and consider the impacts which could reasonably be expected if the proposed project were not implemented, since such impacts should be not attributed to the proposed project; and
3. consultation, on the foregoing identification and analysis, with the OWJ over the **Section 4(f)** property.

Situations describing when a Constructive Use occurs can be found at **23 CFR § 774.15(e)** and situations describing when a Constructive Use does not occur can be found at **23 CFR § 774.15(f)**, both of which can be accessed via the FDOT [Section 4\(f\) References and Guides](#) web page.

## 7.4 POST PROJECT DEVELOPMENT AND ENVIRONMENT

### 7.4.1 Late Designations, Unanticipated Discoveries, and Emergency Repairs

After the CE, FONSI, or ROD has been processed, a separate **Section 4(f)** approval will be required, except as provided in **23 CFR § 774.13**, if:

1. a proposed modification of the alignment or design would require the use of **Section 4(f)** property; or
2. the District in consultation with OEM determines that **Section 4(f)** applies to the use of a property; or
3. a proposed modification of the alignment, design, or measures to minimize harm [after the original **Section 4(f)** approval] would result in a substantial increase in the amount of **Section 4(f)** property used, a substantial increase in the adverse impacts to **Section 4(f)** property, or a substantial reduction in the measures to minimize harm [**23 CFR § 774.9(c)(1)-(3)**].

A separate **Section 4(f)** approval required for a CE, FONSI, or ROD will not necessarily require the preparation of a new or supplemental **NEPA** document [**23 CFR § 774.9(d)**]. Coordinate with OEM when there are changes to a project that result in changes to impacts to a **Section 4(f)** property.

There are times when late discoveries, late designations, or determinations of significance of **Section 4(f)** resources are made after the completion of the Environmental Document. When this involves a **Section 4(f)** resource other than an archaeological site, FDOT may allow the project to proceed without consideration under **Section 4(f)** if the property interest in the lands from the site was acquired prior to the change in the

designation or the determination of significance as long as an adequate effort was made to identify properties protected by **Section 4(f)** prior to the acquisition. In cases involving a historic site, if it was reasonably foreseeable that a resource would be determined eligible for the NRHP prior to the start of construction, the resource should be treated as a significant historic site as set forth in **23 CFR § 774.13(c)**.

In judging the adequacy of the effort made to identify properties protected by **Section 4(f)**, FDOT will consider the requirements and standards that existed at the time of the research.

When the post-review discovery is of an archeological site, FDOT will consult with the SHPO/THPO and other appropriate parties in accordance with **Section 106 of the NHPA** to reach resolution regarding the treatment of the site within an expedited time frame. The decision to apply **Section 4(f)** to the site will be based on the outcome of the **Section 106** process. If the archaeological site proves significant for more than the information it contains, this late discovery will also trigger a request for an expedited **Section 4(f)** evaluation [**23 CFR § 774.9(e)**]. Because the DOI has a review responsibility for **Individual Section 4(f) Evaluations** but is not usually a party to the **Section 106** consultation process, the DOI must be notified and requested to provide any comments within a shortened response period (less than the standard 30 days) in regard to the treatment of the archaeological site [see **FHWA Section 4(f) Policy Paper**, Section II, Questions 26(a) and (b) and **23 CFR § 774.9**].

When responding to hurricanes, floods, or other natural disasters, Districts should avoid, to the maximum extent possible, using lands which may be protected by **Section 4(f)** for emergency repair actions and/or debris storage and materials staging areas. When using land from a known **Section 4(f)** protected resource, the District must notify the OWJ for that property and coordinate the action with them as much as is practicable and appropriate.

In cases where the **Section 4(f)** resource is a historic or archaeological site, please refer to [Part 2, Chapter 8, Archaeological and Historical Resources](#) to ensure the proper treatment of these properties under the appropriate provisions of **Section 106** and other, historic preservation laws.

The analysis for emergency repairs (those meant to restore essential functions in the immediate aftermath of an emergency) cannot fulfill the purpose of **Section 4(f)** to evaluate feasible and prudent avoidance alternatives. However, situations may arise where other **Section 4(f)**-related documentation may be required if an activity uses a **Section 4(f)** property. These immediate actions to restore essential functions include the initial clearing of debris off and to the side of a roadway for emergency vehicle access.

The analysis for permanent repairs remains subject to the requirements established for an approval under **Section 4(f)** as set forth in **23 U.S.C. § 138** and **49 U.S.C. § 303, 23 CFR Part 774**, this Chapter, and other appropriate guidance and procedures.

Regarding debris storage areas established for post-emergency debris, these locations are generally approved and designated prior to the emergency response actions in order to ensure their availability in the event of the storm event or other emergency.

## 7.4.2 Commitment Compliance

Commitments must be recorded in the Environmental Document. Project commitments are carried forward into design, ROW, and construction phases of project delivery. The commitments and required coordination are updated per [Procedure No. 650-000-003, Project Commitment Tracking, Part 2, Chapter 22, Commitments](#), and documented in the Commitment Status section of the *Re-evaluation Form*.

Any changes to an existing commitment relating to **Section 4(f)** protected properties require coordination with the District Environmental Office. The District Environmental Office will inform the appropriate consulting parties and re-initiate consultation as necessary. District staff must review the commitments made to avoid, minimize and mitigate effects to **Section 4(f)** protected properties and ensure compliance.

## 7.4.3 Re-evaluations

Prior to a project advancing to the next phase, or if there are major design changes, the impacts to **Section 4(f)** resources are re-evaluated per [Part 1, Chapter 13, Re-evaluations](#). In addition, design changes could re-initiate consultation with the OWJ. Commitments and coordination should be contained in the Commitment Status section of the *Re-evaluation Form* and tracked through [Procedure No. 650-000-003, Project Commitment Tracking](#). When completing Re-evaluations in relation to **Section 4(f)** properties, it is important to revisit proximity impacts as well as any direct uses of protected properties to ensure full consideration of the potential changes of impacts to **Section 4(f)** properties.

## 7.5 CONCURRENT REQUIREMENTS

Due to the nature of the resources protected under **Section 4(f)**, there are often concurrent laws requiring separate federal and/or state findings or approvals such as **Section 106 of the NHPA**, **Section 12(a) of the WSRA**, and **Section 7 of the Endangered Species Act**. The majority of these concurrent requirements overlap as part of the *NEPA* process. There are also certain **Section 4(f)** protected properties encumbered with a federal interest. For projects that propose the use of land from a **Section 4(f)** property purchased or improved with federal grant-in-aid funds under the *LWCF*, the *Federal Aid in Fish Restoration Act (Dingell-Johnson Act)*, the *Federal Aid in Wildlife Act (Pittman-Robertson Act)*, or other similar laws, coordination with the appropriate federal agency is required to ascertain the agency's position on the land conversion or transfer. Other federal requirements that may apply to the property should be determined through consultation with the OWJ or the appropriate federal land managing agency as outlined in **23 CFR § 774.5(d)**. These federal agencies may have regulatory authority or other requirements for converting land to a different use. These requirements are independent of the **Section 4(f)** requirements and must be satisfied

during the project development process. Most of these concurrent requirements also overlap within the **NEPA** process.

### 7.5.1 Section 6(f)

The most common federal encumbrance encountered when completing a **Section 4(f)** approval is the **LWCFA**. State and local governments often obtain grants through the **LWCFA** to acquire or make improvements to parks and recreational areas. **Section 6(f)** of this **Act** prohibits the conversion of property acquired or developed with these grants to a non-recreational purpose without the approval of the NPS. **Section 6(f)** directs the DOI to assure that replacement lands of equal value, location and usefulness are provided as conditions to such conversions. Consequently, where conversions of **Section 6(f)** lands are proposed for highway projects, replacement lands will be necessary. As with most other federal encumbrances, **Section 6(f) applies to all projects and not just those that are federally funded**. A project can have **Section 6(f)** impacts but **Section 4(f)** may not apply.

To determine whether **LWCFA** funding was involved in the acquisition or improvement of a **Section 4(f)** property, the District should consult with the OWJ or reference the lists of these grants maintained by the NPS and FDEP. See [Section 7.6](#) for a link to the appropriate NPS site. If **LWCFA** funds were used for acquisition or improvement, under **59 CFR § 59.3** the following prerequisites must be met:

- all practical alternatives to the proposed conversion must be evaluated;
- the fair market value of the property to be converted must be established by an appraisal meeting the “Uniform Appraisal Standards for Federal Land Acquisitions”;
- the replacement property must be of at least equal value;
- the replacement property must be of reasonably equivalent usefulness and location to that being converted;
- the property proposed for substitution meets the eligibility requirements for **LWCFA** assisted acquisition;
- in the case of assisted sites that are partially rather than wholly converted, the impact of the converted portion on the remainder shall be considered. If such a conversion is approved the unconverted area must remain recreationally viable or be replaced as well;
- the Regional Office of the NPS is assured that all environmental review requirements related to the project have been met;
- the state procedures including those of the FDEP have been adhered to if the project conversion and substitution constitute any changes to the **LWCFA** property;

- the proposed conversion and substitution are in accordance with the recreation plans of the state and the facility.

To convert **Section 6(f)** properties to non-recreation uses, the OWJ over the **Section 6(f)** property must agree to the conversion in a letter of transmittal recommending the proposal. The conversion must meet the prerequisites and be approved by the appropriate NPS Regional Director in writing. This is accomplished through coordination with the FDEP who, in turn, seeks NPS approval of the conversion and proposed acquisition of replacement property. Regardless of the mitigation proposed, the **Section 4(f)** Evaluation and Environmental Document must include the NPS position relative to **Section 6(f)** conversion and analyze how the converted park land and recreational usefulness will be replaced.

If any **Section 6(f)** properties are identified in the project area, the District should contact the PDC for assistance.

### 7.5.2 Acquisition and Restoration Council- Concurrent Requirement

While determining the applicability of **Section 4(f)** to state-owned lands or, during the coordination with the OWJ, the District may identify properties which require an approval from Florida's Acquisition and Restoration Council (ARC) before they can be converted into a transportation facility. For such properties, regardless of the applicability or non-applicability of **Section 4(f)** an easement from the Division of State Lands of the FDEP may be required prior to locating the project across these lands. This process is a state process and is independent from the **Section 4(f)** process although, when occurring on a USDOT funded or approved project, the conditions developed during the coordination for the ARC's approval may dictate the inclusion of certain minimization and mitigation efforts into the **Section 4(f)** document.

The District staff should coordinate with the PDC at the earliest opportunity for further guidance once they become aware of the proposed acquisition from FDEP protected land. For more detail on the ARC process, see [Part 2, Chapter 23, Acquisition and Restoration Council \(ARC\) Coordination](#).

## 7.6 REFERENCES

- American Association of State Highway and Transportation Officials (AASHTO), 2011. Green Book: A Policy on the Geometric Design of Highway and Streets. 6th edition
- FHWA. 1977. Negative Declaration / Section 4(f) Statement for Independent Bikeway or Walkway Construction Projects.  
<https://www.environment.fhwa.dot.gov/4f/4fbikeways.asp>
- FHWA. 1986a. Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges. December 23, 1986.  
<https://www.environment.fhwa.dot.gov/4f/4fmparks.asp>

- FHWA. 1986b. Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvement with Historic Sites. December 23, 1986. <https://www.environment.fhwa.dot.gov/4f/4fmhist.asp>
- FHWA. 2012. Guidance on Section 4(f) Exception for Federal Lands Transportation Facilities. <https://www.fhwa.dot.gov/map21/guidance/guidefltpexempt.cfm>
- FHWA. 2012. Section 4(f) Policy Paper. July 20, 2012. <https://www.environment.fhwa.dot.gov/4f/4fpolicy.asp>
- FDOT. Section 4(f) References and Guides web page. [https://www.fdot.gov/environment/pubs/4\(f\)/Section4f.shtm](https://www.fdot.gov/environment/pubs/4(f)/Section4f.shtm)
- FDOT. Efficient Transportation Decision Making Manual, Topic No. 650-000-002. <http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>
- FDOT. Standard Specifications for Road and Bridge Construction. <http://www.dot.state.fl.us/programmanagement/Implemented/SpecBooks/July2015/Files/715eBook.pdf>
- Land and Water Conservation Fund Act (LWCFA) of 1965. <https://www.nps.gov/subjects/lwcf/lwcf-in-your-neighborhood.htm>
- Memorandum of Understanding Between FDEP and FDOT and Concurred in by FHWA, Concerning the Development of Florida's Rails to Trails Program and Compliance with 49 U.S.C. 303 and 23 CFR 771 for Intersection Transportation Improvements That May Require the Use of Federal Funds. 1996. [https://environment.transportation.org/pal\\_database/agreement\\_details.aspx?pal\\_id=48](https://environment.transportation.org/pal_database/agreement_details.aspx?pal_id=48)
- 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>
- National Parks Service- LWCF List. <https://www.nps.gov/subjects/lwcf/lwcf-in-your-neighborhood.htm>
- NEPA of 1969, 42 U.S.C. §§ 4321-4347. <https://www.gpo.gov/fdsys/pkg/USCODE-2014-title42/pdf/USCODE-2014-title42-chap55.pdf>
- NHPA of 1966, as amended, 54 U.S.C. § 300101 *et seq.* <https://achp.gov/digital-library-section-106-landing/national-historic-preservation-act>
- National Industrial Recovery Act (NIRA) of June 16, 1933

Pittman-Robertson Act of 1937 (Federal-Aid in Wildlife Restoration Act).

<https://www.gpo.gov/fdsys/pkg/USCODE-2014-title16/html/USCODE-2014-title16-chap5B.htm>

Title 23 CFR § 774. Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites [Section 4(f)]. <http://www.ecfr.gov/cgi-bin/text-idx?SID=4f91939fd3bdbfac5337b83a3b2bc4f4&mc=true&node=pt23.1.774&rgn=div5>

Title 36 CFR § 59. Land and Water Conservation Fund Program of Assistance to States; Post-Completion Compliance Responsibilities. [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title36/36cfr59\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title36/36cfr59_main_02.tpl)

Title 36 CFR § 800. Protection of Historic Properties. <http://www.ecfr.gov/cgi-bin/text-idx?SID=73f131392733d51d9fac5541174d6102&mc=true&node=pt36.3.800&rgn=div5>

U.S. DOI, 2013. Environmental Review Memorandum No. ERM 13-2: Electronic Distribution of Environmental Review Assignments. [https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/ERM\\_13-2.pdf](https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/ERM_13-2.pdf)

U.S. Supreme Court, 1971. Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402. <https://supreme.justia.com/cases/federal/us/401/402/case.html>

## 7.7 FORMS

[Programmatic Section 4\(f\) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges, Form No. 650-050-50](#)

[Section 4\(f\) de minimis Determination for Historic Sites, Form No. 650-050-46](#)

[Section 4\(f\) de minimis Determination for Parks, Recreational Areas and Wildlife or Waterfowl Refuges, Form No. 650-050-47](#)

[Section 4\(f\) Determination of Applicability, Form No. 650-050-45](#)

[Section 4\(f\) Exceptions/Exemptions Determination, Form No. 650-050-48](#)

[Section 4\(f\) Net Benefit Programmatic for Historic Sites, Form No. 650-050-53](#)

[Section 4\(f\) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge, Form No. 650-050-54](#)

[Section 4\(f\) No Use Determination, Form No. 650-050-49](#)

[Section 4\(f\) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites, Form No. 650-050-51](#)

[Section 4\(f\) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges, Form No. 650-505050-52](#)

[Section 4\(f\) Statement of Determination for Independent Bikeway or Walkway for Construction Projects, Form No. 650-050-55](#)

## **7.8 HISTORY**

5/22/1998, 9/1/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 13, 1/14/2019



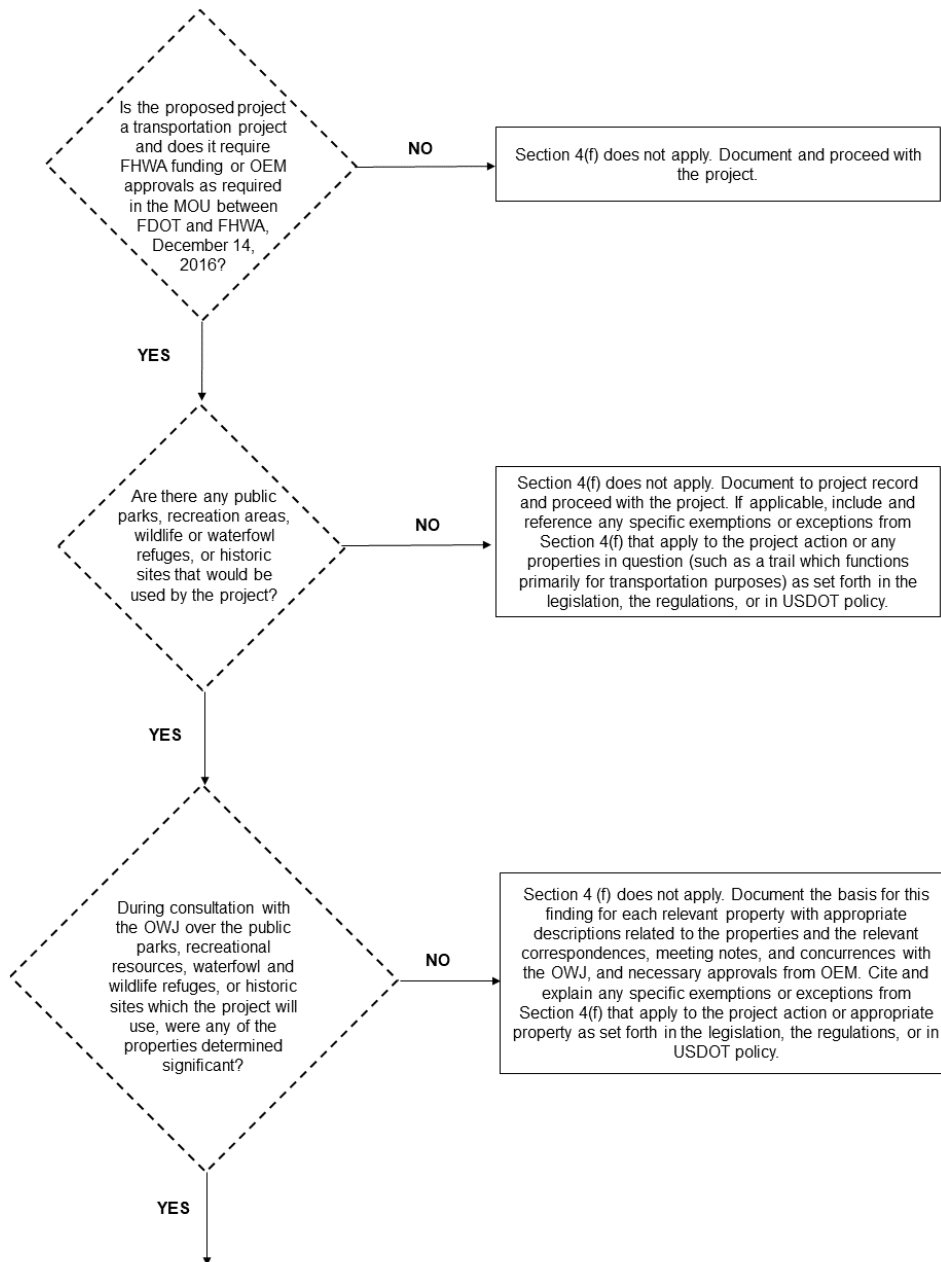


Figure 7-1 Flow Chart

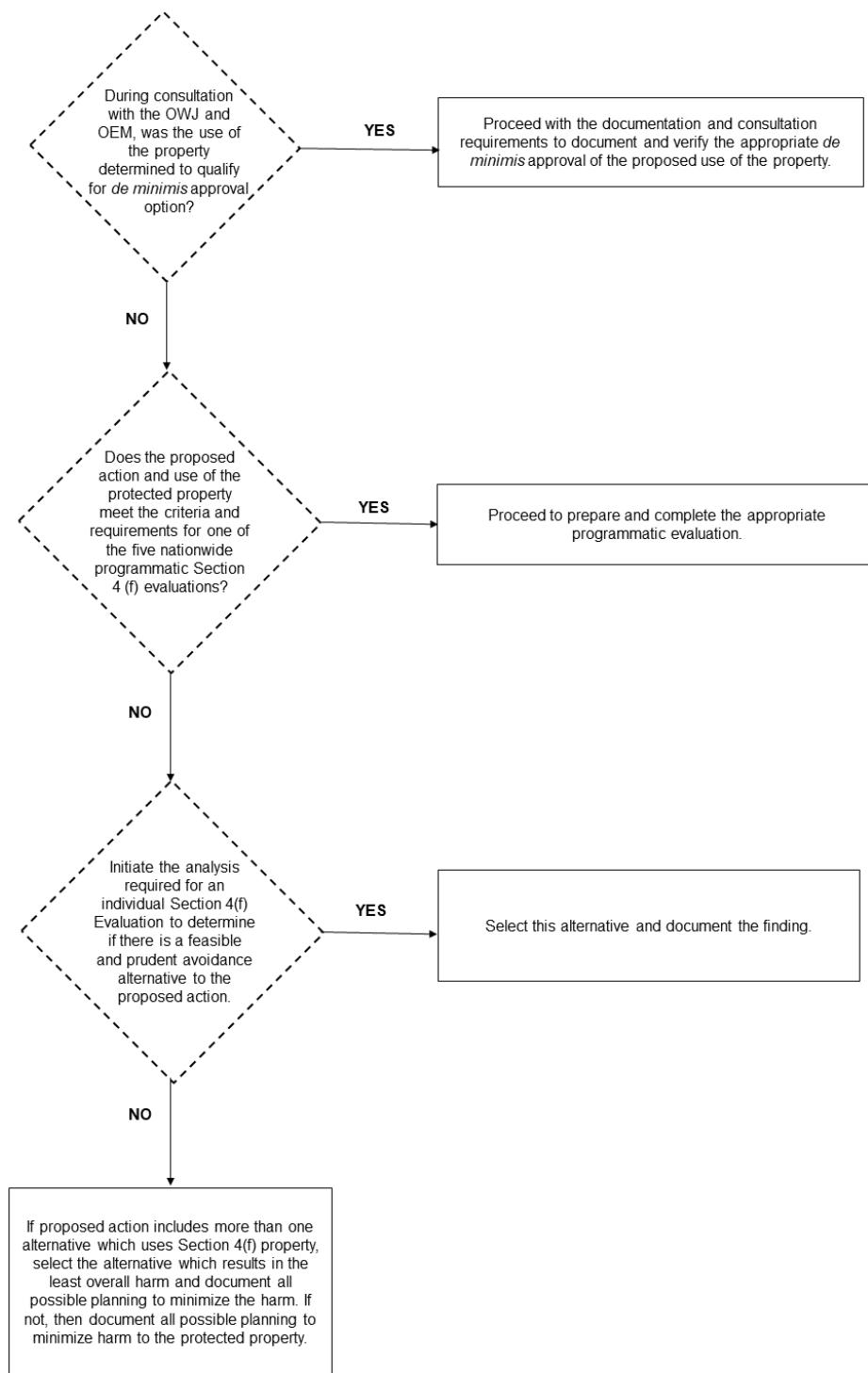


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## **PART 2, CHAPTER 8**

# **ARCHAEOLOGICAL AND HISTORICAL RESOURCES**

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## PART 2 CHAPTER 8

# ARCHAEOLOGICAL AND HISTORICAL RESOURCES

## 8.1 OVERVIEW

### 8.1.1 Purpose

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).

This chapter describes FDOT procedures for addressing historic and archaeological resources in the development and delivery of transportation projects. FDOT conducts surveys to locate, identify, and evaluate potential impacts on historic properties resulting from proposed projects. This assessment is prepared to comply with **Section 106** of the **National Historic Preservation Act (NHPA) of 1966**, as amended, **36 Code of Federal Regulations (CFR) Part 800**, and the **Florida Historical Resources Act (FHRA), Chapter 267, Florida Statutes (F.S.)**, all of which require the lead agencies to take into account the effects of their undertakings on historic properties.

The process for compliance with **Section 106** and **Chapter 267, F.S.**, is implemented through the **Programmatic Agreement (PA) among the FHWA, Advisory Council on Historic Preservation (ACHP), Florida Division of Historical Resources (FDHR), State Historic Preservation Officer (SHPO), and the FDOT Regarding Implementation of the Federal-Aid Highway Program in Florida (Section 106 PA)** executed on March 14, 2016. The **Section 106 PA** was amended to recognize **NEPA** Assignment on June 7, 2017.

**Section 106** applies to all federally funded, licensed, permitted, or approved undertakings, regardless of the Class of Action (COA) established by FHWA in **23 CFR Part 771** for compliance with **NEPA of 1969**, as amended. **Section 106** requires federal agencies to consider the effects of all federal undertakings and programs on historic properties in the planning and delivery of the proposed action or program. As a part of this effort, federal agencies must provide the ACHP a reasonable opportunity to comment on the undertakings.

Fulfillment of **Section 106** must be reflected in whatever **NEPA** documentation the Lead Federal Agency or the applicant produces. The **NEPA** process provides a framework for

all federal environmental impact documentation, and the **Section 106** process provides the decision-making procedure for considering effects to historic properties for all federal undertakings. Therefore, all federally funded or approved projects must comply with **NEPA** and the **NHPA**.

In addition, permits from state and federal agencies also require compliance with the associated historic preservation laws. For example, most federal permits that FDOT must obtain for its projects include a documented record of compliance with the **NHPA**. For state permits, documentation of compliance with the **FHRA** is included. Without that record, the permitting authority will be unable to permit the proposed activities.

The Florida Legislature charges each state agency of the executive branch to consider the effects of its undertakings on any historic resource that is eligible for inclusion or listed in the National Register of Historic Places (NRHP) prior to the expenditure of state funds on the undertaking. This consideration includes providing the Florida Department of State (FDOS), FDHR, an opportunity to comment on such an undertaking. The Director of the FDHR also serves as the Florida SHPO, as per the **NHPA**, and reviews federal-aid projects in this same capacity. **Section 267.031, F.S.**, specifies the authority and duties of the FDHR, and **Chapter 1A-46, Florida Administrative Code (F.A.C.)**, specifies the criteria under which the FDHR reviews **Cultural Resource Assessment Survey (CRAS) Reports** and the appropriate information required within the reports. **Section 267.12, F.S.**, and **Chapter 1A-32, F.A.C.**, provide the procedures to obtain a permit for archaeological investigations on state lands. In order to protect important or sensitive archaeological sites, **Section 267.135, F.S.**, provides for the non-disclosure of archaeological site locations.

In order to avoid costly delays in the later stages of project development, the CRAS identification and evaluation effort is initiated as early in the project development process as possible. This allows FDOT to avoid or minimize adverse effects to historic properties more quickly and easily. This chapter provides the procedures for planning and performing such work during the Project Development and Environment (PD&E) phase of project delivery. For additional clarification and guidance regarding the requirements outlined in this chapter, refer to FDOT's [Cultural Resource Management \(CRM\) Handbook](#). Compliance with historic preservation laws requires consideration of potential effects to historic properties and good faith consultation with all of the appropriate parties.

## 8.1.2 Definitions

Within this chapter, “cultural resources” is a term broadly used to include all archaeological sites, as well as historic buildings, structures, objects, and districts that are typically 50 years of age or older. In this chapter, the terms “cultural resources” and “historic resources” are used interchangeably. The terms “significant cultural resource” or “historic property” are used as meaning a historic resource included in, or eligible for inclusion in, the NRHP. For consistency, the definitions contained in the regulations implementing **Section 106** of the **NHPA (36 CFR Part 800)** are applicable to this chapter.

As used in this Chapter, the following definitions apply:

**Advisory Council on Historic Preservation (ACHP)** – An independent agency of the U.S. government whose members are charged with advising the President and the Congress on matters relating to historic preservation; recommending measures to coordinate activities of federal, state, and local agencies and private institutions and individuals relating to historic preservation; and advising on the dissemination of information pertaining to such activities. The Council reviews the policies and programs of federal agencies in regard to compliance with the *NHPA*.

**Area of Potential Effects (APE)** – The geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

**Consultation** – The process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the *Section 106* process. The Secretary's *Standards and Guidelines for Federal Agency Preservation Programs pursuant to the National Historic Preservation Act* provide further guidance on consultation.

**Consulting parties** – Persons or groups that the federal agency consults with during the *Section 106* process, including, but not limited to, the ACHP, the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officers (THPOs) or Tribal government officials or representatives, representatives of local governments, and individuals and organizations with a demonstrated interest in the undertaking.

**Cultural Resource Assessment Survey (CRAS)** – The process of identification, documentation, and evaluation of archaeological, historical, architectural, and traditional cultural properties.

**Effect** – Alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the NRHP.

**Evaluation** – The process of determining the eligibility of a cultural resource for listing in the NRHP.

**Florida Master Site File (FMSF)** – A comprehensive listing of recorded cultural resources in Florida, including archaeological sites, historic structures, bridges, cemeteries, resource groups, and NRHP-listed sites. It also includes records for resources that are no longer extant.

**Historic property** – Defined in the *NHPA* as any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the NRHP maintained by the Secretary of the Interior (also referred to as significant historic resources). This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe and that meet the NRHP criteria.



**Historic resource** – As set forth in the *FHRA, Section 267.021, F.S.*, any prehistoric or historic district, site, building, structure, object, or other real or personal property of historical, architectural, or archaeological value, and folklife resources which may or may not meet the NRHP criteria and are generally 50 years of age or older. These properties or resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the state.

**Indian Tribe** – An Indian tribe, band, nation, or other organized group or community, including a native village, regional corporation or village corporation, as those terms are defined in *Section 3* of the *Alaska Native Claims Settlement Act (43 U.S.C. § 1602)*, as set forth in *36 CFR § 800.16(m)*. FDOT consults with six Federally Recognized Tribes (Tribes) that have cultural associations in Florida.

**Integrity** – The authenticity of a cultural resource’s identity, evidenced by the survival of physical characteristics that existed during the resource’s historic or pre-contact period. The seven aspects of integrity are location, design, setting, materials, workmanship, feeling, and association.

**Memorandum of Agreement (MOA)** – The document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties.

**Minimization** – Active attempts to reduce harm to the cultural resource.

**Mitigation** – Any actions that reduce or compensate for damage or adverse effect that an undertaking may have on a NRHP-listed or eligible property. Mitigation may include project redesign, relocation, documentation, etc.

**National Register of Historic Places (NRHP)** – The official list of the Nation’s historic resources deemed worthy of preservation. The NRHP is maintained by the Secretary of the Interior.

**NRHP criteria** – The criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the NRHP (*36 CFR Part 60*).

**NRHP eligible** – A cultural resource that has been determined to meet the criteria of eligibility for listing in the NRHP, but that has not been formally nominated to be listed. For the purpose of *Section 106* and *Chapter 267, F.S.* compliance, eligible properties are treated the same as listed properties.

**Native American** – Of, or relating to, a tribe, people, or culture that is indigenous to the United States.

**No Adverse Effect** – When an undertaking has an effect on a historic property, but the effect would not be harmful to those characteristics that qualify the property for inclusion in the NRHP.

**No Effect** – When an undertaking has no effect of any kind (either harmful or beneficial) on historic properties.

**Programmatic Agreement (PA)** – A document that records the terms and conditions agreed upon to resolve the potential adverse effects of a federal agency program, complex undertaking or other situations in accordance with **36 CFR § 800.14(b)**. PAs allow federal agencies to govern the implementation of a particular agency program or the resolution of adverse effects from complex projects or multiple undertakings similar in nature through negotiation of an agreement between the agency and the ACHP. PAs can be developed on a national, statewide, or regional scope for similar or repetitive undertakings, for undertakings with repetitive effects on historic properties, or for situations where the effects to historic properties cannot be fully determined prior to the approval of an undertaking.

**State Historic Preservation Officer (SHPO)** – The official appointed or designated pursuant to **Section 101(b)(1) of the NHPA** to administer the State historic preservation program or a representative designated to act for the SHPO.

**Tribal Historic Preservation Officer (THPO)** – The tribal official appointed by the Tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of SHPO for purposes of **Section 106** compliance on tribal lands in accordance with **Section 101(d)(2) of the NHPA**.

**Undertaking** – A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency [as defined in **36 CFR § 800.16(b)**], including those carried out by or on behalf of a federal agency; those carried out with federal financial assistance; and those requiring a federal permit, license or approval.

The **FHRA** does not define 'undertaking,' but **Rule 1A-46.002 (q), F.A.C.**, defines "State undertaking" as meaning "...a project, activity or program in which a state agency of the executive branch has direct or indirect jurisdiction; those in which a state agency provides financial assistance to a project or entity; and those in which a state agency is involved through the issuance of state permits or licenses."

### 8.1.3 Legal Authorities

#### Federal Legislation

**Section 106** of the **NHPA of 1966**, as amended, and its implementing regulations at **36 CFR Part 800 (Protection of Historic Properties)** requires federal agencies to consider the effects of their undertakings and programs on historic properties in the planning and delivery of the proposed action or program. As a part of this effort, federal agencies must provide the ACHP a reasonable opportunity to comment on the undertakings. **36 CFR Part 800** incorporates amendments effective August 5, 2004. Subpart B of the regulations defines how federal agencies meet the statutory responsibilities in the **Section 106** process, and how the steps of this process can be coordinated with reviews under other federal laws.

**Section 106 Exemption Regarding Effects to the Interstate Highway System (ACHP, March 2005)** presents guidance from ACHP for implementing the exemption from **Section 106** and **Section 4(f)** requirements created in the **Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)** for the bulk of the Interstate System.

The **Program Comment for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges (ACHP, November 2, 2012)** relieves FHWA and other federal agencies from the requirement under **Section 106** of the **NHPA** to consider the effects of undertakings on certain common bridges and culverts constructed of concrete or steel after 1945. The federal agencies using the Program Comment must still complete **Section 106** review for the undertaking, including the identification of historic properties and consideration of effects of the undertaking on historic properties other than the common bridge itself.

The **Program Comment to Exempt Consideration of Effects to Rail Properties Within Rail Rights-of-Way (ACHP, August 17, 2018)** relieves federal agencies from the requirement under **Section 106** of the **NHPA** to consider the effects of undertakings on historic rail properties within railroad and rail transit Right of Way (ROW). This program comment was prompted by the **Fixing America's Surface Transportation (FAST) Act, (49 U.S.C. 24202, December 4, 2015)**, which required that the Secretary of the U.S. Department of Transportation (USDOT) propose an exemption of railroad rights of way from review under **Section 106**, consistent with the exemption for interstate highways approved on March 10, 2005 [**70 Federal Register (FR) 11928**].

This Program Comment is comprised of an activity-based approach, and a property-based approach. The activity-based approach provides a list of activities for which no further **Section 106** review is required. The property-based approach establishes a process whereby project sponsors can opt to work with the relevant USDOT Operating Administrations and stakeholders to develop a list of excluded historic rail properties that would remain subject to **Section 106** review, and exempt from review the effects of undertakings to all other historic rail properties within a designated area. The activity-based approach is immediately effective, but the property-based approach does not go into effect until USDOT publishes implementing guidance.

**Section 110** of the **NHPA** requires federal agencies to develop historic preservation programs to identify, evaluate, and protect historic properties that are under federal agency jurisdiction and/or potentially affected by federal actions. **Section 110** also requires the recording of historic properties altered, damaged, or destroyed as a result of a federal action, and the deposition of these records in the Library of Congress or other designated repository for future use and reference. Federal agencies are also instructed to consult with other federal, state, and local agencies, Tribes, the public, and other stakeholders, and to integrate historic preservation into their plans and programs and address the treatment of National Historic Landmarks (NHLs) impacted by an agency's programs and undertakings (i.e., their projects).

**36 CFR Part 61** (Procedures for State, Tribal, and Local Government Historic Preservation Programs) authorizes the Secretary of the Interior to establish professional

standards, techniques, and methods for historic preservation, and to guide local governments, states, and Tribes in the preservation of “historic properties” (as defined by the *NHPA*) and the administration of historic preservation programs.

The ***Archaeological Resources Protection Act (ARPA) of 1979*** was enacted to secure the protection of archaeological resources and sites that are on public lands and tribal lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals.

The ***Archaeological and Historic Preservation Act of 1974 [Public Law (Pub. L.) 93-291; 16 U.S.C. § 469]*** requires federal agencies to fund effects mitigation measures when their actions threaten to damage or destroy NRHP-eligible properties.

***NEPA of 1969***, as amended (***42 U.S.C. § 4321***) requires the examination and avoidance of potential impacts to the social and natural environment when considering approval of proposed transportation projects. In addition to evaluating the potential environmental effects, the ***NEPA*** process prescribes interagency cooperation, public involvement, and documentation. ***Section 102(c)*** of the Act also requires the federal government to “...preserve important historic, cultural, and natural aspects of our national heritage.” The level of required ***NEPA*** documentation depends largely upon the nature and degree of project impacts upon the human and natural environment. These impacts, then, determine a COA, which can include a Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS).

***Section 4(f)*** of the ***United States Department of Transportation Act of 1966***, and its implementing regulations at ***23 CFR Part 774*** applies whenever a project incorporates land from a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance, or land of a historic site of national, State, or local significance into a transportation facility. Such incorporation is referred to as a “***Section 4(f)*** use of the resource” and requires an approval under ***49 U.S.C. § 303*** and ***23 U.S.C. § 138*** prior to utilizing the land for the project.

The ***American Indian Religious Freedom Act (AIRFA) of 1978 (Pub. L. 95-341; 42 U.S.C. § 1996)*** establishes as federal policy the protection of the rights of tribes to the free exercise of their religion, including access to sacred sites, and requires federal agencies to accommodate this policy. Amendments to ***Section 106*** of the ***NHPA*** in 1992 strengthened the interface with this ***Act*** by declaring that a federal agency must include the Tribes in the consultation process.

The ***Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 (Pub. L. 101-601; 25 U.S.C. § 3001)*** addresses the proper treatment of Native American human remains and funerary and sacred objects located on federal or tribal lands.

***Executive Order 11593: Protection and Enhancement of the Cultural Environment (1971) (3 CFR Part 154, reprinted in 16 U.S.C. § 470)*** requires all federal agencies to identify and take steps to avoid effects to archaeological and historic properties under their jurisdiction that are eligible for listing in the NRHP. It also requires complete

documentation of NRHP-eligible properties that will be demolished as a result of the federal undertaking.

**Executive Order 13007: Indian Sacred Sites (1996)** requires federal agencies to protect Indian sacred sites by avoiding adverse effects to the physical integrity of such sites. It further accommodates access to, and ceremonial use of, Indian sacred sites by Indian religious practitioners, and requires federal agencies to maintain confidentiality of information on such sites.

**Executive Order 13175: Consultation and Coordination with Indian Tribal Governments (2000)** affirms and strengthens the federal government's commitment to meaningful consultation with Tribes concerning federal actions, renews federal commitment to recognition of tribal sovereignty, and recognizes the government-to-government relationship between Tribes and the U.S. government. In **September 2004, President Bush's Memorandum, Government-to-Government Relationship with Tribal Governments** reaffirmed the policy set forth in **Executive Order 13175**.

## State Legislation

**Chapter 267, F.S., FHRA (2000)** is the principal state law regarding the protection of archaeological and historical resources. It contains requirements similar to those of the federal **NHPA**. **FHRA** declares the state policy that the historic properties in this state represent "an important legacy to be valued and conserved for present and future generations." It requires that each state agency consider the effects of an undertaking on any historic property that is eligible for inclusion in the NRHP and to consult with FDHR to ensure that effects on historic properties are considered prior to the expenditure of state funds on the project.

**Section 253.027, F.S., Emergency Archaeological Properties Acquisition Act of 1988** provides a procedure to purchase archaeological and historical resources of statewide significance that are endangered by development, vandalism, or natural events.

**Section 872.05, F.S., Unmarked Human Burials (2011)** accords equal treatment and respect for human burials and human skeletal remains regardless of ethnic origin, cultural background, or religious affiliation. This law pertains to any human burials, human skeletal remains, and associated burial artifacts on public or private lands within Florida. In 1987, the law was amended to make it a third-degree felony to willfully and knowingly disturb, destroy, remove, or damage any unmarked human burials.

**Chapter 1A-32, F.A.C., Archaeological Research (2014)** provides the criteria, notification requirements, and prohibited practices associated with archaeological research conducted on state-owned lands, including submerged lands.

**Chapter 1A-44, F.A.C., Procedures for Reporting and Determining Jurisdiction Over Unmarked Human Burials (1992)** establishes the procedure to follow in the event that unmarked human burials are encountered during a project.

**Chapter 1A-46, F.A.C., Archaeological and Historical Reports Standards and Guidelines (2002)** specifies reporting and site recording requirements.

A more detailed list of authorities governing the CRM program is available in **Chapter 1** and **Appendix A** of the [CRM Handbook](#).

## 8.2 PROCESS

The guiding principle of FDOT's CRM process is to identify, recognize, and consider the potential effects (if any) of its undertakings on significant historic resources (also referred to as historic properties), whether they are federal or state-only actions. The detail and level of analysis varies depending upon historical value of these resources and the potential for the project to affect them. Once FDOT completes this effort, FDOT develops practical ways to avoid or minimize identified effects. If the effects cannot be avoided or minimized, FDOT seeks ways to mitigate for identified adverse effects.

For projects that involve no federal approvals, funding sources, or actions, **Chapter 267, F.S.**, directs the CRM process. Projects developed, funded, or assisted by FDOT, which involve a federal action, must meet federal requirements, including laws, rules, regulations, and Executive Orders (EOs).

FDOT complies with applicable federal and state historic preservation mandates by adherence to the **Section 106** process for federally funded or assisted projects and with the requirements of the **FHRA** for projects involving only state funds. To avoid confusion, the FDHR incorporated the **Section 106** process into the state's uniform compliance review program. The Director of the FDHR also serves as the SHPO; so regardless of whether an FDOT project is a federal or state-only undertaking, the state's point of contact for consultation is the same.

The primary differences between the two review processes are: (1) the involvement of OEM and the ACHP and the role of Tribal governments in the consultation process under **Section 106** and (2) the more specific report and site recording requirements as set forth in **Chapter 1A-46, F.A.C.** Since OEM has designed FDOT procedures to ensure compliance with both laws and processes, the only difference of importance for FDOT projects is the broader and more specific consultative requirements of the federal process with entities other than FDHR/SHPO.

### 8.2.1 Section 106 Process

The **Section 106** process is contained in the implementing regulations, **36 CFR Part 800**, issued by the ACHP (incorporating amendments effective August 5, 2004). These regulations establish the four-step **Section 106** process. By following the four steps and applying the general requirements of **Section 106**, FDOT ensures compliance with the other related laws and requirements. The steps established by **36 CFR Part 800** form the core process FDOT follows to meet its cultural resources management responsibilities.

The four steps of the **Section 106** process are:

1. **Step One** - Initiate the **Section 106** Process
2. **Step Two** - Identify Historic Properties

3. **Step Three** - Assess Adverse Effects
4. **Step Four** - Resolve Adverse Effects

The goal of the **Section 106** process as stated in **36 CFR 800.1** is to "... accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effect of the undertaking on historic properties...." As a result, final actions performed by federal agencies can range from avoidance to complete loss of the historic property without violating **Section 106**, as long as:

- the agency considers the effects of the action on the property;
- evaluates all available avoidance, minimization, and mitigation options; and
- offers the consulting parties an opportunity to comment on the effects of the undertaking on historic properties.

Consultation is a key element in the **Section 106** process. The **Section 106** regulations define consultation as "the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the **Section 106** process." FDOT serves as the Lead Federal Agency in most of the consultation required in this process, except for the government-to-government consultation required when requested by a federally recognized Tribe affiliated with Florida. In those instances, OEM will inform FHWA of the Tribe's request. However, the normal **Section 106** consultation process conducted by FDOT with the Tribes is not considered government-to-government consultation. When developing the **Section 106** consultation effort for a proposed highway project, FDOT works closely with SHPO to identify the appropriate consulting parties and, as appropriate, informs the appropriate Tribes of projects which may affect properties of religious and cultural importance to the Tribe. For specific information about consulting parties, see [Section 8.2.1.1](#) and [Section 8.3.2.2.3](#).

The consultation effort must be appropriate to the size and scale of the proposed undertaking, as well as to the scope of the federal involvement. For example, when the federal agency leading the action is a permitting agency, the scope of the area being studied is often more limited than when the lead agency is providing funding for the undertaking. Often, the consultation effort may depend on the nature of the historic properties located in the APE of the proposed federal action.

**Title 36 CFR Part 800** requires federal agencies to seek the views of the public during the **Section 106** process. Normally, FDOT's public involvement process, described in [Part 1, Chapter 11, Public Involvement](#), satisfies **NEPA, Section 4(f)**, and **Section 106** compliance. However, in some cases, where the historic properties are of great concern to the public, where the consultation involves large numbers of local citizens, or where special considerations for Tribes must be examined, additional or different types of public involvement efforts may be necessary. The nature of the sites may also trigger additional

consultations to meet the requirements of other laws such as the **NAGPRA, Chapter 872, F.S.**, or the **AIRFA**.

### 8.2.1.1 Participants in the Section 106 Process

The **Section 106** process, and therefore FDOT's CRM process, involves several participants. The primary participants in the process include the following:

1. **FDOT** – The role of FDOT varies based upon its relationship to the proposed undertaking, the funding sources for the undertaking, and required approvals. These roles include: (1) the Lead Federal Agency per the **NEPA** Assignment Program, (2) being an applicant for non-FHWA federal-aid funds, (3) serving as the Lead Federal Agency for local transportation projects receiving federal-aid funds, and/or (4) serving as the Lead State Agency for non-federal, FDOT-assisted or approved undertakings.
2. **Lead Federal Agency** – Under the **NEPA MOU**, FDOT assumes FHWA's responsibility for **Section 106** for all highway transportation projects and serves as the Lead Federal Agency with the exception of government-to-government consultation with the Tribes. However, there is nothing in the **NEPA MOU** to prevent FDOT, FHWA, and a Tribe from agreeing to allow FDOT to **carry out consultation activities on behalf of** FHWA and FHWA would remain legally responsible for government-to-government consultation. In addition, there may be instances where other agencies of the USDOT serve as the Lead Federal Agency or when other federal agencies serve as the Lead Federal Agency because they are granting a permit or approval.
3. **ACHP** - The ACHP issues the regulations to implement **Section 106**, provides guidance on compliance with **Section 106**, and oversees the **Section 106** process. The ACHP must be notified by FDOT when a project will have an adverse effect to historic properties, and the ACHP also may participate directly in the consultation process at its discretion or upon request from one of the consulting parties. The conditions under which the ACHP may participate directly in a specific circumstance are set forth in **Appendix A to 36 CFR Part 800**.
4. **SHPO** - SHPO represents the interests of Florida and its citizens in the preservation of their cultural heritage. Florida's SHPO is designated by the Florida Secretary of State, and reviews federal-aid projects, along with federal and state permitted projects. In Florida, the SHPO also serves as the Director of the FDHR, and in this capacity, reviews state-only undertakings and maintains Florida's state historic preservation plans and programs.
5. **Federally Recognized Tribes** - There are six federally recognized tribes (Tribes) with cultural associations in Florida: the Miccosukee Tribe of Indians of Florida, the Mississippi Band of Choctaw Indians, the Muscogee (Creek) Nation, the Poarch Band of Creek Indians, the Seminole Tribe of Florida, and the Seminole Nation of Oklahoma. The U.S. government has a unique relationship



with the federally recognized Tribes as codified in treaties, the U.S. Constitution, Supreme Court rulings, and federal law.

6. **Section 106 Consulting Parties** - These include the parties discussed above, as well as representatives of local governments, applicants for federal assistance, and other parties with a demonstrated interest in the effects of an undertaking on historic properties. For example, property owners and local historic preservation groups are usually specific to the project location. Projects involving NHLs normally involve the National Park Service (NPS). Projects involving publicly owned historic resources would need to include the agency owning or managing the resource.
7. **The Public** - The Lead Federal Agency must seek and consider the views of the public on the effects of its undertakings on historic properties.

### 8.2.1.2 Native American Consultation

Under **36 CFR Part 800** federal agencies must consult with Tribes regarding potential effects to historic properties that may be affected by a proposed undertaking and that may be of religious or cultural significance to the Tribe regardless of whether the property is located on or off tribal lands. In accordance with **36 CFR § 800.2(c)**, consultation with a Tribe must recognize the government-to-government relationship between the federal government and Tribes. It is FDOT's responsibility to make a reasonable and good faith effort to identify the appropriate Tribes for coordination. FDOT must consult with representatives designated or identified by the tribal government, and consultation should be conducted in a manner sensitive to the concerns and needs of the Tribe. See [Section 8.3.2.3](#) for the considerations regarding the unique relationship of the federally recognized Tribes to the consideration of historic properties in FDOT's CRM and project development programs.

While FHWA cannot assign its government-to-government tribal consultation responsibilities to FDOT under the **NEPA** Assignment Program, the requirements in **36 CFR § 800.2(c)** do not preclude direct communication between project applicants and Tribes, as long as the Tribe consents to such communication. As such, FDOT will continue to coordinate and meet with the Native American Tribes regarding projects. If, at any time, a Tribe requests government-to-government consultation with FHWA, OEM will notify FHWA. However, the **NEPA MOU** does not prevent FDOT, FHWA, and a Tribe from agreeing to allow FDOT to carry out consultation activities on behalf of FHWA; but, FHWA would remain legally responsible for government-to-government consultation.

### 8.2.2 Additional Requirements and Processes

The **Section 106** process encompasses compliance with other laws that touch upon the treatment of historic properties. Examples of such laws are: federal- **NAGPRA**, **NEPA**, **Section 4(f)** of the **USDOT Act of 1966**, as amended, and the **Archaeological Resources Protection Act of 1979** and state - **Chapter 267, F.S.**, and **Chapter 872, F.S.** In addition, the **Section 106** process fulfills Florida's state rules regarding historic

properties (such as **Rule 1A-32** and **Rule 1A-46** of the **F.A.C.**), as well as compliance with EOs (such as **EO 13007** on Sacred Indian Sites).

The process for compliance with **Section 106** and **Chapter 267, F.S.**, is implemented through the **Section 106 PA** (amended June 7, 2017). The programmatic provisions address the requirements for the primary federal and state historic preservation laws only. They do not apply to projects occurring on tribal lands nor do they fulfill the requirements for consultation with Native American Tribes under **Section 106** or any other law. These provisions also do not exempt undertakings from meeting the requirements set forth for resources protected by other laws (such as those resources designated by the Florida Legislature as State Historic Highways) or for resources protected by laws that do not require listing on or eligibility for the NRHP.

Under the **NEPA** Assignment Program, FDOT assumes responsibility for compliance with **Section 106** of the **NHPA** and will continue coordination with the SHPO, other consulting parties, and the ACHP regarding cultural resource issues through formal assumption of **Section 106** responsibility. The District will continue to be responsible for activities stipulated in the **Section 106 PA**, including submittal and coordination of cultural resource surveys and other analyses to OEM and to other consulting parties as appropriate.

### 8.2.2.1 State-Designated Historic Highways

The Florida Legislature has designated certain highways as State Historic Highways, and a current list of is maintained by the FDOS. Each highway is designated by a specific law that sets the standards and guidance for its preservation and treatment. This designation is not based upon the NRHP eligibility criteria nor any other standard evaluation method used to evaluate historic properties. Rather, the designation reflects a specific importance to the local community. For most of these resources, the designation prohibits alteration of roadway dimensions and immediate surroundings. In most cases, these laws prohibit the expenditure of state funds on any proposed action involving these designated highways prior to coordination and agreement with FDHR on the proposed action. These resources are identified as part of the identification and evaluation of historic properties undertaken for a proposed action, as detailed in [Section 8.3](#).

### 8.2.2.2 Burials, Cemeteries, and other Sites Containing Human Remains or Associated Burial Artifacts

FDOT's CRM process includes compliance with Florida's **Unmarked Human Burials** law in **Section 872.05, F.S.**, which governs the treatment of human remains. For FDOT, this law usually applies to human remains encountered during project construction or during archaeological research associated with project development. When a potential for the occurrence of human remains or burial artifacts has been identified for a site or location within the construction area of a project, FDOT includes compliance with the provisions of **Section 872.05, F.S.**, in its project development and delivery conditions.

The **Unmarked Human Burials** law differentiates between human remains of an individual that has been deceased less than 75 years and those of an individual deceased for 75 years or more. For those less than 75 years, the human remains come under the

jurisdiction of the district medical examiner. For those that are 75 years or more, the remains come under the jurisdiction of the state archaeologist. If these older remains are located on federal lands and they are associated with the cultural history of Tribes, the federal agency owning or administering the land is informed in order to ensure compliance with **NAGPRA**. The requirements for the treatment of human remains are further addressed in FDOT's CRM procedures and in **Section 7-1.6** of FDOT's [Standard Specifications for Road and Bridge Construction](#).

### 8.3 PROCEDURE

This section describes FDOT's procedures for considering historic and archaeological resources in the development of its projects and programs. FDOT's CRM responsibilities are vested in OEM at the state level, and the District Environmental Office at the District level. Project Managers (PMs), Environmental Managers, and Cultural Resource Coordinators (CRCs) in both OEM and the District Environmental Office have responsibility for maintaining compliance with appropriate state and federal historic preservation laws, regulations, rules, and EOs. OEM establishes overall guidance, procedures, training, and assistance in project reviews, and monitors the overall performance of FDOT's CRM program. OEM assists the District PMs, Environmental Managers, and CRCs with the **Section 106** process as requested by the Districts, SHPO, and any other consulting party.

The primary responsibility of the District Environmental Office during the **Section 106** analysis is to ensure that individual projects follow the established FDOT processes and procedures. The District CRCs apply the applicable laws, regulations and procedures to the individual projects and conduct the day-to-day consultations with the appropriate parties.

In addition to staff, FDOT contracts with consultants to provide cultural resource studies and perform other tasks that require meeting the professional qualifications standards established by the U.S. Secretary of the Interior (**FR, Vol. 62, 33708-33723**) to perform identification, evaluation, registration, and treatment activities for historic properties. Consultants identify archaeological sites and historic resources, evaluate the identified resources in accordance with the criteria for historic significance set forth by the NPS, and apply the Criteria of Adverse Effect as defined in **36 CFR § 800.5**. In all cases, the consultants' findings are professional recommendations.

FDOT staff or consultants performing actions to meet the requirements of historic preservation mandates must either meet or be supervised by individuals meeting the minimum criteria for archaeologists, historians, architectural historians, and other professionals as outlined in **36 CFR Part 61** and set forth in the Professional Qualifications Standards section of the **Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (FR, Vol. 62, 33708-33723)** (June 20, 1997). The professional qualifications required to perform cultural resource assessments for FDOT are further described in **Chapter 1** of the [CRM Handbook](#).

All FDOT undertakings receive some level of cultural resources analysis, even if it is to determine there is no potential for the occurrence of historic resources in the project area.

This analysis is separate from, and must be made prior to, the final, **NEPA** decision. A project's level of involvement with historic properties has the potential to impact the **NEPA** COA for the project. However, the anticipated **NEPA** COA does not dictate the expected level of effort necessary for **Section 106** compliance, nor does it substitute for an analysis of the project's potential to affect historic properties. Similarly, for state-only projects, the requirements of **Chapters 267** and **872, F.S.**, apply equally to Non-Major State Actions (NMSAs), as well as State Environmental Impact Reports (SEIRs). The level of analysis and documentation for compliance with historic preservation mandates vary based upon specific project activities, but it is the findings of the analysis that are used as a part of the **NEPA** decision.

As set forth in **36 CFR Part 800** and recognized in the **Section 106 PA**, the decision concerning the level of survey effort and detail necessary to meet the requirements of historic preservation laws are based upon the nature and scope of proposed projects and the location of these projects in relation to both known and unknown historic properties. Therefore, determining the appropriate level of survey requires a careful review of all activities associated with the project, as well as the potential for the occurrence of historic properties in the geographic area that the project may directly or indirectly affect.

FDOT uses the four-step process established in **36 CFR Part 800** as the core of its CRM compliance program for both federal and state actions. This process includes locating, documenting, evaluating, and assessing the effects on historic properties, as well as developing avoidance, minimization, and/or mitigation measures for adverse effects to significant cultural resources, all in consultation with the appropriate parties. Regardless of the funding source, similar requirements for the assessment of cultural resources apply.

For proposed federally funded or approved actions, if the undertaking includes an additional federal action [such as a U.S. Coast Guard (USCG) or U.S. Army Corps of Engineers (USACE) permit], then the federal agency taking that action must comply with **Section 106** of the **NHPA**; however, in these cases those agencies will typically adopt FDOT's **NEPA** analysis and associated findings including those under **Section 106** to fulfill their requirements. For proposed state funded only projects, if the undertaking includes a federal action (such as a USCG or USACE permit), then the federal agency must comply with **Section 106** of the **NHPA**. As permits are often granted only for the specific activity or location being permitted, the **Section 106** compliance in these situations may not relieve FDOT of its **Chapter 267** responsibilities for the remainder of the proposed project.

### 8.3.1 Early Consideration of Archaeological and Historical Resources

**Section 106**, and FDOT's CRM process, require consideration of historic properties in the earliest stages of project development. FDOT's Efficient Transportation Decision Making (ETDM) screening process allows Districts to use the Environmental Screening Tool (EST) to review projects to determine if projects fall into the programmatic categories established in the **Section 106 PA**. See [Section 8.3.2.2.2](#) for additional procedures related to reviewing minor project activities.

Screening of qualifying transportation projects is required during the ETDM screening events (see [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)). The early screenings for these projects include consideration of cultural resources and loosely correlate to steps one and two of the **Section 106** process. The Planning Screen and Programming Screen are conducted through the EST and are briefly described below (FDOT's [Efficient Transportation Decision Making Manual, Topic No. 650-000-002](#)).

The screening evaluations are:

1. **Planning Screen** – This initial screening identifies possible issues/resources that need to be considered as the proposed project advances. This is the first opportunity for comments from other agencies with either responsibilities for, or consultative roles in, the **Section 106** process.
2. **Programming Screen** – This second screening event provides additional opportunity to scope the proposed project, identify potential project effects, and provide recommendations for technical studies, including the cultural resources survey and evaluation effort. This screening event may also present an excellent opportunity to establish contact with the interested parties for coordination of some of the early decisions regarding the CRM study, such as the identification of the appropriate consulting parties for the project and, more rarely, the delineation of the APE for the project.

Following the Programming Screen, the District produces a **Programming Screen Summary Report**. This report includes a summary of the comments provided by the resource agencies, FDOT's transportation partners, and other interested parties, including consulting parties under **Section 106**. The comments from those with a consultative role in the **Section 106** process are especially important for consideration as the District plans its PD&E Study for the proposed undertaking. In addition, comments from SHPO/THPO and the Native American Tribes are used to develop the scope of services needed to complete the CRAS for the proposed project.

For screened projects, there may be enough information to determine if the project may affect any historic resources. In part, these screening events should be used as part of the first two steps of the **Section 106** process (see [Sections 8.3.2.2](#) and [8.3.2.4](#)).

### **8.3.2 Archaeological and Historical Resources Considerations Prior to and during PD&E**

FDOT uses the **Section 106** process to ensure compliance with most state and federal historic preservation regulations.

#### **8.3.2.1 Section 106**

The **Section 106** process is set forth in **36 CFR Part 800**. As specified in [Section 8.2.1](#), there are four steps in the **Section 106** review process and, therefore, in FDOT's procedures.

[Figure 8-1](#) provides a flow chart of this four-step process and a listing of the activities associated with each of the steps. This process is also discussed in FDOT's [CRM Handbook](#). The **Chapter 267, F.S.**, requirements are similar to the **NHPA** requirements and this same four-step process is applicable to projects that do not require federal approvals or assistance, with the exception being that no coordination with federal agencies or the ACHP is required. If it is anticipated that a federal agency will become involved later in project development, the **Section 106** process should be followed to avoid unnecessary delays.

Regardless of whether a project qualifies for screening (see **Chapter 2 of the ETDM Manual, Topic No. 650-000-002**), a cultural resources evaluation is required. The level of effort involved in the **Section 106** evaluation is based on the potential for the project to affect historic properties, consideration of where the project occurs, and the nature of the proposed undertaking.

### 8.3.2.2 Step One: Initiate the Section 106 Process

This step involves the following four actions:

- Establish the undertaking
- Apply appropriate program alternative(s) and coordinate with other reviews
- Identify the consulting parties
- Create a plan to involve the public

#### 8.3.2.2.1 Establish the Undertaking

Establishing the undertaking consists of a determination as to whether the proposed action constitutes an undertaking as defined in **36 CFR §800.16(y)**, and if so, whether it is a type of activity with a potential to cause effects to historic properties should any such properties be present.

If the undertaking is a type of activity with no potential to cause effects on historic properties, assuming such historic properties are present, no further obligations exist under **Section 106**.

The **Section 106 PA** establishes FDOT's CRM process in Florida and identifies activities that are programmatically determined to have no potential to affect historic properties, provided the conditions specified in the **Section 106 PA** are met and SHPO does not object to the finding ([Section 8.3.2.2.2](#)).

Since the Tribes are not signatories to the **Section 106 PA**, these programmatic classifications do not apply. For any project where there may be properties of interest to the Tribes in the vicinity of the proposed undertaking, the District must submit the appropriate project and location information to OEM for transmittal to the Tribes. In these cases, the review period may need to be expanded to allow sufficient time for the Tribes to respond.

If the undertaking is a type of activity that has potential to cause effects to historic properties, then the project proceeds to the next step in the **Section 106** process.

### **8.3.2.2.2 Apply Appropriate Program Alternative(s) and Coordinate with Other Reviews**

The **Section 106 PA** specifies two primary considerations that govern the required level of effort for the cultural resources study and review: (1) the project location in regard to the potential for cultural resources to be present in the area of the undertaking, and (2) the specific activities associated with the development, construction, and scope of the project and their potential to affect cultural resources, should such resources be present.

Regarding project location, some geographic areas are unlikely to contain historic resources, while other projects are so minor in scope that unless the specific project corridor itself contains, abuts, or is a historic resource, there is very little chance the undertaking could affect historic properties. Such circumstances may minimize the level of effort needed to fulfill the requirements for identifying historic properties in the project APE. However, if the basic historicity of the area is unknown, then a determination on the potential of the proposed project to affect historic properties, no matter how minor the project is, cannot be made with any certainty without a review of the structural and archaeological environment surrounding the project. Therefore, in order to reach a substantive decision, FDOT conducts the necessary level of review.

Regarding specific activities associated with a project, the **Section 106 PA** defines two categories of Minor Project Activities that typically have little or no potential to affect historic properties. The first group includes six project activity types that can be designated as “No Effect” on historical properties, provided the following conditions are met:

1. The activity is a stand-alone project;
2. The activity does not occur on tribal lands;
3. The activity does not include and is not located in or adjacent to any historic/archaeological resources of 50 years of age or older; is not listed on the NRHP; and is not an NHL;
4. The project must be limited to one of the six activities specified in the **Section 106 PA**; and
5. SHPO and OEM have been notified of the finding of no potential to affect historic properties and the rationale for the finding and have not objected to the finding.

If the conditions listed above are met, then the six project activity types specified in Exhibit 1 of the **Section 106 PA** that can be applied are:

1. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur

2. In kind replacement or ordinary repair of existing lighting, guardrails, traffic signals, curbs, and sidewalks
3. Activities included in the state's highway safety plan under **23 U.S.C. § 402**
4. Preventive maintenance activities such as joint repair, pavement patching, shoulder repair and the removal and replacement of old pavement structure
5. Restoration, rehabilitation, and/or resurfacing existing pavement
6. Restoring and rehabilitating existing bridge (including painting, crack sealing, joint repair, scour repair, scour counter measures, fender repair, bridge rail or bearing pad replacement, seismic retrofit)

The second category of Minor Project Activities requires **Section 106** Desktop Evaluation and/or Field Review in order to either verify that the project has no potential to affect historic properties or to determine what consultation or additional efforts are needed to meet the requirements of the historic preservation laws. The following conditions apply to this group of 57 project activity types (see [Figure 8-2](#)):

1. The decisions concerning historic site evaluations and effect determinations are based on the requirements of the **NHPA** and **36 CFR Part 800**, and these decisions are made by individuals meeting the Secretary of the Interior's Professional Qualifications Standards for cultural resource professionals (**FR Vol. 62, 33708-33723**).
2. If the Desktop Evaluation and Field Review identifies a historic resource within the project APE, FDOT consults with SHPO regarding NRHP eligibility pursuant to **36 CFR § 800.4(c)**. For non-federally funded projects, FDOT consults with the FDHR pursuant to **Chapters 267 and 872, F.S.**
3. The results of the Desktop Evaluation and Field Review indicate that the project activity has No Potential to Affect Historic Properties or will have No Effect on Historic Properties, and FDOT states that as its finding.
4. SHPO does not object to the finding of No Potential to Affect Historic Properties or No Effect to Historic Properties.
5. If FDOT finds a potential for effects on historic properties, FDOT consults with SHPO to determine the next course of action.

See [Figure 8-2](#) for the list of 57 types of project activities identified in Exhibit 2 of the **Section 106 PA** as requiring a Desktop Evaluation and Field Review.

### Reviewing Minor Project Activities

FDOT's procedure for reviewing the two categories of Minor Project Activities listed in the **Section 106 PA**, consists of an internal review and, as appropriate, an NRHP eligibility evaluation, and notification and coordination. The **Section 106 PA** specifies that the



internal review be conducted by qualified cultural resource staff or consultants, including an archeologist and architectural historian or historian, meeting the Secretary of Interior's Standards for Professional Qualifications, and that they employ a multi-disciplinary approach to implement the following internal review process, as appropriate to the project:

- Determine if the project constitutes an undertaking as defined in **36 CFR Part 800**.
- Determine if the undertaking is the type of activity which has the potential to cause effects to historic properties if such properties are present.
- Determine the project's APE.
- Review existing information (including the FMSF) on recorded properties in the APE.
- Assess the likelihood that unidentified properties exist in the APE.
- Determine the degree of existing disturbance within the APE, performing a field inspection where warranted.
- Conduct a field survey in conformance with the applicable standards, where warranted.
- Determine whether there are historic resources or properties within the APE. If there are historic resources within the APE, significance determinations for those resources must be made in consultation with SHPO/THPO and other appropriate consulting parties.
- Assess the project's effects on any historic properties if any are present within the APE, by applying the definition of Effect in **36 CFR § 800.16** and the Criteria of Adverse Effect in **36 CFR § 800.5(a)**.

For projects that do not include historic resources or properties within the APE or that by their nature will have No Effect to Historic Properties, FDOT documents the finding in the StateWide Environmental Project Tracker (SWEPT) project file. This is accomplished by the District notifying SHPO of its finding of No Historic Properties Affected on forms developed for minor project notifications. The Project Delivery Coordinator (PDC) and State CRC must be copied on this notification, and it must be saved to the SWEPT project file. The notification form or letter is accompanied by the project description, a map showing the location and area of potential effect, along with other information supporting the finding, as appropriate. Unless SHPO, OEM, or another consulting party objects to the finding, FDOT is not required to take any further action in the **Section 106** process.

When a project may involve a historic resource, which may be of religious or cultural importance to a Tribe, then the notification form cannot be used for the project, and the notification must be provided as a letter. The letter must be saved to the SWEPT project file.

### 8.3.2.2.3 Identify the Consulting Parties

FDOT, in consultation with SHPO/THPO, determines which particular agencies, organizations, citizens, or tribal governments should be invited to be a consulting party for the purposes of **Section 106**, as set forth in **36 CFR Part 800**.

The consulting parties may be any of the following:

- Federally recognized Tribes that attach traditional religious and cultural significance to historic properties that may be affected by the undertaking.
- Other consulting parties, which may include:
  - Applicants for federal funding assistance, permits, licenses, or other approvals.
  - Representatives of local governments with jurisdiction over the area in which the effects of an undertaking may occur.
  - Parties with legal or economic interest in the undertaking or an affected historic property.
  - Those concerned with the undertaking's effects on historic properties, such as local preservation groups, historical societies, or individual tribal members with special knowledge or expertise in identifying properties of traditional religious and cultural significance to that Tribe.

OEM, in consultation with SHPO/THPO, makes the final decision regarding consulting party status. Note that the ACHP is a participant in the **Section 106** process and may enter into the consultations at any time, particularly if there is a disagreement between two or more consulting parties, or if requested to participate by the public or any other consulting party. In addition, in the case of NHLs, the lead agency must consult with the NPS in order to comply with **Section 110** of **NHPA**, as well as **Section 106**. Once the consulting parties are identified the following procedures must be followed.

1. FDOT sends a letter to all potential consulting parties, which includes the project description, a discussion of efforts to identify historic properties, and an invitation to participate in the **Section 106** process.
2. FDOT submits all documentation related to identification of and effects (or no effects) to historic properties to SHPO/THPO and the consulting parties, as appropriate. If SHPO/THPO requests additional information that will assist in completing their review of eligibility and effects, FDOT provides that information in a timely manner.
3. For projects where adverse effects to archaeological or historic properties have been identified, prior to initiating consultation with SHPO/THPO and other appropriate parties on the resolution of those adverse effects, the District coordinates with OEM.

#### **8.3.2.2.4 Create a Plan to Involve the Public**

Under historic preservation laws, public involvement activities are dependent on the nature and complexity of the project and its potential to affect historic properties. The public includes elected officials, local property and business owners, historic preservation groups, and other concerned citizens with an interest in the undertaking. Efforts to involve the public should be initiated early in the project development process and comments from the public will be solicited throughout the **Section 106** process.

The **Section 106** process to engage the public is coordinated with the public involvement procedures established in [Part 1, Chapter 11, Public Involvement](#). If a public hearing is held, the public hearing presentation must mention any involvement with archaeological and historic resources that are not exempt from disclosure. For projects involving a number of consulting parties, projects with a high degree of controversy, or projects that involve historic properties that are of a particular importance to the community, the public involvement needs may exceed those that are addressed by the procedures in [Part 1, Chapter 11, Public Involvement](#). In these cases, FDOT Districts shall inform the appropriate PDC as well as the SHPO/THPO, and should ensure that **Section 106** public involvement activities are influenced by the scale and nature of the undertaking and the historic properties involved. FDOT Districts may also consider establishing a cultural resources coordinating committee for these projects.

There are times when the law requires that a particular historic property location, purpose, or nature must be kept confidential. It is the District's responsibility to ensure that sensitivities for these properties are fully respected in the public involvement efforts. To that end, the District Environmental Manager and/or CRC reviews all site information to ensure that FDOT does not inadvertently release information on sites that should remain confidential.

#### **8.3.2.3 Conduct Consultation with Native American Tribes**

For projects involving the use of federal funds or the need to obtain federal permits or licenses, FDOT or the federal permitting agency is required to consult directly with federally recognized Tribes as part of the **Section 106** process when a project may have the potential to affect historic properties. FHWA retains government-to-government consultation under the **NEPA** Assignment Program. In accordance with ACHP guidance, FHWA's Florida Division, in partnership with FDOT, has initiated a government-to-government relationship with six federally recognized Tribes with cultural interests in Florida.

While FHWA cannot assign its government-to-government tribal consultation responsibilities to FDOT under the **NEPA** Assignment Program, FHWA has assigned normal **Section 106** consultation with the Tribes to FDOT. As a result, FDOT will continue to coordinate with the Native American Tribes, including notification of a proposed activity and the submittal of cultural resource reports or other appropriate documents. If, at any time, a Tribe requests government-to-government consultation, OEM will notify FHWA. When a Tribe has shown interest, or requested a survey, the District must submit sufficient copies to OEM for distribution to the Tribes.

Any coordination with the Tribes on state-funded projects is conducted through FDOT and, if in writing, on FDOT letterhead. The PDC and the State CRC should be copied on all transmittals to Tribes. If a federal permit is required for the project, the Districts inform the permitting agencies when consultation with the Tribes will be needed and assist those agencies in the coordination and consultation with the Tribes and SHPO/THPO, as appropriate. The current list of tribal contacts is maintained on FDOT's OEM website for [Native American Coordination](#).

For projects not occurring on tribal lands, it is appropriate to include the federally recognized Tribes culturally affiliated with Florida. However, the Mississippi Band of Choctaw Indians only wishes to be contacted on projects occurring in the Florida Panhandle, west of the Apalachicola River to the Alabama state line (including Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, and Gulf Counties). If the project does not include resources located in that designated area, project information is not forwarded to the Mississippi Band of Choctaw Indians.

The ultimate objective of this coordination is to conduct a good faith effort to elicit information concerning properties of traditional, historical, or religious importance to the Tribes in a sensitive manner that is respectful of tribal sovereignty. To date, six major issues of concern to the Tribes have been identified:

1. Good faith consultation
2. Government-to-government relationships
3. Confidentiality
4. Human remains
5. Archaeological sites
6. Traditional Cultural Properties

The basic steps to follow when conducting consultation with Tribes are outlined below. **Chapter 3** of the [CRM Handbook](#) provides additional information about coordination with Tribes.

**Step 1** – FDOT provides the Advance Notification (AN) to the Chief or Chair of each Tribe, and as appropriate with copies to the THPO or **Section 106** tribal representative (see the website for [Native American Coordination](#) for appropriate tribal contacts).

**Step 2** - This notification includes the following:

1. A clear statement that the project is being conducted pursuant to **Section 106** of the **NHPA**
2. A brief description of the project and proposed improvements
3. A map showing the location of the project and proposed improvements

4. A statement that a CRAS will be conducted and a copy of the report will be forwarded to the Tribe
5. A request for comments from the Tribe
6. The name of FDOT's designated contact for Tribal comments

**Step 3** - If the Tribes have expressed interest in the project and/or the CRAS, or if the survey resulted in the discovery of any sites or resources that may have cultural or historical importance to the Tribes, provide a draft transmittal letter and the final **CRAS Report** to OEM for distribution to the appropriate federally recognized Tribes. See [Figure 8-3](#) for a sample **CRAS Report** submittal letter if the survey identified no archaeological sites. See [Figure 8-4](#) for a sample **CRAS Report** submittal letter if the survey identified archaeological sites. In most instances, only the Miccosukee Tribe of Indians of Florida require a hard copy of the survey. OEM can forward electronic copies to the other Tribes unless a request for hard copies is made.

1. If comments are received from the Tribes, FDOT's District CRC coordinates with the appropriate PDC and the project manager to address the comments, and then with the THPO or **Section 106** tribal representative.
2. If no comments are received, FDOT proceeds with the **Section 106** process.

The District CRCs consult with the appropriate PDC for projects where sites which may be of religious and cultural importance to a Tribe are identified during the CRAS. The PDC and the State CRC can provide direction and assistance to assure that the Tribes are included in the determination of effects and in the subsequent efforts to find an appropriate avoidance, minimization, or mitigation solution.

#### **8.3.2.4 Step Two: Identify Historic Properties**

The purpose of Step Two of the **Section 106** process is to identify all NRHP-listed, determined eligible, or potentially eligible archaeological sites and/or historic resources located within the project APE, as defined in **36 CFR Part 800** (see [Section 8.1.2](#)). This is accomplished through the completion of a CRAS and its associated report. Step Two of the **Section 106** process includes the following four actions:

1. Determine the scope of the resource identification effort.
2. Identify historic resources (for example, archaeological sites, buildings, objects of 50 years of age or older, as defined in **Section 267.021, F.S.**).
3. Evaluate the historic significance of the identified resources.
4. Document the historic and archaeological resources survey and evaluation effort.

##### **8.3.2.4.1 Determine the Scope of the Resource Identification Effort**

Identify the scope of the resources identification effort through the following activities:

1. Determine and document the APE.
2. Review existing information about historic properties within the project APE, including data concerning the potential for the occurrence of historic properties not yet identified. Much of these data are available at the FMSF and in the Florida Geographic Data Library (FGDL) database available in the EST.
3. Seek information from parties likely to have knowledge of, or concerns about, historic properties in the area.
4. Gather information from the appropriate Tribes about properties to which they attach religious and cultural significance while remaining sensitive to issues of tribal sovereignty, and any concerns they may have about the confidentiality of this information.

In order to meet the “reasonable and good faith effort” required by **36 CFR § 800.4**, these decisions must be based upon: (1) the activities associated with the proposed project and (2) the potential for the occurrences of historic properties within the project APE, as well as the types of resources that may be encountered. The level of effort required for the resource identification effort normally depends on ROW needs, the extent of ground-disturbing activities, size and scope of the proposed undertaking, and the potential for the occurrence of historic properties in the project APE.

The District PM and District CRC establish the project’s APE, and when necessary, is done in coordination with OEM and SHPO/THPO. In practice, a recommended APE is developed by the CRM professionals conducting the CRAS effort in tandem with the District PM and the District CRC. This APE is then specified and described in the **CRAS Report** or **Technical Memorandum**, with a justification for its geographic limits.

In defining the APE, the full range of possible project effects is considered that could directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist, based on the scale and nature of the undertaking. Possible project effects include direct, indirect and cumulative effects. Direct effects include ground-disturbing activities and destruction of the property or elements associated with the property, as well as auditory and visual effects. Indirect effects are reasonably foreseeable effects which may result from the project such as changes in transportation patterns and demands, abandonment of historic properties, changes in access to or from historic properties, and other effects which may be further removed from the project in distance or time, or which may be cumulative in nature. FDOT has provided general guidance for considering cumulative effects under **NEPA** in FDOT’s [Cumulative Effects Evaluation \(CEE\) Handbook](#). For historic properties, any analysis of such effects would be confined to those which may alter any of the character defining features that qualify the property for inclusion in the NRHP.

The identification of the APE should be based on the project scope and the potential to affect cultural resources; therefore, it should be sized to accommodate appropriate cultural resource investigations. Not all survey techniques are appropriate for the entire APE. For example, due to the nature of archaeological sites, how they can be affected,

and the methods of identification and evaluation used, the survey efforts for these resources are different from the methods applied to other categories of historic properties. The survey effort for archaeological sites within the APE is usually focused on the area where ground disturbance may occur. In addition to the existing and proposed ROW, this includes potential temporary construction areas, staging areas, access roads, Stormwater Management Facilities (SMF), Floodplain Compensation Areas (FPC), and other project related activities which have the potential to affect historic properties. There also may be instances where proximity effects such as vibrations or destabilization of lands may affect archaeological resources beyond the proposed or existing ROW.

The survey effort for historic resources takes into consideration factors such as potential visual and auditory effects, changes in vehicular access, and destruction of important landscapes resulting from equipment storage and other construction-related activities. Viewshed issues can be particularly important in guiding the outermost limits of the APE because above ground resources can be sensitive to alterations of their settings. The CRM professionals conducting the CRAS need to take into account both the view from the project looking outward, as well as the view from the outside looking towards the project. This is particularly appropriate in the case of elevated roadways and bridges, as well as projects that alter landscapes and approaches. As a result, the areas requiring survey and evaluation for above ground resources often extend beyond the geographic area identified for archaeological investigations. In all cases, the survey techniques and the geographic extent of these techniques within the APE must be identified in the **CRAS Report** or **Technical Memorandum**.

If the scope changes during the project, the APE and the survey efforts may need to be revisited for archaeological sites and/or historic resources.

For most projects, the APE is documented in the **CRAS Report**. However, for multi-alternative, complex, and large projects, or for undertakings that may include a broad range of potential effects, consultation with the appropriate parties regarding the designation of the APE should be completed prior to initiating the CRAS. In cases where FDOT and SHPO, or other consulting parties, fail to agree on the establishment of the APE, OEM is responsible for making the final determination. For additional details on delineating the APE for a proposed project, refer to **Chapter 5** of the [CRM Handbook](#).

As stated in [Section 8.3.2.2.2](#), the **Section 106 PA** provides two categories of minor project types, along with the criteria that govern the level of effort for the assessment. When the proposed undertaking fails to meet these criteria, a more intensive survey effort will be needed. For most minor project types unlikely to affect historic properties, the resource identification effort typically entails a desktop review (background research) and/or a field survey. As outlined in [Section 8.3.2.2.2](#), the first category of minor projects includes specified activities that are so minor they normally could affect only those historic properties directly involved or directly incorporated into the activity. When one of these activities meets the conditions set forth in the **Section 106 PA** and SHPO does not dispute the finding of no potential to affect historic properties, the undertaking may proceed with no further involvement of SHPO. If, however, the project activity does not meet the conditions, it should follow the standard review process in accordance with Stipulation VII of the **Section 106 PA**.

The second category of minor projects outlined in the **Section 106 PA** contains activities (see [Figure 8-2](#); Exhibit 2 of the **Section 106 PA**) that are more involved than those listed in the first category. These projects, due to their nature and definition, are also unlikely to affect historic properties. However, the geographic area that could be affected by these activities may be broader than the areas for the first category. Therefore, it is necessary to confirm a lack of historic resources in the immediate vicinity of the proposed undertaking by completing an appropriate level of analysis and study.

If, as a result of this minor survey effort, FDOT finds that the project meets the conditions outlined in the **Section 106 PA** and in [Section 8.3.2.2.2](#), FDOT must inform SHPO of its finding and include sufficient supporting information. If SHPO does not object to the finding, the project may proceed with no further involvement of SHPO. If, however, the four conditions are not met, or when SHPO or another consulting party (such as a local preservation group, or a permitting agency) object to the finding, then further consultation with SHPO, and the appropriate consulting party must be undertaken to complete the **Section 106** process. Additionally, the **Section 106 PA** does not address separate decisions which may be required under **Section 106**, such as government-to-government consultation with federally recognized Tribes and FDHR review of State Historic Highways.

For projects meeting the criteria for either of the two programmatic compliance categories set forth in the **Section 106 PA** between FDOT and SHPO (see [Section 8.3.2.2.2](#)) the notification to SHPO—with a copy to the PDC and State CRC—is provided using the forms developed for these minor projects. This completed form serves as the documentation to support the finding related to historic properties contained within the Categorical Exclusion. For minor projects which do not meet the criteria for those programmatic categories but which, when evaluated for involvement with significant historic properties, prove to have No Effect to Historic Properties, notification to SHPO/THPO and other appropriate consulting parties should be completed in accordance with **36 CFR § 800.4(d)**, as outlined in [Section 8.3.2.4.4](#).

Unlike the programmatic categories of projects which are generally minor projects, most major projects have a greater potential to affect historic properties. As a result, the identification and evaluation effort requires a more robust survey effort, including preliminary background research, field reconnaissance, historical/architectural field reviews, property examinations, and systematic archaeological testing, as appropriate.

#### **8.3.2.4.2 Identify Historic and Archaeological Resources**

Whether the CRAS is a minor desktop analysis/field review or an intensive field survey, its primary goal is to identify, evaluate, and provide the boundaries of the historic properties that may be affected by the proposed undertaking.

The CRAS includes a review and assessment of all previously recorded and newly identified archaeological sites and historic resources located within the project APE. A CRAS includes the following activities, which are documented in the **CRAS Report**:

1. Complete Background Research



2. Develop a Research Design
3. Conduct an Archaeological Field Survey
4. Conduct a Historic and Architectural Resources Field Survey
5. Conduct Artifact Processing and Analysis
6. Provide for Artifact and Record Curation
7. Prepare FMSF Forms

Each of these activities is described in detail in **Chapter 5** of FDOT's [CRM Handbook](#).

For projects occurring on state-owned lands, a research permit from the Bureau of Archaeological Research is required in accordance with **Rule 1A-32.005, F.A.C.** A **Chapter 1A-32** permit is not required for archaeological survey within FDOT's ROW. Archaeological research on federal lands requires an **ARPA** permit from the land managing agency.

#### **8.3.2.4.3 Evaluate the Historic Significance of the Identified Properties**

**Title 36 CFR Part 60** establishes the criteria for evaluating the significance of historic resources in terms of eligibility for the NRHP. **Title 36 CFR § 60.4** states that

. . .the quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and that meet at least one of the four criteria for evaluation:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history (e.g., events, developments); or
- B. That are associated with the lives of persons significant in our past; or
- C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction (e.g., architecture, engineering, or cultural trends); or
- D. That have yielded, or may be likely to yield, information important in prehistory or history (e.g., research potential or value).

**36 CFR § 60.4** also established a series of Criteria Considerations for evaluating the significance of resources which are not normally considered to have potential for historic

significance (such as religious properties, cemeteries, properties that are not yet 50 years old, and properties that have been relocated).

The evaluation of each archaeological site and historic resource within the APE for an undertaking includes applying the NRHP Criteria for Evaluation. As indicated in the ***National Register Bulletin No. 15 (NPS, 1991, revised 1997)***, it is critical to address both significance and integrity when evaluating historic resources for eligibility and to develop specific reasons why a historic resource is or is not NRHP eligible and, if eligible, what criteria of eligibility apply to the property along with the property's character-defining features and associated elements. In order to comply with the provisions of ***Sections 106 and 4(f)***, justifiable boundaries for properties found to possess historic significance must be provided, along with any contributing landscape elements and associated structures or features that are located either within or near the proposed ROW for the project. In the case of historic districts, it is especially important to note the non-contributing features of the historic district contained within the existing and proposed ROW of the transportation corridor under study. See [Part 2, Chapter 7, Section 4\(f\) Resources](#) for guidance regarding evaluation of ***Section 4(f)*** resources for the purposes of compliance with ***Section 4(f) of the USDOT Act of 1966***, as amended. For further guidance on applying and reporting the NRHP Criteria for Evaluation in FDOT CRAS efforts, see ***Chapter 6*** of the [CRM Handbook](#).

In compliance with ***Section 106*** of the ***NHPA***, the information gathering and assessment effort includes parties with interests in and knowledge of the history of the area and the local value of the historic properties located in the APE. The special expertise of Tribes is included when assessing the eligibility of a property to which they may attach religious and cultural significance, even when it is not on tribal lands. Since Tribes may inform the OEM (or a lead federal permit agency) of their concerns directly, it is important for the District to maintain communication with OEM regarding potential tribal interests in proposed undertakings and their potential to affect historic and archeological properties. It is also important for the District to include the CRM consultants in this communication, as appropriate, so that the CRM professionals completing the survey are aware of these concerns while completing the cultural resources survey efforts.

Previous determinations of eligibility and non-eligibility of historic resources from earlier surveys may need a reassessment due to the passage of time or other factors. In addition, not all eligibility determinations contained at the FMSF or summarized in the Geographic Information System (GIS) database for ETDM are accurate. Therefore, check SHPO concurrence letters and FMSF forms for accurate site evaluations prior to revisiting previously recorded cultural resources.

#### **8.3.2.4.4 Document the Historic and Archaeological Resources Survey Effort**

The District sends the results of the ***CRAS Report*** or ***Technical Memorandum*** to OEM or other Lead Federal Agency, SHPO/THPO, and the other consulting parties. The ***CRAS Report*** or ***Technical Memorandum*** must:

- Identify and justify the APE;

- Record historic resources evaluated as part of the survey effort, provide the survey team's recommendations on the historic significance of the resources encountered in the project APE; and
- Provide a preliminary assessment of the potential effects of the proposed action on any identified historic properties only when the project description and activities is detailed enough to permit such an assessment.

Two kinds of properties may be identified in the **CRAS Report** as historically significant: those properties already listed or determined eligible for listing in the NRHP, and those newly identified and assessed as potentially eligible for the NRHP.

Considerations for reporting the findings of the CRAS include the nature of the undertaking, the historic and archaeological sensitivity of its location, the findings resulting from the survey effort, the applicability of the provisions contained in the **Section 106 PA** (see [Section 8.3.2.2.2](#)), and the number and nature of the consulting parties. In accordance with **36 CFR § 800.4(d)**, at the conclusion of Step 2 of the **Section 106** process, the FDOT, as the lead agency, moves to Step 3 of the **Section 106** process and makes an effect determination for the proposed undertaking. This effect determination is based on the information provided by FDOT in the **CRAS Report** or **Technical Memorandum**, and is often contained within a **Section 106 Case Report**. In cases where SHPO/THPO objects or disagrees with the determination of significance contained in the **CRAS Report**, or if the ACHP or Secretary of the Interior requests it, FDOT obtains a determination of eligibility from the Keeper of the NRHP as set forth in **36 CFR Part 63**.

There are two possible effects determinations:

1. No Historic Properties Affected, or
2. Historic Properties Affected

If no historic properties are present or if historic properties are present but the undertaking will not affect them, the determination is "No Historic Properties Affected." If, however, historic properties are present and may be affected by the undertaking, the determination is "Historic Properties Affected."

The FDOT consults with SHPO/THPO and takes into account the views of any interested parties in order to meet the consultation requirements established by **Section 106**.

When making a determination of "No Historic Properties Affected," FDOT must provide the following documentation to consulting parties per **36 CFR § 800.11(d)**:

1. A description of the undertaking, specifying the federal involvement, and its APE, including photographs, maps, drawings, as necessary;
2. A description of the steps taken to identify historic properties, including, as appropriate, efforts to seek information to identify historic properties within the APE; and

3. The basis for determining that no historic properties are affected.

If, as a result of the CRAS documentation and consultation efforts, FDOT finds that there will be No Historic Properties Affected by the proposed project, then FDOT has fulfilled its **Section 106** responsibilities.

For undertakings where FDOT determines historic properties may be affected by the proposed project, and SHPO/THPO and appropriate consulting parties have been consulted, FDOT proceeds to Step Three of the **Section 106** process, as described in [Section 8.3.2.5](#). Regardless of the **Section 106** effect finding, if the proposed project involves the use of any land from within the site boundaries of any property listed or eligible for listing on the NRHP (even if the land in question already lies within FDOT-owned ROW) and it is a USDOT funded or permitted action, the **Section 4(f)** process must be initiated ([Part 2, Chapter 7, Section 4\(f\) Resources](#)).

For projects that may affect NHLs, consultation must include the NPS and the ACHP.

### Combining Effect Determinations and Eligibility Recommendations

Eligibility determinations by FDOT for the NRHP are not final until the CRAS has been coordinated and accepted by SHPO/THPO and other appropriate consulting parties.

Combining a finding of “No Historic Properties Affected” or “No Adverse Effect to Historic Properties” with a recommendation on the eligibility of a historic or archaeological resource is not recommended unless such eligibility recommendation is obvious. This is because project effects to historic properties cannot be final until the determinations on the eligibility of the identified historic resources have been made.

In certain circumstances, the survey findings may include District recommendations on potential effects and/or potential adverse effects of the undertaking on historic properties. The potential to have an effect upon historic properties occurs when a proposed undertaking may result in the “...alteration to characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register” [36 CFR § 800.16 (i)]. In these circumstances, it is important to provide sufficient information on the scope and activities of the proposed undertaking, along with the **CRAS Report** or **Technical Memorandum** for the SHPO/THPO or OEM to make an effect finding or to understand and comment upon the survey and its findings.

The most common situations for which the effects and eligibility determinations are combined are where there are no historic or archaeological resources occurring in the project APE or where the project meets the criteria and conditions outlined in the **Section 106 PA**.

### 8.3.2.5 Step Three: Assess Adverse Effects

After determining that the proposed project may have an effect on historic properties, the next step is to apply the Criteria of Adverse Effect for the project and the involved historic properties. These criteria are defined at 36 CFR § 800.5(a)(1) as follows:

An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the NRHP in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the NRHP. Adverse effects may include reasonably foreseeable effects caused by an undertaking that may occur later in time, be farther removed in distance or be cumulative.

Adverse effects on historic properties as listed at **36 CFR § 800.5(a)(2)** include:

- Physical destruction or damage to all or part of the property.
- Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation and provision of handicapped access, that is not consistent with the Secretary of the Interior's Standards for Treatment of Historic Properties (see **36 CFR Part 68**) and applicable guidelines.
- Removal of a property from its historic location.
- Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance.
- Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features.
- Neglect of a property that causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian Tribe or Native Hawaiian organization.
- Transfer, lease, or sale of property out of federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance.

Ground-disturbing activities within significant historic properties are subject to the Criteria of Adverse Effect. Therefore, actions such as archaeological testing and excavation on NRHP listed or eligible archaeological sites, or sites that appear to be eligible, should not be initiated without completing consultation with OEM, SHPO/THPO, and, as appropriate, other consulting parties including the Native American Tribes.

The application of the Criteria of Adverse Effect (**36 CFR § 800.5**) may result in a finding of either: (1) No Adverse Effect or (2) Adverse Effect. This determination is specific to the project, not to the historic properties. That is, where multiple historic properties are identified within a project APE, an adverse effect to one historic property is sufficient to determine an adverse effect for the project. Refer to **Chapter 6** of FDOT's [\*\*CRM Handbook\*\*](#) for more details about applying the Criteria of Adverse Effect.

As a rule, when a project may affect any historic properties identified in a **CRAS Report** (see [Section 8.3.2.4.2](#)), the District prepares a **Section 106 Case Report** that discusses and documents these effects. More importantly, this report contains the information required by **36 CFR § 800.11(e)** to support a finding of Adverse Effect or No Adverse Effect. This report needs to contain sufficient detail and illustration to support the recommended finding regarding adverse effects and to allow the consulting parties to reach independent conclusions as to the effect finding.

This **Case Report** is provided to OEM for its use in making and documenting a finding of Adverse Effect or No Adverse Effect. Once OEM makes its finding, it provides the **Case Report** and its finding to the SHPO/THPO and other consulting parties to seek their concurrence. In situations where there is an adverse effect, the **Case Report** should also enable the consulting parties to initiate discussion regarding the resolution of adverse effects.

The content and details of the **Case Report** depend on the level of involvement with historic properties, the degree of potential effects, and the complexity of the proposed undertaking and its relationship to historic resources. For projects involving the preparation of a **Section 4(f)** evaluation for the use of land from the affected historic property, information gathered and presented in the **Section 4(f)** evaluation is often used in the preparation of the **Case Report**.

Generally, these reports are also used during the fourth step of the **Section 106** process (Resolve Adverse Effects) because information in the **Case Report** may be integrated into the agreement and/or commitment documents to avoid, minimize or mitigate for any adverse effects associated with the project. Finally, the **Case Report** functions as FDOT's reporting mechanism for the ACHP's project effects review assessment when this review is needed. See **Chapter 7** of the [CRM Handbook](#) for more detail concerning the purpose and objectives of the **Case Report** and the considerations it must address.

The **Case Report** contains graphics sufficient to illustrate the relationship of the proposed project (including all alternatives) to the affected historic property or properties, including the boundary of each NRHP listed or eligible property. It also contains enough information to illustrate all avoidance and minimization efforts that have been examined and why it is or is not practical to avoid the historic resource(s) or effects cannot be minimized further.

As set forth in **36 CFR § 800.5(b)**, a finding of No Adverse Effect is appropriate if:

1. The effects of the undertaking do not meet the Criteria of Adverse Effect.
2. The undertaking is modified to avoid adversely affecting historic properties. For example, in the case of an archaeological site that could have been adversely affected by the project or off-project related activities, effects are avoided by shifting the project away from the site or by excluding all project-related activities inside the boundaries of the site.
3. Conditions are imposed on the undertaking to avoid adverse effects (such as rehabilitation of a historic bridge in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, **36 CFR Part 68**).

When FDOT finds that a project has No Adverse Effect to Historic Properties, the following procedure applies:

1. FDOT provides the No Adverse Effect finding along with the pertinent information to SHPO/THPO and consulting parties, pursuant to **36 CFR § 800.11(e)**.
2. SHPO/THPO has 30 days from receipt of the complete documentation to review the findings. Failure to respond within 30 days permits FDOT to assume concurrence, pursuant to **36 CFR § 800.5(c)(1)**.
3. If SHPO/THPO either agrees with or does not object to the findings of effect made by FDOT and no consulting party has objected, FDOT carries out the proposed undertaking based upon the effect finding and the action as proposed.
4. In cases where FDOT determines there is No Effect or No Adverse Effect to Historic Properties and has received no objections to this finding, FDOT has fulfilled its responsibilities under **Section 106**. This completes the **Section 106** process.
5. In the event that SHPO or any consulting party disagrees within the 30-day review period, they must specify the reasons for disagreeing with the finding. FDOT must then consult with the party to resolve the disagreement, or request that the ACHP review the finding, pursuant to **36 CFR § 800.5(c)(3)**.
6. If the ACHP is asked to review the finding, it has 15 days to respond. If there is no response within 15 days, FDOT may assume concurrence and proceed with the undertaking.
7. If the ACHP provides comments, FDOT must consider them when reaching a final decision on its finding of effects.

If, after consultation with the appropriate parties and a review of the project and its relationship to historic properties, FDOT determines that there is No Adverse Effect to Historic Properties, then the **Section 106** process is complete. In cases where SHPO/THPO has either agreed with the finding or has not responded to the finding at the close of the 30-day review period, and no consulting party has objected to the finding, FDOT may proceed with the undertaking after documenting its determination and the basis for arriving at this determination. If any agreements or commitments are made to reach a finding of No Adverse Effect, they are recorded according to [Procedure No. 650-000-003, Project Commitment Tracking](#) and [Part 2, Chapter 22, Commitments](#) and carried out as the project advances. If any changes occur that may alter the effect finding, consultation with the appropriate parties must be reinitiated.

All documentation pertaining to **Section 106** effect findings including FDOT findings, SHPO/THPO review and/or concurrence letter(s), and applicable comments from other consulting parties and the public, is included in the appropriate Environmental Document and uploaded into the SWEPT project file (see [Section 8.3.3.1](#)).

In the case of an Adverse Effect finding, FDOT documents this finding and the basis for the finding, and transmits the finding and documentation to SHPO/THPO, the ACHP, and other consulting parties. In accordance with **36 CFR § 800.6(a)(1)**, FDOT must notify ACHP of the Adverse Effect finding by providing the documentation specified in **36 CFR § 800.11(e)**. This notification and documentation package can be sent via the ACHP's **Electronic Section 106 Documentation Submittal System (e106)**. As the Lead Federal Agency, the **e106** submission needs to be transmitted by OEM. As such, Districts should prepare and send the form and all supporting materials to their PDC. The submission should be in Microsoft Word format to allow for minor editing, as necessary. Following review, OEM will forward the documentation to ACHP, copying District personnel. Once documentation is received, an automated receipt will be generated and the ACHP will have 15 days to respond.

If SHPO/THPO disagrees with the finding or another consulting party objects to the finding within the 30-day review period, the disagreeing entity must provide the reasons for the disagreement or objection. In these cases, FDOT will either consult with the appropriate parties in order to resolve the disagreement or request the ACHP to review the finding in accordance with **36 CFR § 800.5(2)**. If no objections are received within the 30-day review period, FDOT may proceed to Step Four of the **Section 106** process.

#### **8.3.2.6 Step Four: Resolve Adverse Effects**

A finding of Adverse Effect requires further consultation among FDOT, SHPO/THPO, and the other consulting parties in order to resolve the adverse effects. This consultation brings together the parties to consider ways to avoid, minimize, or mitigate the adverse effects of the undertaking on the historic properties.

In conducting consultation, as well as in its efforts to engage the public, FDOT

1. Describes the proposed project and its purpose and need;
2. Clearly identifies any rules, processes, or schedules applicable to consultation;
3. Acknowledges the interests of others and seeks to understand them;
4. Develops and considers appropriate alternatives; and
5. Makes an effort to identify solutions that will leave all parties satisfied.

For most projects involving a finding of Adverse Effect, Steps Three and Four of the **Section 106** process are part of the same discussion(s).

In accordance with the **Section 106 PA** (see [Section 8.3.2.2](#)) and **36 CFR § 800.10**, the ACHP and the NPS must be consulted when the project activity involves potential effects to a NHL. The notification letter to the ACHP is accompanied by the same documentation required for a finding of No Adverse Effect or Adverse Effect, as called for in **36 CFR § 800.11(e)**, though for projects involving an NHL, the emphasis on preservation will be greater.



As appropriate, FDOT provides project documentation to the consulting parties. Particular care must be taken to comply with the confidentiality provisions of **Section 304** of the **NHPA** and **Section 267.135, F.S.**, regarding the protection of archaeological site locations within the project documentation, as applicable.

### 8.3.2.6.1 Minimize and Mitigate Adverse Effects

The procedures for resolving adverse effects include the following steps:

1. FDOT continues consultation with SHPO/THPO and other consulting parties to resolve the adverse effects by avoidance, minimization, or mitigation.
2. As appropriate, the ACHP is invited to participate or can decide to enter into consultation pursuant to **36 CFR Part 800, Appendix A**. Any consulting party or the public may contact the ACHP and request its participation. The ACHP has 15 days from receipt of a request to participate to notify FDOT and consulting parties whether it will participate in the resolution process.
3. If ACHP does not participate and FDOT and SHPO/THPO reach consensus on measures to resolve adverse effects, these measures are outlined in an **MOA**, pursuant to **36 CFR § 800.6(b)**. In these cases, continue to Step 4 through Step 8. If FDOT and SHPO/THPO fail to agree on measures, the process skips to Step 9.
4. The District prepares a draft **MOA** and coordinates with all consulting parties for review (additional guidelines for preparing agreements are provided in **Chapter 7** of the [CRM Handbook](#)).
5. The District Director of Transportation Development signs the **MOA** as a concurring party and forwards the agreement to the Director of OEM for approval. Once approved by OEM, OEM forwards the agreement to the SHPO for their approval. SHPO keeps one original copy and provides the others back to OEM. OEM forwards one original copy of the executed agreement to the District and retains the other.
6. The District provides the remaining consulting parties copies of the **MOA**, as appropriate, including the ACHP.
7. If the ACHP is a consulting party, SHPO will return all original copies to OEM and OEM will forward them to the District so that the District can provide the original copies to the ACHP. The ACHP will keep an original copy and return the remaining copies of the executed **MOA** to the District. The District will then disperse the remaining original copies to OEM and SHPO.
8. If the undertaking proceeds according to the terms and stipulations of the **MOA**, and FDOT has met all of its obligations under **Section 106** of the **NHPA**, then the process skips to Step 11.
9. If FDOT and SHPO/THPO fail to agree on the terms of a MOA, FDOT shall request the ACHP to join the consultation and provide a copy of the documentation

package pursuant to **36 CFR § 800.11(g)**. If ACHP doesn't join the consultation, FDOT must forward a copy of the documentation package and request comments.

10. The ACHP has 45 days from receipt to comment (FDOT should send the request electronically or by overnight mail). The ACHP provides its comments to FDOT with copies to all consulting parties.
11. FDOT is obligated to consider and take into account the comments of the ACHP. FDOT may choose whether or not to adopt the comments, or to proceed.
12. FDOT documents the final decision in accordance with **36 CFR § 800.7(c)(4)**, the ACHP and all consulting parties are notified, and the project proceeds.

The District is responsible for monitoring implementation of the commitments and conditions stipulated in the **MOA**. In cases where consulting parties do not reach agreement, FDOT, SHPO/THPO, or the ACHP may decide to terminate consultation pursuant to **36 CFR § 800.7**. Any party that terminates consultation must notify the other consulting parties in writing of their decision to and reasons for terminating consultation. Following this notification, the process varies depending on which consulting party terminated consultation [see **36 CFR §§ 800.7(a)(1)-(4)**].

#### **8.3.2.6.2 ACHP Participation**

SHPO/THPO, a Native American Tribe, or any other consulting party may at any time request the ACHP to participate in the consultation. The ACHP will decide on its participation within 15 days of receipt of a request pursuant to **36 CFR Part 800, Appendix A (Criteria for Council Involvement in Reviewing Individual Section 106 Cases)**. If a consulting party requests ACHP involvement, the District informs OEM prior to initiating this consultation.

If the ACHP decides to participate in the consultation process, it must notify FDOT (or the appropriate Lead Federal Agency) and the consulting parties. If the ACHP chooses to participate in the resolution of adverse effects, FDOT is responsible for coordinating consultation among all the parties, including SHPO/THPO.

New consulting parties may enter the consultation if FDOT and SHPO/THPO (and the ACHP, if participating) agree. If they do not agree and the ACHP is not a consulting party already, FDOT seeks the ACHP's opinion on the involvement of the consulting party. Any party, including applicants, licensees or permittees, that may have responsibilities under an agreement document must be invited to participate as a consulting party.

#### **8.3.2.7 Exemption from Section 106 for Eisenhower Interstate Highway System**

On March 10, 2005, the ACHP issued the Exemption Regarding Historic Preservation Review Process for Effects to the Interstate Highway System. The exemption removed the majority of the Interstate Highway System from being considered as a historic property under **Section 106** of the **NHPA**, except for those elements of the Interstate Highway

System identified by SHPOs, state Departments of Transportation (DOTs), and state divisions of FHWA as being of exceptional importance.

This exemption does not apply to archaeological sites or resources that are not elements of the Interstate Highway System, even though they may be located within the ROW of the Interstate or otherwise intersect the Interstate. As a result, any undertaking (including Interstate undertakings) that may affect these non-Interstate properties must comply with the requirements of **Section 106**.

In Florida, four (4) significant elements of the Interstate Highway System are excluded from the exemption when undertakings have the potential to affect them. These elements of the Interstate Highway System undergo the standard **Section 106** consultation and review processes. The four elements are:

1. Bob Graham/Sunshine Skyway Bridge, Pinellas and Manatee Counties
2. Alligator Alley, Collier and Broward Counties
3. I-75 Snake Wall, Alachua County
4. Myrtle Avenue Overpass, Downtown Jacksonville

### **8.3.2.8 Section 106 Program Comment on Post-1945 Common Bridge Types**

At the request of FHWA, in November 2012, the ACHP issued a Program Comment that eliminates individual historic review requirements under **Section 106** for common post-1945 concrete and steel bridges and culverts (also referred to as post World War II common bridge types). The intent of the Program Comment is to ensure that historic bridges that are likely to be significant for preservation in place receive the attention, while the process is substantially streamlined for the more common bridge types (**77 FR 68790**). These common bridges were constructed in vast numbers after World War II using standardized plans. Although there has been little public interest in the preservation of these common bridges and culverts, FHWA was required under **Section 106** to consider and document the potential historic significance of any bridge approaching 50 years of age that might be affected by FHWA projects.

As part of this Program Comment, FHWA and ACHP requested the state DOTs and SHPOs submit a list of common, post-1945 bridges. FDOT, in consultation and coordination with Florida's SHPO and FHWA's Florida Division identified nineteen (19) bridges that still require evaluation and/or individual treatment under **Section 106** of the **NHPA**. These bridges are listed in [Figure 8-5](#).

While the Program Comment relieves the need to individually evaluate and consider the effects of the undertaking on these common bridges, these bridges located within the project APE still must be identified in the **CRAS Report, Technical Memorandum**, or other appropriate documentation that is sent to SHPO. This documentation should note that while the bridge is historic, it is exempt from further analysis in accordance with the

Program Comment for Common Post-1945 Concrete and Steel Bridges (**77 FR 68790**). FMSF forms do not need to be completed for these bridges.

### **8.3.2.9 Contents and Routing of Documentation Related to the Section 106 Process**

The results of all cultural resources identification and evaluation efforts are documented in a **Notification Letter/Form**, a **CRAS Report**, or a **Technical Memorandum**, which must be uploaded into the SWEPT project file. The results are summarized in the appropriate section of the Environmental Document, and the document is either incorporated by reference or by attachment to the Environmental Document.

For projects determined to have No Effect to Historic Properties, and that meet the criteria for minor projects established in the **Section 106 PA**, a notification is prepared using the **Notification Form** developed for those projects (see [Section 8.3.2.2](#)). This **Notification Form** is sent to SHPO by the District, copying the PDC and State CRC.

For minor projects with a minimal APE and either no or minimal involvement with cultural resources, but which do not meet the criteria established for programmatic compliance in the **Section 106 PA**, a **Notification Letter** pursuant to **36 CFR § 800.4(d)(1)** is used to notify the SHPO/THPO, OEM and other appropriate consulting parties of the determination of No Historic Properties Affected.

When a project may involve a historic resource, which may be of religious or cultural importance to a Tribe, then the **Notification Form** cannot be used for the project, and a **Notification Letter** must be provided.

In circumstances where consultation for a project under **Section 106** must be revisited due to project changes or other reasons that either change the APE for the project or change the potential historical value of the surrounding resources, a **Technical Memorandum** or addendum to the **CRAS Report** must be completed by FDOT, and coordinated with the consulting parties.

The standard components and distribution of CRAS documents are provided in [Sections 8.3.2.9.1](#) and [8.3.2.9.2](#) and in **Chapter 7** of the [CRM Handbook](#).

The information contained in the **Notification Letter/Form**, **CRAS Report**, and/or **Technical Memorandum** is summarized in the appropriate section of the Environmental Document (see [Section 8.3.3.1](#)), and the **Notification Letter/Form**, **CRAS Report**, **Technical Memorandum** or other relevant document is uploaded into the SWEPT project file. In the case of Type 2 CEs, the findings and approvals related to the CRAS are submitted with the **Type 2 Categorical Exclusion Determination Form**. For Type 1 CEs the finding of No Effect or No Adverse Effect to Historic Properties is kept with the completed **Type 1 Categorical Exclusion Checklist** for the proposed project. In addition, commitments are documented in accordance with [Part 2, Chapter 22, Commitments](#).

The FDOT District provides the notification to OEM and SHPO for projects or undertakings that are federally funded, licensed, permitted, or approved. For projects requiring a more thorough analysis, the District submits the final **CRAS Report/Technical Memorandum** to SHPO/THPO with copies to OEM. For projects with no federal involvement FDOT's District submits the document to the FDHR with notification to OEM.

Subsequently, FDOT will provide a transmittal letter to the SHPO/THPO summarizing the findings of the survey effort, and, as appropriate, outlining any consultation, coordination, or other related actions should SHPO/THPO concur with the report, the APE, and the survey findings and recommendations. Normally, FDOT uses a concurrence signature block for CRAS transmittals containing signature and concurrence lines for SHPO/THPO (see [Figure 8-6](#)). If appropriate, the signature block also informs SHPO/THPO that FDOT may apply a **Section 4(f) de minimis** approval for the use of the historic property if: (1) the project entails a use of the subject property and (2) SHPO/THPO concurs with a finding of No Adverse Effect to the historic property (see [Part 2, Chapter 7, Section 4\(f\) Resources](#) for more information on *de minimis* approvals). Signature blocks may be used for **Technical Memoranda**, when appropriate.

For reports requiring distribution to the Tribes, the District provides sufficient copies to OEM to inform the Tribes under a separate cover. For other consulting parties, the District may provide copies of the survey report directly to them. There may be circumstances where FDOT needs to provide copies of the CRAS directly to consulting parties such as the ACHP or NPS.

### 8.3.2.9.1 Notification of No Historic Properties Affected

For projects which meet the criteria for the two categories of programmatic compliance as set forth in the **Section 106 PA** (see [Section 8.3.2.4.1](#) and [Section 8.3.2.2.2](#)), the District provides a notification using the **Notification Forms** created for submission to the SHPO and OEM. District notification of SHPO and OEM is accomplished by sending the form or letter to SHPO while copying the PDC and State CRC. This form outlines the project action, the project category, and an explanation of the project setting sufficient to verify that it meets the applicability criteria for that category of project. The notification must inform SHPO that FDOT has determined the proposed project meets the applicability criteria and, therefore, has no potential to affect historic properties. Unless SHPO objects to this finding within 30 days of receipt of this notification, the project may proceed without further consultation under **Section 106**.

In situations where a minor project does not meet the two categories of programmatic compliance as set forth in the **Section 106 PA**, FDOT may provide the Tribes with an opportunity to comment on these undertakings. If this occurs, sufficient time must be allowed for a tribal response. If the proposed action changes in such a way that it may no longer meet the criteria set forth in the **Section 106 PA** (see [Section 8.3.2.2.2](#)), the District will need to re-analyze the project and its potential to affect historic properties.

When there are historic resources located within the APE, then consultation regarding the historic significance of these resources with SHPO and other appropriate consulting parties must be initiated.

### 8.3.2.9.2 CRAS Reports, Technical Memoranda, and Case Reports

The **CRAS Report** provides the identification and evaluation of the significance or non-significance of all cultural resources located in the APE for the proposed undertaking. The Report must also include graphics clearly depicting the location and limits of the project and the boundaries of the APE for both archaeological and historical resources, as well as the rationale for these APE limits and the relationship of significant historic resources to the undertaking. It includes the boundaries of the resources identified as significant, highlights the features and characteristics that contribute to the significance of each historic property, and addresses the integrity of the property. Likewise, for those resources and sites identified as not eligible for the NRHP, the **CRAS Report** notes why the historic resource does not meet any of the four criteria of eligibility and/or explains how the property does not retain the aspects of integrity. In addition to the significance analysis, the **CRAS Report** (or **Technical Memorandum** when appropriate) includes the appropriate data from the background research, completed FMSF forms for all evaluated resources, and requests for determinations of eligibility for the NRHP or expanded FMSF forms for the properties recommended as significant.

If no historic resources are present in the project APE, then the **CRAS Report** includes the recommended finding of No Historic Properties Affected; and this recommended finding is included in the transmittal letter for the report (see [Figure 8-6](#) for a sample Transmittal Letter). If historic resources are located within the project APE, then findings on eligibility for the NRHP are made by FDOT, SHPO/THPO, and other appropriate consulting parties before a determination of effects on historic properties for the project can be made. There are some instances where eligibility findings and project effects determinations may be combined, but this should only be in instances where the findings are obvious (e.g., for a NRHP-eligible canal that will not be altered). If FDOT finds that none of the evaluated resources represents significant historic properties, SHPO/THPO concurs, and the consulting parties agree, then by definition, the project cannot have an adverse effect on historic properties.

**The cover page for CRAS Reports, Technical Memoranda, and Case Reports for federal projects must include the following NEPA assignment 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 December 14, 2016 and executed by FHWA and FDOT.*

The standard components of the **CRAS Report** are:

1. Transmittal Letter
2. Executive Summary
3. Introduction (including project description and alternatives)

4. Environmental, Archaeological, and Historical Overviews
5. Research Considerations and Methodology (including definition and justification of the project APE)
6. Survey Results (archaeological and historical/architectural) and Site Evaluations
7. Conclusions
8. References
9. Appendices, including FMSF Forms, Survey Log Sheet

The **Technical Memorandum** format may be used in cases such as minor projects with a minimal APE and either no or minimal involvement with cultural resources. These projects may include proposed pond siting, ROW transfers, PD&E re-evaluations, and historic resources survey updates. For projects where a **CRAS Report** has already been prepared, the **Technical Memorandum** must reference this document, and not repeat information such as the environmental and cultural overviews. The **Technical Memorandum** should include the following information:

1. Transmittal Letter
2. Introductory information (e.g., project name, location, description, purpose, and need; purpose of the CRAS; definition of the project; justification for APE)
3. Results of background research for the project APE and vicinity, including the findings of the previous study, if applicable
4. Survey expectations vis-à-vis cultural resource potential
5. Archaeological and historical/architectural field survey results (including resource evaluations)
6. Conclusions
7. References
8. Appendices, including FMSF Forms, Survey Log Sheet

When a Project may affect historic properties identified in a CRAS, the District prepares a **Case Report** in order to assist the consulting parties in determining if the proposed action will have an adverse effect (see [Section 8.3.2.5](#)). The **Case Report** contains the supporting documentation as set forth in **36 CFR § 800.11(e)**:

1. A description of the undertaking, including all viable alternatives and the preferred Build Alternative, specifying the federal involvement, and the project APE, including photographs, maps, and drawings, as necessary;
2. A description of the steps taken to identify historic properties;

3. A description of the affected historic properties, including information on the characteristics that qualify them for the NRHP (as well as historic property boundaries);
4. A description of the undertaking's effects on historic properties;
5. An explanation of why the Criteria of Adverse Effect were found applicable or not, including any conditions or future actions to avoid, minimize or mitigate adverse effects; and
6. Copies of summaries of views provided by consulting parties and the public (including public meeting agendas, handouts, newsletters, relevant slides).

FDOT is responsible for distribution to SHPO/THPO, the appropriate consulting parties, the ACHP (when participating), and the NPS (for NHLs). Whenever there is a finding of Adverse Effect to Historic Properties, the ACHP must be provided the finding and the **Case Report**, even when the ACHP is not participating in the consultation. This documentation should be prepared by the District, but sent by OEM via the ACHP's **Electronic Section 106 Documentation Submittal System (e106)**.

## Routing

The routing path of the final **CRAS Report/Technical Memorandum**, from initial submittal by the consultant through review by SHPO/FDHR, is as follows:

1. The consultant prepares the **CRAS Report/Technical Memorandum** and submits it to the District PM and/or CRC for review.
2. The District PM/CRC reviews the report and requests changes if needed. If adverse effects to historic properties are anticipated, the District PM/CRC also provides a copy to OEM for concurrent review.
3. Once the report is acceptable to FDOT it is submitted by the District PM and/or CRC with appropriate documentation, to SHPO and other consulting parties. For survey reports or technical memorandum that require tribal comment, the District must provide sufficient copies to OEM for transmittal to the Tribes. **Chapter 1A-46, F.A.C.**, requires that the final deliverables from the consultant must include the requested number of copies of the report (which may vary, depending on the project), a **Survey Log**, and a set of original **FMSF Forms**. For historic resources and resource groups, digital photographs are included on the **FMSF Forms** continuation sheets and are submitted as jpeg files (or current acceptable media files). The FMSF office requires paper copies for retention, and paper copies must be provided to the Miccosukee **Section 106** and **NAGPRA** coordinator, as well as be made available upon request to other consulting parties.
4. Once SHPO/THPO has reviewed and commented, the SHPO/THPO letter is provided to FDOT. If SHPO/THPO objects to the findings on the significance of a historic resource, FDOT (District and OEM) discusses the finding with SHPO/THPO to resolve the objection. If the objection cannot be resolved, then



information on the historical value of the resource must be submitted to the Keeper of the NRHP for a final determination of eligibility.

5. If FDOT, and SHPO/THPO (as well as other consulting parties) have concurred that historic properties occur within the APE, FDOT initiates Step 3 of the **Section 106** process, Assess Adverse Effects (see [Section 8.3.2.5](#)).
6. If SHPO/THPO, FDOT, and, as appropriate, the other consulting parties concur with a finding that no historic properties occur within the APE, or with a combined finding on eligibility and No Effect to Historic Properties or No Adverse Effect to Historic Properties, this finding is retained in the SWEPT project file along with the basis for the finding.

FDOT's transmittal letter to SHPO/THPO, prepared by the District, contains the standard summary information as indicated in the example letter provided in [Figure 8-6](#).

### **Special Archaeological and Historical Resources Considerations for State-Funded Projects**

The same considerations used to determine the potential to affect historic properties for federal actions are used to determine effects of non-federal actions. Therefore, the criteria established in the **Section 106 PA** for determining the level of assessment, review, and consultation apply to state-funded projects.

For state-funded major transportation projects, a SEIR is prepared. FDOT is the Lead State Agency, and the District is responsible for the development and review of the SEIR; final approval is made by the District Secretary. The CRAS for SEIR projects follows the standard procedures established by **Chapter 267, F.S.**, and **Chapter 1A-46, F.A.C. Chapter 267, F.S.**, largely mirrors the requirements of **Section 106**, but contains no requirement for consultation with Native American Tribes beyond the normal considerations of public participation. Nonetheless, the Districts should inform the Tribes whenever a project may affect an historic resource that could be of cultural or religious importance to them. If the project changes from a state-only project to a federally funded or approved project, tribal comment will be required. See [Section 8.3.2.3](#) regarding Native American consultation for state-funded projects requiring a federal permit.

For state-funded projects, FDOT consults with FDHR to make determinations of eligibility for inclusion in the NRHP. For projects that do not include historic properties within the APE or where the undertaking has no potential to affect historic properties, FDOT documents the finding in accordance with the **Section 106 PA** and the standard procedures for SEIRs or NMSAs, as appropriate. FDOT notifies FDHR of its finding within 30 calendar days of completing its review. The documentation package must include a map showing the project location and APE, along with sufficient information to support and explain the finding. In accordance with the **Section 106 PA**, unless FDHR objects within 30 days of receipt of notification, FDOT is not required to take any further action unless there is a dispute.

For projects that may adversely affect historic properties, FDOT and FDHR consult to determine the significance of the historic resources within the APE. It is important to

consider the additional property types protected under **Chapter 267, F.S.** If significant historic resources occur within the APE, then FDOT and FDHR must consult on the extent and nature of these effects and develop ways to avoid, minimize, or mitigate these effects. Generally, for state-only projects, FDOT and FDHR record these commitments through an agreement between SHPO and the District Secretary outlining the effects of the project on the resource(s) in question and the measures adopted to minimize or mitigate these effects.

The findings of the CRAS are detailed in the cultural resources document (**CRAS Report** or **Technical Memorandum**), and summarized under the appropriate headings in the SEIR. In addition, the potential effects of the proposed project on the archaeological sites and historic resources within the project APE are summarized and discussed in the appropriate sections (e.g., Environmental Analysis, Commitments) of the SEIR. The cultural resources document and SEIR are transmitted to the Director of the FDHR.

The **Non-Major State Action Checklist** is provided in [Part 1, Chapter 10, State, Local or Privately Funded Project Delivery](#), and sample language for the SEIR is provided in [Section 8.3.3.1](#). The transmittal letter prepared by the District is essentially the same as the letter provided as [Figure 8-6](#). However, the letter is addressed to the Director of the FDHR and only requires the Director's signature. In addition, the term "SHPO" is replaced with "Director, Division of Historical Resources" in the body of the letter.

As mentioned above, NMSA projects also require an historical and archaeological impact evaluation. Typically, detailed evaluations are not warranted because these projects are generally small in scope with minimal effects. These decisions cannot be made until the District documents the presence or absence of historic properties in the project APE. Just as the **NEPA** COA for a project does not dictate the level of analysis needed for historic properties, neither does the criteria for determining whether a project is a SEIR or a NMSA.

If the state-funded or assisted undertaking involves a federal permit, approval, or license, then FDOT initiates coordination with the appropriate federal agency as early in this process as possible. In some cases, it may be necessary to inform the permitting agency of any programmatic approaches applicable to the project. For the purposes of **Section 106** of the **NHPA**, the permitting agency becomes the Lead Federal Agency for the permitted action.

### 8.3.3 Coordinating NEPA and Section 106

The regulations that implement **Section 106** of the **NHPA [36 CFR § 800.3(b)]** specifically encourage the coordination of **Section 106** responsibilities with the steps taken to satisfy other historic preservation and environmental laws. FDOT has adopted a streamlined approach to satisfy **Section 106** and **NEPA** compliance so that approvals are received concurrently. The ACHP's regulations **[36 CFR § 800.8(a)]** provide guidance on how the **NEPA** and **Section 106** processes can be coordinated. In addition, the flow chart in [Figure 8-7](#) illustrates coordination between **NEPA** and **Section 106**.

**NEPA** documents, including an Environmental Assessment (EA) with Finding of No Significant Impact (FONSI) or a Final Environmental Impact Statement/Record of Decision (FEIS/ROD), include the information and results of the **Section 106** compliance efforts. This information includes a general presentation of the survey effort, a brief description of the historic properties identified, the consulting parties, the determinations of effect for the project, the consultation leading to the resolution of any adverse effects, and all commitments and agreements that supported the effect finding or the resolution of adverse effects. Any MOA developed under **Section 106**, or (when applicable) the final comments of the ACHP, are addressed in the ROD. Under normal circumstances, the MOA is executed before the ROD is issued, and the ROD provides for the implementation of the MOA's terms and stipulations. Details concerning the information and results to be included in the **NEPA** documents are provided in the following section.

### **8.3.3.1 Reporting Cultural Resources Findings in Environmental Documents**

#### **Categorical Exclusions**

For Type 1 and Type 2 CEs, FDOT summarizes the findings of the CRAS, as presented in the **Notification Letter**, **CRAS Report**, or **Technical Memorandum**, in the appropriate section of the Environmental Document. The **Notification Letter**, **CRAS Report**, or **Technical Memorandum** is incorporated by reference into the Environmental Document and is uploaded into SWEPT along with the MOA and consulting party correspondence, if necessary. Any SHPO/THPO concurrence letters must be attached to the Environmental Document.

#### **EA and DEIS**

The EA and Draft Environmental Impact Statement (DEIS) also contain a summary of the CRAS. The description and evaluation of archaeological sites and historic resources identified within the project APE are included in the Environmental Analysis section. Once OEM approves the document for public availability, the District sends it to the appropriate agencies and consulting parties for review and comment. Include commitments related to the treatment of, effects upon, or disposition of historic properties in the Commitments section of these documents according to [Part 2, Chapter 22, Commitments](#).

#### **EA with FONSI or FEIS/ROD**

If NRHP-listed or eligible archaeological sites and/or historic resources are identified within the project APE, the decisions made to resolve issues are addressed in the final Environmental Document. The Environmental Analysis section summarizes the potential effects (e.g., direct use, visual, noise) on NRHP-listed or eligible historic properties, as well as potential mitigation measures for the anticipated effects associated with the preferred alternative. Included in the Environmental Analysis section and/or the Comments and Coordination section, is a chronological discussion of agency coordination efforts, the determination of effects, the development of mitigation measures, and public outreach activities. Reference to all correspondence related to the **Section 106** process is also included. The Commitments section of both the EA with FONSI and

FEIS/ROD or FEIS contains a description of the measures FDOT will use to minimize and mitigate adverse effects to the NRHP-listed or eligible historic properties. If the resolution of adverse effects includes any formal agreement such as an MOA or Conditional No Adverse Effect agreement (a finding of No Adverse Effect with conditions imposed or agreed to by the consulting parties), this document is included as an appendix in the EA with FONSI, FEIS/ROD, or FEIS.

The correspondence providing FDOT's finding on effects to historic properties; SHPO/THPO opinion on this finding; and any correspondence related to the avoidance, minimization, or mitigation of effects to historic properties, as well as the opinions of the other consulting parties, are included in the Environmental Document.

## SEIR

For SEIRs, the results of the CRAS are included in the Environmental Analysis section of the SEIR, and the Commitments section discusses all commitments made in regard to cultural resource issues. The SEIR must include FDOT's determination of effects to historic resources, the FDHR's opinion as to this determination, and all related correspondence.

## Example CRAS Summaries

The EA, EIS, and SEIR documents must include standard language describing the nature and intensity of the CRAS, a definition of the project APE, the survey methods and findings, and a description and evaluation of all archaeological sites and historic resources identified within the project APE. In the case of the SEIR, FDHR becomes the consulting agency. For state-only projects, reference state legal authorities and only FDHR is consulted unless there is a specific reason to include other consulting parties [for example, on state-owned land, the Florida Department of Environmental Protection (FDEP) should be included in the decision making].

The following are examples of text for the CRAS summary to be included in the Environmental Document. Typically, this summary language is contained in the **CRAS Report** Executive Summary, and is used in the CRAS transmittal letter.

1. Include the Project Name, Purpose of the CRAS, and applicable laws, regulations, and standards, for example:

A Cultural Resource Assessment Survey (CRAS) of the proposed [project name], including background research and field survey, has been performed. The purpose of the survey was to locate, identify, and bound any cultural resources within the project Area of Potential Effects (APE) and to assess their significance in terms of eligibility for listing in the National Register of Historic Places (NRHP). This CRAS was conducted in compliance with Section 106 of the National Historic Preservation Act (NHPA) (Pub. L. 89-665, as amended), as implemented by 36 Code of Federal Regulations (CFR) Part 800 (Protection of Historic

Properties); National Environmental Policy Act (NEPA) [Public Law (Pub. L.) 91-190]; and Chapter 267, Florida Statutes (F.S.), revised. This study was conducted in accordance with Chapter 1A-46, Florida Administrative Code (F.A.C.), Part 2, Chapter 8 of the Florida Department of Transportation (FDOT) Project Development & Environment (PD&E) Manual, and the standards contained in the Florida Division of Historical Resources (FDHR) Cultural Resource Management (CRM) Standards and Operational Manual (FDHR 2003).

2. Summarize the research methods used, for example:

Research methods included preliminary background research, the preparation of a research design for review and approval by FDOT, State Historic Preservation Officer (SHPO), and/or Tribes, if applicable, archaeological and historical/architectural field surveys, artifact analysis, and preparation of draft and final reports. The fieldwork was conducted between [month and year to month and year].

As appropriate, this statement includes the level of analysis for proposed or potential SMF/FPC locations.

3. Summarize the results of the background research for both archaeological sites and historic resources, for example:

The initial review of the Florida Master Site File (FMSF), NRHP listings, and the ETDM Summary Report (Project # [xxxx]) for this project indicated that xx previously recorded archaeological sites ([FMSF numbers]) are located within or adjacent to the project APE, with another [xx] known sites located within 0.5 miles. Of the [xx] archaeological sites, [FMSF number(s)] was/were evaluated by SHPO as potentially eligible for inclusion in the NRHP; the other [xx] sites [FMSF numbers] were not evaluated by SHPO. The background research suggested a variable probability for archaeological site occurrence within the project APE.

Background research indicated that [xx] historic resources ([FMSF numbers]) had been recorded previously within the project APE. These include [xx] [add architectural styles and composite build date range]. [Add SHPO evaluation]. A review of the relevant USGS quadrangle maps and property appraiser's website data revealed the potential for [xx] historic (*pre-circa* [date]) resources.

4. Summarize the results of the archaeological and historical/architectural field surveys, including a brief description and evaluation of all NRHP-listed or eligible

historic properties identified within the project APE. Address the appropriate NRHP criteria and the relevant aspects of integrity. For example:

As a result of archaeological field survey, cultural materials associated with [xx] of the previously recorded sites ([FMSF numbers]) were recovered. No evidence of the other [xx] sites was found. [xx] new archaeological site(s) ([FMSF numbers]) was/were identified. The total of [xx] previously recorded and newly identified sites are classified as lithic and artifact scatters. All were evaluated as not eligible for listing in the NRHP given the common nature, low research potential, and lack of any significant historical associations.

Historical/architectural field survey resulted in the identification and evaluation of [xx] historic buildings ([FMSF numbers]). With one exception [Site name, FMSF number], a [add build date, type, and style] all are Masonry Vernacular and Frame Vernacular style residences constructed between circa (ca.) 1945 and ca. 1960. These historic buildings represent commonly occurring types of architecture for the locale, and available data did not indicate any significant historical associations. In addition, alterations to the historic structures and/or lack of concentrated density appear to preclude their eligibility for the NRHP either individually or collectively as a district.

For any resources determined eligible, provide the basic information on the site by extracting statements from the Determination of Eligibility or FMSF form for the property. Note the reasons the site is eligible, the characteristics that make it significant, its boundaries, etc. Include measures that have been incorporated into the proposed undertaking to avoid, minimize, or mitigate effects to the property. Example language for findings of No Involvement with Cultural Resources/No Historic Properties Affected ([Section 8.3.3.1.1](#)) and both No Adverse Effect and Adverse Effect ([Section 8.3.3.1.2](#)) follows.

#### **8.3.3.1.1 No Involvement with Cultural Resources/No Historic Properties Affected**

If the CRAS shows an absence of archaeological sites and/or historic resources within the project APE, or if the CRAS has identified archaeological sites and/or historic resources within the project APE but FDOT and SHPO agree that none of the sites or historic resources are eligible for inclusion in the NRHP, provide one of the following standard statements below, as applicable. The statement is included in the Cultural and Historic Resources section of the Environmental Analysis section of the EA with FONSI, FEIS/ROD, FEIS, or in other appropriate locations for other COAs:

A Cultural Resource Assessment Survey (CRAS), conducted in accordance with 36 CFR Part 800, was performed for the

project. No archaeological sites or historical resources were identified, and FDOT, in consultation with SHPO/THPO, has determined that the project will result in No Historic Properties Affected. Concurrence from SHPO/THPO was received on [date].

-OR-

A Cultural Resource Assessment Survey (CRAS), conducted in accordance with 36 CFR Part 800, was performed for the project, and the resources listed below were identified within the project Area of Potential Effect (APE). FDOT found that these resources do not meet the eligibility criteria for inclusion in the National Register of Historic Places (NRHP), and SHPO/THPO concurred with this determination on [date]. Therefore, FDOT, in consultation with SHPO/THPO, has determined that the proposed project will result in No Historic Properties Affected.

Follow this paragraph with a description of the identified sites and their eligibility status.

For the SEIR, include the findings in the Cultural Resources section of the Environmental Analysis section. Reference FDOT as the lead agency making the findings and identify the FDHR (instead of SHPO) as the concurring/consulting party.

### **8.3.3.1.2 No Adverse Effect or Adverse Effect to NRHP Properties**

In the case where the CRAS results identify NRHP-listed or eligible archaeological sites and/or historic properties within the project APE, and where the Criteria of Adverse Effect pursuant to **36 CFR § 800.5(a)(1)** have been applied and the project does not meet the criteria, summarize the effects and describe the finding in the Cultural and Historic Resources section of the Environmental Analysis section of the EA with FONSI, FEIS/ROD, or FEIS, or in other appropriate locations for other COAs. The following statement is provided in the **Type 2 Categorical Exclusion Determination Form** or should be included in the EA with FONSI, FEIS/ROD, or FEIS:

A Cultural Resource Assessment Survey (CRAS), conducted in accordance with 36 CFR Part 800, was performed for the project, and the resources listed below were identified within the project Area of Potential Effect (APE). FDOT found that some of these resources meet the eligibility criteria for inclusion in the National Register of Historic Places (NRHP), and SHPO/THPO has concurred with this determination. After application of the Criteria of Adverse Effect, and in consultation with SHPO/THPO, FDOT has determined that the proposed project will have No Adverse Effect on these resources.

Follow this paragraph with a description of the sites, their eligibility status, and any commitments made for the project that contributed to the No Adverse Effect finding.

In the case where project development will result in adverse effects to NRHP-listed or eligible historic resources, summarize FDOT's commitments to minimize effects in the Commitments section of the EA with FONSI, FEIS/ROD, or FEIS, as applicable. The following statement is provided in the **Type 2 Categorical Exclusion Determination Form** or should be included in the EA with FONSI, FEIS/ROD, or FEIS:

The proposed project will result in unavoidable adverse effects to the resource(s) listed below, which [is/are] [listed in/eligible for listing in] the National Register of Historic Places (NRHP). FDOT and the SHPO/THPO [will execute/have executed] a Memorandum of Agreement (MOA) which outlined conditions to minimize and mitigate adverse effects resulting from the project. Consequently, FDOT commits to the stipulations provided below as outlined in the MOA.

Follow this paragraph with a list of the specific stipulations developed.

### 8.3.4 Coordinating Section 106 and Section 4(f)

Often, when a project has the potential to have an adverse effect on a historic property, it also requires approval under **Section 4(f)** of the **USDOT Act of 1966**, as amended.

The properties protected under **Section 4(f)** include significant public parks and recreational resources, wildlife and waterfowl refuges, and historic sites. For historic resources, the word "significant" means that the resource is listed in or eligible for listing in the NRHP, and these are also the resources protected by **Section 106** of the **NHPA**. As a result, FDOT often combines its **Section 106** compliance effort with a **Section 4(f)** analysis. The level of the **Section 4(f)** analysis depends upon the type of **Section 4(f)** evaluation or approval that is required for the use of the property in question. There are two types of **Section 4(f)** evaluations (programmatic and individual) and the level of effort and coordination is different for each. There is also a third **Section 4(f)** approval option that requires only a finding by FDOT that the proposed project has a minor, non-adverse effect on the protected property. This is referred to as a **Section 4(f) de minimis** finding. In these cases, no **Section 4(f)** evaluation is required because the effects of the project on the resource are inconsequential as a matter of the law.

The guidance for compliance with the requirements of **Section 4(f)** for historic properties is provided in [Part 2, Chapter 7, Section 4\(f\) Resources](#).

### 8.3.5 Treatment of Human Remains

Historic and prehistoric human remains are protected under **Chapter 872, F.S.** The treatment of human remains encountered during project construction or any other FDOT project-related activity must conform to **Chapter 872.05, F.S.**, the provisions of **36 CFR Part 800.13** and Post Review Discoveries in Stipulation X of the **Section 106 PA**, as well



as **Chapter 3** of the [CRM Handbook](#) and **Section 7-1.6** of FDOT's [Standard Specifications for Road and Bridge Construction](#). If human remains are encountered during project-related activities (other than during an archaeological investigation), all work ceases in the area of the human burial and necessary measures are taken to secure and protect the remains, including, as appropriate, stabilization and covering. The individual(s) making the discovery [the District Project Construction Engineering Inspector (CEI) or the PM] should immediately contact the district Medical Examiner. If the district Medical Examiner finds that the burial may be involved in a legal investigation or represents the burial of an individual who has been dead less than 75 years, the district Medical Examiner assumes jurisdiction. If the district Medical Examiner finds that the burial is not involved in a legal investigation and represents the burial of an individual who has been dead 75 years or more, he or she notifies the State Archaeologist, and the FDHR assumes jurisdiction over and responsibility for the burial.

In addition, FDOT'S Native American Coordinator is notified so that the Tribes, the SHPO/THPO, as well as other appropriate consulting parties, receive the proper information and are included in the determination of effects, if applicable. For Native American human remains discovered on federal lands, the federal land managing agency is responsible for consultation under **NAGPRA**. Also, see [Sections 8.2.2.2](#) and [8.3.6](#) for related procedures.

### **8.3.6 Archaeological and Historical Resources Considerations Following PD&E**

Commitments developed under **Section 106** and all other associated federal and state laws governing the treatment or consideration of historic resources and properties are recorded in the Environmental Document. [Part 2, Chapter 22, Commitments](#) provides the process that must be followed to ensure commitment compliance for FDOT projects. Tracking project commitments follows FDOT's [Procedure No. 650-000-003, Project Commitment Tracking](#).

In order to properly review and comply with the commitments made to SHPO/THPO, the Tribes, and/or other consulting parties, the District Environmental Office coordinates with the District Design and Construction offices to review the status of compliance with the commitments made. As a result, District staff in all three of these areas review the commitments made to avoid, minimize, and mitigate effects to historic properties.

If either the Design or Construction Office cannot meet a commitment, they inform the District Environmental Office as soon as they are aware of that situation so that the District Environmental Office can inform the appropriate consulting parties and re-initiate the consultation.

#### **8.3.6.1 Re-evaluations**

Re-evaluations are prepared as outlined in [Part 1, Chapter 13, Re-evaluations](#). The commitments and required coordination are updated and documented in the Commitment Status section of the **Re-evaluation Form** and tracked according to [Procedure No. 650-000-003, Project Commitment Tracking](#). Because the status of historic properties can

change over time, CRM evaluations or **CRAS Reports/Technical Memoranda** may need to be updated, as appropriate, before advancing a proposed project into a new phase of development. For example, if the previous CRAS was completed more than ten years ago, a supplementary survey and **CRAS Addendum/Technical Memorandum** may be necessary. Whenever there is a change to a project's potential to affect historic properties, consultation with SHPO/THPO and other appropriate parties is revisited and updated, as necessary. There are times when this may necessitate a change to the **Section 106** documentation or findings for the project, amendments to an MOA, or other changes to the commitments.

### 8.3.6.2 Design Considerations

Prior to making commitments concerning design elements during consultation with SHPO/THPO, the Tribes, and/or other consulting parties, the District Environmental Office must coordinate with the District Design and Construction Office to review the feasibility of such elements which may be proposed during the consultation.

In some instances, consultation results in design considerations specifically related to the project such as avoidance or minimization treatments; whereas, other instances result in mitigation activities including, recordation, as well as educational or commemorative efforts related to specific sites or types of sites, specific historical periods, specific historic communities, or research efforts to promote more robust avoidance alternatives for the future. The specific measures required for these efforts are often contained in a MOA prepared for the project (see **Chapter 8** of the [CRM Handbook](#)).

### 8.3.6.3 Permitting

Most permits obtained by FDOT include provisions for the protection or consideration of historic properties. These provisions arise from the general permit conditions requiring compliance with state or federal laws. However, if a commitment is made during the PD&E phase to avoid, minimize, or mitigate harm to a significant historic resource, this commitment may be contained in the permit conditions as well. Occasionally, a permitting agency may conduct its own consultations under **Section 106** or under **Chapter 267, F.S.**, and include specific conditions in the permit.

### 8.3.6.4 Cultural Resources Considerations during Construction

If a contractor requires the use of a borrow pit, offsite staging area, or an area for offsite construction activity not proximal to the project, the contractor is required to consult with the SHPO or FDHR to ensure that no historic properties will be affected by the use of these areas. A sample form for clearing an off-project construction activity is provided in [Figure 8-8](#). If previously unidentified historic properties are discovered during construction, or if unanticipated impacts to known or previously unidentified historic properties occur during construction, the following procedures are followed:

1. All construction-related activity in the vicinity of the discovery stops and the contractor immediately notifies FDOT's project CEI, FDOT's PM, and the District Environmental Manager and/or CRC of the discovery. The District Environmental

Manager or CRC notifies the PDC and State CRC. Necessary security measures are taken to protect the discovery, as appropriate.

2. The District notifies SHPO/THPO (or appropriate Tribal historic preservation official) of the discovery and invites them to accompany FDOT staff (or consultants) to the location within forty-eight (48) hours of the discovery.
3. Following receipt of notification from the District, OEM immediately notifies any Tribe that might attach religious and cultural significance to the affected property informing the Tribes that FDOT must be notified of any tribal concerns related to the discovery within forty-eight (48) hours of receipt of notification by OEM.
4. FDOT consults with SHPO/THPO and appropriate consulting parties within forty-eight (48) hours to document and evaluate the project effects and the need, if any, for further investigation.
5. If FDOT determines that the discovery does not warrant further investigation, they provide written notification to SHPO/THPO, and appropriate consulting parties outlining their reasons and requesting their concurrence or opinion within two (2) business days of the visit to the discovery location. SHPO/THPO and, as appropriate, the Tribes will have two (2) business days after receipt to respond. If no comments are received within this period, concurrence will be assumed, and project construction may resume.
6. If FDOT determines that the site warrants further investigation, a scope of work is developed within forty-eight (48) hours of the visit to the site. The scope of work is submitted to SHPO/THPO. SHPO/THPO and Tribes have two (2) business days after receipt to review and comment. If no comments are received within this period, concurrence is assumed and work is implemented in accordance with the scope. If comments are received, FDOT takes the comments into account and carries out the scope of work. Upon completion and acceptance of the work, construction may proceed as planned. A report of the investigations is completed within the time frame established by the scope of work and copies are provided to all consulting parties.
7. Should any party object to the proposed work plan or results, FDOT will forward all documentation relevant to the dispute to the ACHP in accordance with **36 CFR § 800.2(b)(2)**. Upon receipt of adequate documentation, the ACHP shall review and advise FDOT on the resolution of the objection within thirty (30) days. Any comment provided by the ACHP, and all comments from the consulting parties will be taken into account by FDOT in reaching a final decision regarding the dispute.
  - a. If the ACHP does not provide comments regarding the dispute within thirty (30) days after receipt of adequate documentation, FDOT may render a decision regarding the dispute. In reaching its decision, FDOT will take into account all comments regarding the dispute from the consulting parties.
  - b. FDOT will notify all parties of its decision in writing before implementing that portion of the undertaking subject to dispute. FDOT's decision will be final.

8. When the discovery consists of human remains, graves, or grave-associated artifacts or other properties to which federally recognized Tribes with ancestral ties to Florida may ascribe traditional cultural and religious significance, FDOT notifies the Tribes. FDOT complies with **Section 7-1.6** of FDOT's [Standard Specifications for Road and Bridge Construction](#), the procedures for inadvertent discovery of human remains contained in **Chapter 872.05, F.S.**, (see [Section 8.3.5](#)), the provisions of **36 CFR Part 800.13**, and the provisions regarding Post-Review Discoveries in Stipulation X of the **Section 106 PA**.

### 8.3.6.5 Review and Compliance Requirements

Prior to the approval of the construction plans and any design modifications proposed during construction, the Construction Office reviews the plans and/or the modifications to verify that the commitments associated with the project's relationship to or effects upon historic properties, as well as federal and state regulations, are incorporated into the design and plans. These reviews require the involvement of the District Environmental Office (see [Section 8.1](#)).

In addition to the plan notes and specifically outlined conditions provided with the project construction plans, the Contractor follows the provisions set forth in the most recent version of FDOT's [Standard Specifications for Road and Bridge Construction](#).

### 8.3.6.6 Emergency Repair Actions

To maintain compliance with **Section 106, Chapter 267, F.S.**, and **Section 4(f)** for emergency repair actions, the following guidelines should be adhered to. These procedures apply only if a disaster or emergency has been declared by the President, Governor, or Tribal Government, or if responding to other immediate threats to life or property. In accordance with **36 CFR § 800.12(d)**, immediate rescue and salvage operations conducted to preserve life or property are exempt from the provisions of **Section 106**, and work can proceed without performing the notification procedures listed below.

Repair actions are categorized either as "emergency" or "permanent." Emergency repairs are made during and immediately following a disaster to restore essential traffic, to minimize the extent of damage, or to protect the remaining facilities. Permanent repairs to restore the highway to its pre-emergency condition normally occur after the emergency repairs have been completed. For emergency repairs, compliance with **Section 106, Section 4(f)**, and other related environmental laws occurs concurrent with or after the emergency repairs have been completed. For permanent repairs, compliance is undertaken as part of the normal **NEPA** project development process.

1. Project forms, notifications, and other appropriate documentation should be completed at the project level, which may be based on individual or multiple **Detailed Damage Inspection Reports (DDIRs)**.
2. The standard **Notification Forms** may be used, if appropriate, to notify SHPO (with a copy to OEM) of the emergency repair action. Be sure to identify these

actions as emergency repairs on the form. Where a District has a large number of emergency projects, provide SHPO the notification using a table, list, or spreadsheet of the emergency repair actions, and clearly identify those projects where follow-up or additional coordination will be needed in regard to archaeological or historic resources and properties. If properties that may be of religious and cultural importance to a Tribe are present within the APE, the appropriate Tribe must be notified of the action.

3. For all emergency repair actions not involving a historic or archaeological site (i.e., improvements within the existing roadway or roadway features), Stipulation V of the **Section 106 PA** should be used. Stipulations VI and VII can also be applied, as appropriate.
4. **Section 106** documentation can be completed concurrent with or after the action, but must be provided to SHPO within six months of the completion of the action. If no cultural resources are identified within the APE of the emergency repair action, **Section 106** obligations are fulfilled by the standard SHPO notification letter.
5. If previously unidentified cultural resources are uncovered, or if unanticipated impacts to known historic properties are discovered as a result of the action, FDOT still complies with **Section 7-1.6** of FDOT's [Standard Specifications for Road and Bridge Construction](#), the procedures for inadvertent discovery of human remains contained in **Chapter 872.05, F.S.**, (see [Section 8.3.5](#)), the provisions of **36 CFR Part 800.13**, and the provisions regarding Post-Review Discoveries in Stipulation X of the **Section 106 PA**.
6. To the maximum extent possible, Districts should avoid using land which may be protected by **Section 4(f)** or **Section 106** for emergency repair actions. Districts should avoid using land which may be protected by **Section 4(f)** or **Section 106** for debris storage and/or materials staging areas. If using a known historic or archaeological site, restoration or mitigation may be required as appropriate.
7. Although the purpose of **Section 4(f)** (to evaluate feasible and prudent avoidance alternatives) cannot be fulfilled after an emergency repair is completed, appropriate documentation may still be required if an activity requires the use of a **Section 4(f)**-protected resource. If using potential **Section 4(f)** resource (public park, recreational area, historic property, or wildlife or waterfowl refuge), initiate appropriate consultation to ensure that the conditions of the site being utilized are restored to the same level, or better than, they were prior to the emergency event, as appropriate (see [Part 2, Chapter 7, Section 4\(f\) Resources](#)).
8. Related emergency repair documentation is uploaded into the SWEPT project file upon SHPO concurrence or, as appropriate, when FDOT makes its final determination. If the action or any additional cultural resources coordination is completed under a new Financial Management number for the subsequent permanent repair, make a note to the original emergency repair SWEPT project file that describes where the documentation is located.

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[http://www.ecfr.gov/cgi-bin/text-idx?SID=b36f494ab8c19284178b4c593eda2a8f&tpl=/ecfrbrowse/Title36/36cfr63\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=b36f494ab8c19284178b4c593eda2a8f&tpl=/ecfrbrowse/Title36/36cfr63_main_02.tpl)

Title 36 CFR Part 65, National Historic Landmarks (NHLs) Program.  
<http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=36:1.0.1.1.31>

Title 36 CFR Part 68, The Secretary of the Interior's Standards for the Treatment of Historic Properties.  
<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=5e5537765885c8731e04c0dcd480fd44&r=PART&n=36y1.0.1.1.33>

Title 36 CFR Part 79, Curation of Federally Owned and Administered Archaeological Collections.  
[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title36/36cfr79\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title36/36cfr79_main_02.tpl)

Title 36 CFR Part 800, Protection of Historic Properties.

[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title36/36cfr800\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title36/36cfr800_main_02.tpl)

Title 36 CFR Part 800, Appendix A – Criteria for Council Involvement in Reviewing Individual Section 106 Cases.

[http://www.ecfr.gov/cgi-bin/text-idx?SID=619ec7a3ce5328e33b80c6e0d35be736&mc=true&node=ap36.3.800\\_116.a&rqn=div9](http://www.ecfr.gov/cgi-bin/text-idx?SID=619ec7a3ce5328e33b80c6e0d35be736&mc=true&node=ap36.3.800_116.a&rqn=div9)

Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), 1998.

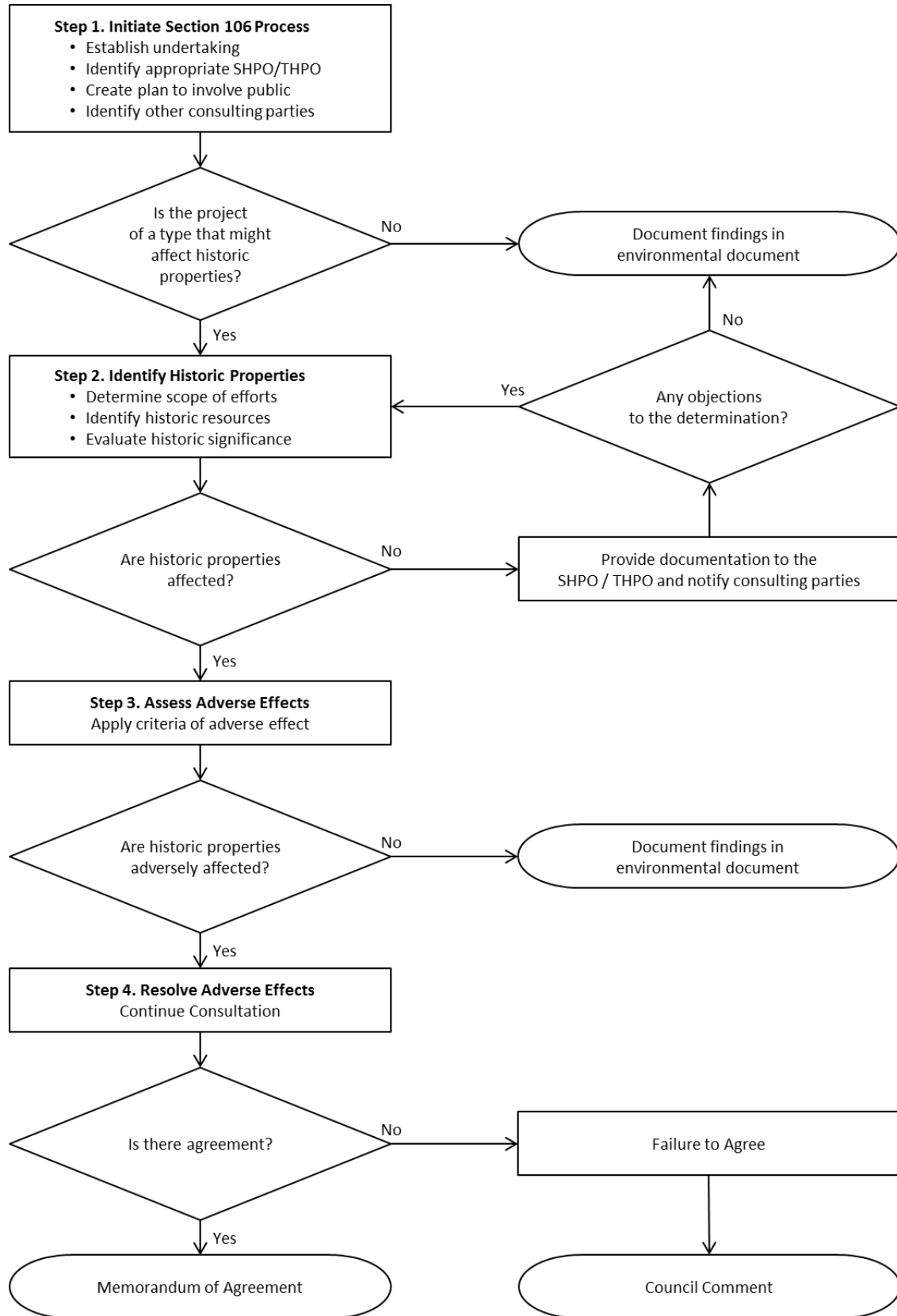
<https://www.fhwa.dot.gov/tea21/tea21.pdf>

USDOT Act of 1966, 49 U.S.C. § 303

[https://www.nps.gov/history/local-law/FHPL\\_DOTAct.pdf](https://www.nps.gov/history/local-law/FHPL_DOTAct.pdf)

## **8.5 HISTORY**

1/12/1999, 9/7/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 12, 1/14/2019



**Figure 8-1 Section 106 Process**

Minor highway project activity types requiring Section 106 Desktop and/or Field Review are:

1. Activities that do not involve or lead directly to construction, such as planning and technical studies; grants for training and research programs; research activities, as defined in 23 United States Code (U.S.C.) § 307; approval of a unified work program and any findings required in the planning process pursuant to 23 U.S.C. § 134; approval of statewide programs under 23 CFR Part 630; approval of project concepts under 23 CFR Part 476; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions that establish classes of highways on the Federal-aid highway system.
2. Approval of utility installations along or across a transportation facility.
3. Construction of bicycle and pedestrian lanes, paths, and facilities
4. Transfer of federal lands pursuant to 23 U.S.C. § 317 when subsequent action is not an FHWA action.
5. The installation of noise barriers, or alterations, to existing publicly-owned buildings to provide for noise reduction.
6. Landscaping.
7. Emergency repairs under 23 U.S.C. § 125.
8. Acquisition of scenic easements.
9. Determination of payback under 23 CFR Part 480 for property previously acquired with Federal-aid participation.
10. Improvements to existing rest areas and truck weigh stations.
11. Ride-sharing activities.
12. Bus and rail car rehabilitation.
13. Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.
14. Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.

**Figure 8-2 Project Activity Types Identified in Section 106 PA as Requiring Desktop Evaluation and Field Review**

15. The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities that themselves are within a CE.
16. Track and rail-bed maintenance and improvements when carried out within the existing ROW.
17. Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.
18. Promulgation of rules, regulations, and directives.
19. Adding or lengthening turning lanes (including continuous turn lanes), intersection improvements, channelization of traffic, dualizing lanes at intersection and inter-changes, auxiliary lanes, and reversible lanes.
20. Flattening slopes; improving vertical and horizontal alignments.
21. Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.
22. Restore, replace and rehabilitate culverts, inlets, drainage pipes, and systems including safety treatments.
23. Widening, adding roadway width and/or roadway reconstruction shoulders without adding through traffic lanes.
24. Roadway skid hazard treatment.
25. Upgrade, removal, or addition of guardrail.
26. Upgrade median barrier.
27. Install or replace impact attenuators.
28. Upgrade bridge end approaches/guardrail transition.
29. Upgrade railroad track circuitry.
30. Improve railroad crossing surface.
31. Improve vertical and horizontal alignment of railroad crossing.
32. Improve sight distance at railroad crossing.

**Figure 8-2 Project Activity Types Identified in Section 106 PA as Requiring Desktop Evaluation and Field Review (Page 2 of 4)**

33. Railroad crossing elimination by closure, and railroad overpass removal within ROW.
34. Clear zone safety improvements, such as fixed object removal or relocation.
35. Screening unsightly areas.
36. Freeway traffic surveillance and control systems.
37. Motorist aid systems.
38. Highway information systems.
39. Preventive maintenance activities such as joint repair, pavement patching, shoulder repair and the removal and replacement of old pavement structure.
40. Restore, rehabilitate, and/or resurface existing pavement.
41. Computerized traffic signalization systems.
42. Widening of substandard bridge to provide safety shoulders without adding through lanes.
43. Replacement of existing bridge (in same location) by present criteria.
44. Transportation enhancement projects involving acquisition of historical sites and easements, or historical preservation.
45. Preservation of abandoned railway corridors, including the conversion and use for pedestrian, equestrian, or bicycle trails.
46. Rehabilitation and operation of historic transportation buildings, structures, or facilities, including railroad facilities and canals.
47. Mitigation of water pollution due to highway runoff.
48. Bridge removal.
49. Approvals for disposal of excess ROW or for joint or limited use of ROW, where the proposed use does not have significant adverse effects.
50. Rehabilitation or reconstruction of existing rail and bus transit buildings and ancillary buildings where only minor amounts of additional land are required, and there is not a substantial increase in the number of users.

**Figure 8-2 Project Activity Types Identified in Section 106 PA as Requiring Desktop Evaluation and Field Review (Page 3 of 4)**

51. Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks, and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.
52. Acquisition of land for hardship or protective purposes for a particular parcel or a limited number of parcels; advance land acquisition loans under section 3(b) of the Urban Mass Transportation Act.
53. Mitigation Projects.
54. Animal crossings.
55. Changes in access controls.
56. Minor ROW acquisition for roadway and bridge projects without the addition of through traffic lanes.
57. Recreational Trails.

**Figure 8-2 Project Activity Types Identified in Section 106 PA as Requiring Desktop Evaluation and Field Review (Page 4 of 4)**

[DATE]

[TRIBAL CONTACT NAME]  
[TITLE]  
[ADDRESS]

Re: [PROJECT NAME]  
COUNTY: [Name]

Dear [TRIBAL CONTACT NAME]:

Please find enclosed one copy of the Cultural Resource Assessment Survey (CRAS) Report for the [PROJECT NAME] for your review and comment. This report documents the cultural resource survey conducted pursuant to *Section 106* of the *National Historic Preservation Act (NHPA) of 1966* (Public Law 89-665, as amended) and its implementing regulations (36 CFR Part 800: *Protection of Historic Properties*, incorporating amendments effective August 5, 2004). The objectives of this survey were to identify cultural resources within the project corridor and assess their eligibility for inclusion in the *National Register of Historic Places (NRHP)*. As noted in the [INSERT DATE] letter from the Florida Department of Transportation (FDOT) to the [INSERT TRIBE NAME] that initiated *Section 106* consultation (see attached), this report is being forwarded to you as part of the project-specific consultation.

No archaeological sites were identified during the survey of [PROJECT NAME]. If you have any questions, please feel free to call the Director of OEM at (850) 414-5316 or OEM Cultural Resources Coordinator at (850) 414-5323. You may also contact [NAME, TITLE, PHONE NUMBER] for project-specific information if so desired.

Sincerely,

[NAME]  
Director, Environmental Management

Enclosures

cc: [Additional tribal contacts]  
[District Engineer]  
[District specific contacts]  
[State Cultural Resource Coordinator]

**Figure 8-3 Sample Submittal Letter to Tribes (No Tribal Cultural Sites)**



[Date]

[TRIBAL CONTACT NAME]

[TITLE]

[ADDRESS]

Re: [PROJECT NAME]  
COUNTY: [Name]

Dear [TRIBAL CONTACT NAME]:

Please find enclosed one copy of the Cultural Resource Assessment Survey (CRAS) Report for the [PROJECT NAME] for your review and comment. This report documents the cultural resource survey conducted pursuant to *Section 106* of the *National Historic Preservation Act (NHPA) of 1966* (Public Law 89-665, as amended) and its implementing regulations (36 CFR Part 800: *Protection of Historic Properties*, as revised January 2001 and incorporating amendments effective August 5, 2004). The objectives of this survey were to identify cultural resources within the project corridor and assess their eligibility for inclusion in the *National Register of Historic Places (NRHP)*. As noted in the [INSERT DATE] letter from the Florida Department of Transportation (FDOT) to the [INSERT TRIBE NAME] that initiated *Section 106* consultation (see attached), this report is being forwarded to you as part of the project-specific consultation.

A total of [INSERT NUMBER] archaeological sites were identified during the survey of [PROJECT NAME]. [NOTE TYPE OF SITES AND THEIR NRHP ELIGIBILITY RECOMMENDATION, IF APPLICABLE]

We welcome any comments you may have pertaining to this project and seek your concurrence with the finding. [DETAIL FINDINGS IF APPROPRIATE] We look forward to continuing the consultation process and working with you.

If you have any questions, please feel free to call the Director of OEM at (850) 414-or OEM Cultural Resources Coordinator) at (850) 414-5323. You may also contact [NAME, TITLE, PHONE NUMBER] for project-specific information if so desired.

Sincerely,

[NAME]  
Director, Office of Environmental Management

Enclosures

cc: [Additional tribal contacts]  
[District Engineer]  
[District specific contacts]  
[State Cultural Resource Coordinator]

#### Figure 8-4 Sample Submittal Letter to Tribes (with Tribal Cultural Sites)

Bridge Number and Name	County	Bridge Type and Year Built	Brief Description of Significance
054015 C.R. 721A / Harney Pond Canal	Glades	Prestressed Concrete slab 1958	Very early or particularly important example of its type in the state or the nation.
910001 S.R. 70 / Kissimmee River	Okeechobee/ Highlands	Steel girder 1966	Has distinctive engineering or architectural features that depart from standard bridge designs.
910009 S.R. 78/ Kissimmee River	Okeechobee	Steel girder 1964	Has distinctive engineering or architectural features that depart from standard bridge designs.
720075 SR 109 / SR 10A	Duval	Concrete Tee beam 1952	Has distinctive engineering or architectural features that depart from standard bridge designs.
720087 U.S. 1 / Miami Road	Duval	Continuous Steel girder 1968	Has distinctive engineering or architectural features that depart from standard bridge designs.
720100 S.R. 115A Flyover / S.R. 10A	Duval	Concrete Box beam 1961	Very early or particularly important example of its type in the state or the nation.
760002 S.R. 19 / Proposed Cross Florida Barge Canal	Putnam	Continuous Steel girder 1967	Associated with an event or individual. Features spans of exceptional length or complexity. Displays other elements that were engineered to respond to a unique environmental context.
580951 S.R. 399 / ICWW	Santa Rosa	Steel girder 1960	Features spans of exceptional length or complexity. Displays other elements that were engineered to respond to a unique environmental context.
460019 U.S. 98 (S.R. 30) / ICWW	Bay	Concrete girder 1965	Features spans of exceptional length or complexity. Displays other elements that were engineered to respond to a unique environmental context.
570034 U.S. 98 (S.R. 30) / ICWW	Okaloosa	Steel girder 1964	Features spans of exceptional length or complexity. Displays other elements that were engineered to respond to a unique environmental context.
880005 James H. Pruitt Memorial / S.R. A1A over Sebastian Inlet	Indian River	Prestressed concrete girder 1964	Very early or particularly important example of its type in the state or the nation.
364040 C.R. 316 / Proposed Cross Florida Barge Canal	Marion	Continuous steel girder 1969	Associated with an event or individual. Features spans of exceptional length or complexity. Displays other elements that were engineered to respond to a unique environmental context.

**Figure 8-5 Florida Post-1945 Bridges Requiring Evaluation and/or Individual Treatment under Section 106**

<b>Bridge Number and Name</b>	<b>County</b>	<b>Bridge Type and Year Built</b>	<b>Brief Description of Significance</b>
360055 S.R. 40 / Ocklawaha River	Marion	Continuous steel girder 1972	Associated with an event or individual. Features spans of exceptional length or complexity. Displays other elements that were engineered to respond to a unique environmental context.
904603 Bimini Drive/ Sam's Canal	Monroe	Prestressed concrete channel beam 1955 / 1982	Associated with an event or individual. Has distinctive engineering or architectural features that depart from standard bridge designs.
904604 Harbour Drive / Joe's Canal	Monroe	Prestressed concrete channel beam 1955 / 1982	Associated with an event or individual. Has distinctive engineering or architectural features that depart from standard bridge designs.
904606 Seaview Drive / Un-Named Canal	Monroe	Prestressed concrete channel beam 1955 / 1982	Associated with an event or individual. Has distinctive engineering or architectural features that depart from standard bridge designs.
870078 S.R. 826 SB Flyover to S.R. 836	Miami-Dade	Prestressed concrete box beam 1967	Very early or particularly important example of its type in the state or the nation.
None Florida Kennels Rock Bridge / driveway over Red Canal	Miami-Dade	Concrete and rock culvert 1947	Has distinctive engineering or architectural features that depart from standard bridge designs.
None Rock Bridge over Red Road Canal	Miami-Dade	Concrete and rock culvert 1947	Has distinctive engineering or architectural features that depart from standard bridge designs.

**Figure 8-5 Florida Post-1945 Bridges Requiring Evaluation and/or Individual Treatment under Section 106 (Page 2 of 2)**

The following is a sample transmittal letter to SHPO. The sample transmittal letter is followed by examples of the different signature blocks required for different situations.

The transmittal letter includes a date and is addressed to:

[DATE]

[NAME]

Director and State Historic Preservation Officer  
Florida Division of Historical Resources  
Florida Department of State  
R.A. Gray Building  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Attention: Transportation Compliance Review Program

In the subject lines, provide the project name and limits, project phase (e.g., PD&E Study, pond siting), the Financial Management Number, and the Federal-Aid Project (FAP) Number, as applicable:

Cultural Resource Assessment Survey  
Project Development and Environment (PD&E) Study  
[PROJECT NAME]  
[COUNTY], Florida  
Financial Management No.: XXXXXX X XX XX  
Federal Aid Project No.: XXXXXX

Description of the project:

A Cultural Resource Assessment Survey (CRAS) was conducted within the Area of Potential Effects (APE) for the above-referenced project as part of the Florida Department of Transportation's (FDOT's) proposed widening of [length] miles of [project road and limits]. The proposed improvements involve widening [road] from the existing two lanes to a four-lane, divided facility along the existing alignment. The Build alternative will require xx feet of additional right of way and will include associated curb and gutter improvements and bringing the pedestrian facilities up to the standards established in the Americans with Disabilities Act (ADA).

[Insert description of the project APE for both archaeological sites and historic resources]. This APE was defined, in consultation with the State Historic Preservation Officer (SHPO), as the existing right of way for the archaeological survey. The historical APE [insert description].

**Figure 8-6 Sample Transmittal Letter with Sample Signature Blocks**

### Regulatory authorities:

This CRAS was conducted in accordance with the requirements set forth in the National Historic Preservation Act of 1966, as amended, and Chapter 267, Florida Statutes (F.S.). The investigations were carried out in accordance with Part 2, Chapter 8 of FDOT's Project Development and Environment Manual, FDOT's CRM Manual, and the standards contained in the Florida Division of Historical Resources (FDHR) CRM Standards and Operations Manual. In addition, this survey meets the specifications set forth in Chapter 1A-46, Florida Administrative Code.

### Summary results of the background research:

Background research revealed that no previously recorded archaeological sites were present within the APE, and suggested that the project corridor had a generally low potential for archaeological site occurrence. No historic period archaeological sites were expected. Therefore, the corridor was subjected to a pedestrian survey and appropriate judgmental subsurface testing.

Eight previously recorded historic structures and one resource group were identified within the project APE. These resources include [describe with site names, FMSF Numbers, build dates, NRHP status, etc.]. None of the recorded residential and commercial structures were listed or determined eligible for listing in the NRHP; the resource group has not been evaluated by SHPO.

### Summary results of the field surveys, including evaluations of NRHP eligibility:

No archaeological sites were identified as a result of field survey. The historical/architectural field survey indicated that four [FMSF Numbers] of the previously recorded historic structures and the resource group [FMSF Number] have been demolished. Two previously recorded [FMSF Numbers] and 14 newly recorded [FMSF Numbers] historic resources were evaluated for eligibility for listing in the NRHP. None of these resources are considered potentially eligible for listing in the NRHP.

In cases where a preliminary analysis of proposed ponds is conducted as part of the CRAS for a PD&E Study, with the results summarized in a Technical Memorandum included as an appendix to the CRAS Report, the following standard language may be added to the letter:

A preliminary analysis of 14 proposed ponds was conducted as part of this CRAS; the Technical Memorandum summarizing the results of this analysis, is included as Appendix [X]. No fieldwork was performed. A CRAS, including fieldwork, will be prepared after the preferred pond sites are selected.

If previously or newly recorded resources are found to be either listed in or determined eligible for listing in the NRHP, the transmittal letter should provide the Criteria of Eligibility (for example, "Criterion A: associated with events that have made significant

### **Figure 8-6 Sample Transmittal Letter with Sample Signature Blocks (Page 2 of 4)**

contribution to the broad patterns of our history”), along with the primary character of the property (for example, a rare example of a pre-Contact village site, a contact-period trading site, a unique or important engineering achievement, the home of an important person, or the location of an important event, an excellent representative of an important architectural style, and so on). If any of the Criteria considerations established by the NRHP are applicable to the property, provide those as well.

Summary of potential project effects to historic properties (if there is enough project and/or site detail to allow this):

Based on the results of background research and field survey, no historic properties are located within the project APE. Therefore, the project will have no involvement with any archaeological sites or historic resources that are listed, determined eligible, or considered potentially eligible for listing in the NRHP.

Or, in the case of potentially eligible resources:

Background research and field survey revealed one resource [FMSF Number and site name] which was evaluated as potentially eligible for listing in the NRHP, in accordance with Section 106 of the NHPA, as amended, and its implementing regulations. Should SHPO/THPO concur with this finding, we look forward to further consultation with SHPO/THPO to evaluate the effects of the proposed undertaking (preferred alternative) on the potentially NRHP-eligible [Property Name].

Closing statement:

The CRAS Report is provided for your review and concurrence. If you have any questions, please do not hesitate to call me at [TELEPHONE NUMBER and EMAIL ADDRESS].

In cases where the survey encountered or evaluated sites or resources that could be of cultural or religious importance to the Tribes, include a statement to that effect, along with a statement about coordination conducted with SHPO and the 5 (or 6) Tribes. Forward sufficient numbers of the CRAS and associated documents for tribal review, including the cover letters for tribal coordination. Note that the cover letter for the Tribes will not include the signature blocks.

List of enclosed documents:

Enclosed are two copies of the CRAS Report [DATE], [NUMBER] FMSF forms [list the FMSF NUMBERS], a Survey Log Sheet, and a CD with pdf files of the CRAS Report, FMSF forms, and Survey Log Sheet.

**Figure 8-6 Sample Transmittal Letter with Sample Signature Blocks (Page 3 of 4)**

Use the following signature block to SHPO for federal actions:

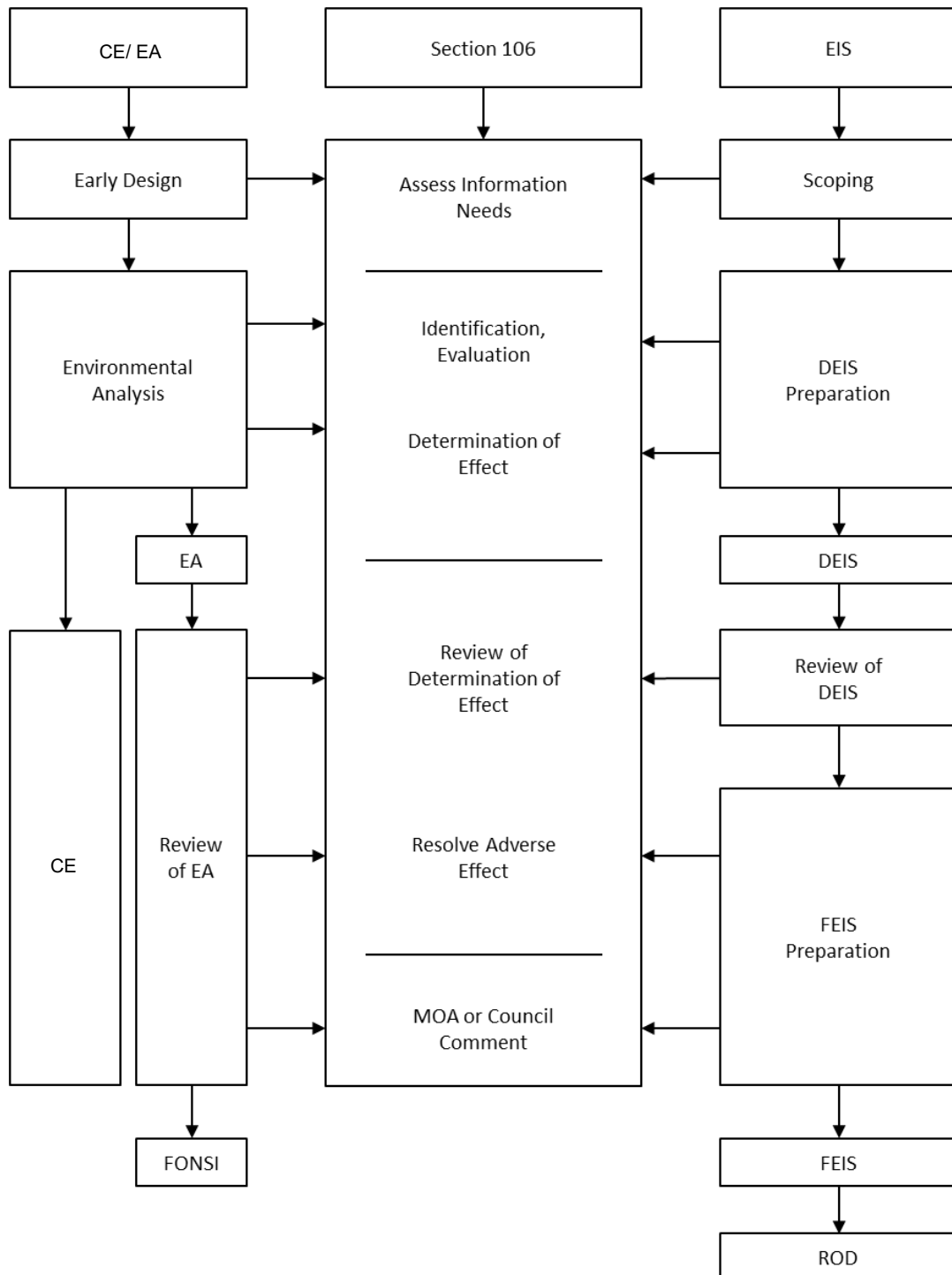
<p>The Florida State Historic Preservation Officer finds the attached Cultural Resource Assessment Survey Report complete and sufficient and <input type="checkbox"/> concurs/ <input type="checkbox"/> does not concur with the recommendations and findings provided in this cover letter for SHPO/FDHR Project File Number _____. Or, the SHPO finds the attached document contains _____ insufficient information.</p> <p>In accordance with the Programmatic Agreement among the FHWA, ACHP, FDHR, SHPO, and FDOT Regarding Implementation of the Federal-Aid Highway Program in Florida, if providing concurrence with a finding of No Historic Properties Affected for a project as a whole, or to No Adverse Effect on a specific historic property, SHPO shall presume that FDOT will proceed with a <i>de minimis</i> Section 4(f) finding at its discretion for the use of land from the historic property.</p>	
SHPO Comments:	
[NAME], Director, and State Historic Preservation Officer Florida Division of Historical Resources	[DATE]

Use the following signature block to FDHR for state actions:

<p>The Florida Division of Historical Resources finds the attached Cultural Resource Assessment Report complete and sufficient and <input type="checkbox"/> concurs/ <input type="checkbox"/> does not concur with the determinations of historic significance provided in this cover letter and <input type="checkbox"/> does not find applicable the determinations of effects provided in this cover letter for SHPO/FDHR Project File Number _____. _____.</p>	
SHPO Comments:	
[NAME], Director Florida Division of Historical Resources	[DATE]

**Figure 8-6 Sample Transmittal Letter with Sample Signature Blocks (Page 4 of 4)**

**COORDINATION BETWEEN NEPA AND SECTION 106**



The Public and Consulting Parties must be notified and given the opportunity to comment during each step of the Section 106 review process.

**Figure 8-7 NEPA and Section 106**



[Date]

[Name and Title]

Division of Historical Resources  
Florida Department of State  
R.A. Gray Building  
500 South Bronough Street  
Tallahassee, Florida 32399-0250  
ATTN: Transportation Compliance Review Program

Re: Project Name, Financial Management Number XXXXX-XXXX  
Contract Number XXXXXXXXXX  
XXX County, Florida

Dear XXX:

We propose to conduct off project highway construction activities [ADD BRIEF DESCRIPTION] for the above-referenced Department of Transportation project. The proposed off project area, which covers (ACREAGE OR DIMENSIONS), is depicted on the attached map and is located as follows:

County	_____	Township	_____	Range	_____
Section	_____	¼ Section	_____	¼ ¼ Section	_____

Please initiate an assessment of the proposed off project area to determine the possible effects of our operations on archaeological, architectural, or historic sites or properties. Please advise at your earliest convenience as to whether the project may proceed without further involvement with your agency or if a cultural resources field survey is required.

If you have any questions concerning this request, contact (CONTRACTOR'S REPRESENTATIVE) at (TELEPHONE NUMBER).

Sincerely,

NAME  
ABC Construction Company  
[ADDRESS]

Attachment

CC: [NAME], Director  
Office of Environmental Management Florida Department of Transportation  
605 Suwannee Street, MS 37  
Tallahassee, Florida 32399-0450

[NAME], District Project Manager  
[NAME], District Environmental Manager  
[NAME], District Cultural Resource Coordinator

### Figure 8-8 Contractor's Request for a Cultural Resource Assessment

## **PART 2, CHAPTER 9**

# **WETLANDS AND OTHER SURFACE WATERS**

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## PART 2, CHAPTER 9

# WETLANDS AND OTHER SURFACE WATERS

### 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).

Wetlands and other surface waters provide important and beneficial functions including: protecting and improving water quality, providing fish and wildlife habitat, and storing floodwaters. They are protected at the federal and state level because of the important functions they perform. The **Rivers and Harbors Act, Clean Water Act (CWA)**, and associated regulations aim to restore and maintain existing aquatic resources. These require that agencies strive to first avoid adverse impacts, and then minimize adverse impacts, and finally offset unavoidable adverse impacts to existing aquatic resources; and for wetlands, strive to achieve a goal of no overall net loss of values and functions. This chapter provides procedures for identifying, evaluating, and documenting potential wetland and other surface waters impacts associated with transportation projects and describes regulatory mitigation requirements.

At the federal level, waters of the United States (wetlands and other surface waters) are regulated by the United States Army Corps of Engineers (USACE) with support from United States Environmental Protection Agency (EPA), United States Fish and Wildlife Service (USFWS), and the National Marine Fisheries Service (NMFS). In Florida, wetlands and other surface waters are regulated by the Florida Department of Environmental Protection (FDEP) and the Water Management Districts (WMDs). When it is determined that there are unavoidable adverse impacts to wetlands, compensatory mitigation is required pursuant to **33 Code of Federal Regulations (CFR) Part 325 and 332, 40 CFR Part 230, and Section 373.4137, Florida Statutes (F.S.)**.

#### 9.1.1 Regulation of Wetlands and other Surface Waters

The USACE authority to regulate work in the Nations' waters comes from **Section 10** of the **Rivers and Harbors Act of 1899**, which established permit requirements to prevent

unauthorized obstruction or alteration of any navigable water of the United States, and **Section 404** of the **CWA**, which authorizes the USACE to require permits for the discharge of dredged or fill material into waters of the United States at specified disposal sites. The USACE is the federal agency responsible for permitting wetland impacts, with oversight by the EPA. The USFWS and NMFS serve in a commenting role to the USACE with respect to their jurisdictional responsibilities.

**Section 404** of the **CWA** also established a state regulatory authority over wetlands as they relate to water quality impacts. In Florida, state authority over activities in surface waters and wetlands is administered by the FDEP and the five WMDs. The Florida Fish and Wildlife Conservation Commission (FWC) advises the FDEP and WMDs on wildlife issues as a requirement under Florida's Environmental Resource Permit (ERP) Program.

Wetlands are one of the public interest factors identified in **33 CFR § 320.4, Public Interest Review**. If a **Section 404** permit is being pursued, the public interest factors relevant to each alternative should be evaluated and balanced. Relevant factors may include conservation, economics, aesthetics, wetlands, cultural values, navigation, fish and wildlife values, water supply, water quality, and any other factors judged important to the needs and welfare of the people.

A methodology for identifying and delineating wetlands in Florida is provided in **Chapter 62-340, Florida Administrative Code (F.A.C.), Delineation of the Landward Extent of Wetlands and Surface Waters**. This methodology is a unified statewide approach to wetland and other surface water delineation and recognizes the vegetation, hydrologic, and soil features that specifically exist in Florida. The USACE uses the **Corps of Engineers Wetland Delineation Manual, 1987** and **Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region, 2010** to determine the federal wetland jurisdictional boundary. State and federal wetland boundaries may or may not match one another, so confirmation on this boundary should be obtained from each agency.

The Uniform Mitigation Assessment Method (UMAM) detailed in **Chapter 62-345, F.A.C.**, is the state-wide method to determine the functional value provided by wetlands and other surface waters. In some cases, the USACE's Wetland Rapid Assessment Procedure (WRAP) may need to be used in order to utilize a mitigation bank that was permitted under WRAP and not UMAM. Regulatory agency coordination is required for sites where other assessment methodologies were used.

### **9.1.2 Federal Highway Administration Wetlands Policy and Guidance**

**Presidential Executive Order (EO) 11990** entitled "Protection of Wetlands" establishes a National Policy to "avoid to the extent possible the long and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative".

The U.S. Department of Transportation (USDOT) in implementing **EO 11990** set forth its policy on wetlands in **USDOT Order 5660.1A**, Preservation of the Nation's Wetlands,

which is "to assure the protection, preservation, and enhancement of the Nation's wetlands to the fullest extent practicable during the planning, construction and operation of transportation facilities and projects. New construction in wetlands shall be avoided unless there is no practicable alternative to the construction and the proposed action includes all practicable measures to minimize harm to wetlands which may result from such construction. In making a finding of no practicable alternative, economic, environmental, and other factors may be taken into account. Some additional cost alone will not necessarily render alternatives or minimization measures impracticable, since additional cost would normally be recognized as necessary and justified to meet national wetland policy objectives." More guidance on practicable alternatives is provided in **40 CFR § 230.10(a)**.

To fulfill the requirements of **USDOT Order 5660.1A**, FHWA has issued a **Technical Advisory T6640.8A**, which provides guidance on the preparation of Environmental Documents, including the assessment of project impacts on wetlands.

As stated in **Technical Advisory T6640.8A**, for an Environmental Impact Statement (EIS) or an Environmental Assessment (EA), the Environmental Document should:

1. Identify the type, quality and function of wetlands involved
2. Describe the direct and indirect impacts to the wetlands that may result from the proposed alternative(s)
3. Evaluate alternatives which would avoid wetland impacts
4. Identify practicable measures to minimize harm to wetlands

In evaluating the impact of the proposed project on wetlands, the following should be addressed:

1. The importance of the impacted wetland(s)
  - a. The primary functions of the wetlands (e.g., flood control, wildlife habitat, ground water recharge)
  - b. The relative importance of these functions to the total wetland resource of the area
  - c. Other factors such as uniqueness that may contribute to the wetlands importance
2. The severity of the impact
  - a. The analysis should show the project's effects on the stability and quality of the wetland(s)

- b. The analysis should consider the short and long-term effects on the wetlands and the importance of any loss

FHWA's policy and procedures for the evaluation and mitigation of adverse environmental impacts to wetlands and natural habitat resulting from federal-aid projects are contained in **23 CFR Part 777. FHWA's Environmental Policy Statement (1990, amended 1994)**, provides that FHWA will "participate to the fullest extent permitted by law, in funding mitigation and enhancement activities required by Federal, State, and local statutes and regulations for project related impacts to the natural environment, neighborhoods, and communities."

Documentation of the wetland evaluation is included in the wetland section of the **Natural Resource Evaluation (NRE)** or in a technical memorandum and summarized in the Environmental Document. Wetland and other surface water impacts requiring either a federal or state standard/individual permit, or a regional general permit must be documented in an **NRE**. For projects with impacts allowable under a federal USACE Nationwide permit or a state general permit, a technical memorandum discussing wetland and other surface water impacts may be sufficient. The integration of the **NEPA** process with **Section 404(b)(1) Guidelines** of the **CWA** is desirable for projects requiring a USACE standard/individual permit (**Section 9.2.6**). More information can be found in [Part 1, Chapter 12, Environmental Permits](#).

For non-federal projects, documented as a State Environmental Impact Report (SEIR), the process should be the same. For more information about developing SEIRs, see [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

### 9.1.3 FDOT Wetland Evaluation Process

Involvement with wetlands and other surface waters should be evaluated regardless of whether the project is required to meet **NEPA**, state requirements, or qualifies for Environmental Screening Tool (EST) screening. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for project types qualifying for EST screening. [Figure 9-1](#) provides a flow chart of the wetland evaluation process.

For projects that do not qualify for EST screening, a field visit or a desktop analysis using the EST's Area of Interest tool, or other mapping tools can be used to determine if a project will impact wetlands or other surface waters. This information can be documented in the **Type 1 Categorical Exclusion Checklist** or the **Non-Major State Action Checklist**, as appropriate.

For projects qualifying for EST screening, the District uses information from the **Programming Screen Summary Report** to initially determine the project's involvement with wetlands. The analyst should review the Environmental Technical Advisory Team (ETAT) comments made for the "Potential Navigable Waterways" and "Wetlands and Surface Waters" issues and coordinate with appropriate District staff (e.g., Environmental Manager, Permits Coordinator). It may also be helpful to review ETAT comments on other related issues such as "Coastal and Marine," "Water Resources," and in some cases

“Wildlife and Habitat.” Comments from agencies that regulate wetlands (such as USACE, FDEP, and WMDs) are especially important. The results of the screening can help the District identify the level of evaluation that may be needed, if permits may be necessary, and whether potential mitigation opportunities in the project area exist. The report may state specifically that a wetland evaluation is needed in the “List of Technical Studies” section of the report. Other sections of the report may be useful such as the “General Project Recommendations” and “Anticipated Permits” sections. At the beginning of the Project Development and Environment (PD&E) process, it is important to contact the commenting agencies to confirm their recommendations made during the EST screening events and to ensure wetland issues are addressed.

Regardless of the Environmental Document to be produced, wetland involvement or impacts must be addressed in the appropriate wetland section. For the purposes of this chapter, the term “wetland section” means the location where wetland involvement or impacts are discussed in the Environmental Document. Wetland evaluations and impact analyses conducted during the PD&E phase are detailed in the Wetland Evaluation section of the **NRE** or in a technical memorandum.

In accordance with **EO 11990** and **USDOT Order 5660.1A**, a formal “Wetlands Finding” is required for projects processed as a Type 2 Categorical Exclusion (CE), EA with Finding of No Significant Impact (FONSI), or a Final Environmental Impact Statement (FEIS) as described in [Section 9.2.4.1](#) and [Section 9.2.4.3](#). Non-Major State Actions and SEIRs are not subject to **EO 11990** and do not require a “Wetlands Finding.” Potential wetland involvement must also be made available for early public review through various public involvement mechanisms. If a public hearing is required for a project, wetland impacts are identified in the public hearing advertisement and presentation as described in [Section 9.2.5](#).

## 9.2 PROCEDURE

### 9.2.1 Advance Notification

For projects qualifying for EST screening, the proposed project is entered into the EST by the Efficient Transportation Decision Making (ETDM) Coordinator (See the [ETDM Manual, Topic No. 650-000-002](#)). The Advance Notification (AN) package may be distributed electronically as part of the programming screening event in the EST ([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)) or when commencing the PD&E Study.

The AN package includes a Preliminary Environmental Discussion (PED) as part of the Fact Sheet. Wetland information is included in the PED and contains the District’s initial identification of potential involvement with wetland resources within the project. The PED should also identify the location of potential jurisdictional wetlands (as defined by the FDEP, WMD, and/or the USACE) and provide a description of how the wetlands will be evaluated in the PD&E Study. The Fact Sheet may also include a list of permits that may be required and a list of technical studies that may be needed. The AN must not draw any conclusions regarding the significance of the wetland involvement, since this would



constitute a “Wetlands Finding” ([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)).

## 9.2.2 Wetland Evaluation

The wetland evaluation is recorded in the Wetland Evaluation section of the **NRE**, which is a FDOT technical report that documents protected species and habitat, wetlands and other surface waters, and Essential Fish Habitat issues to support the Environmental Document. Each wetland and other surface waters with potential involvement is identified and evaluated. The District should consider commentary from the ETAT with wetland jurisdictional responsibility when preparing the **NRE**.

The Wetland Evaluation section of the **NRE** should follow the [Natural Resources Evaluation Outline and Guidance](#), as applicable and include:

1. The identification of existing wetlands and other surface waters within the project area. Include maps of the wetlands and other surface waters in the project area.
2. A delineation of each wetland as detailed in the **Corps of Engineers Wetland Delineation Manual, 1987; Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region, 2010; The Florida Wetlands Delineation Manual, 1995; and Rule 62-340, F.A.C., Delineation of the Landward Extent of Wetlands and Surface Waters** as appropriate.
3. A description of wetlands in the project area according to the Florida Land Use Cover Classification System (FLUCCS) and the USFWS Classification System as described in **Classification of Wetlands and Deepwater Habitats of the United States**.
4. An evaluation of the potential direct and indirect effects the project will have on the wetlands. Wetland impacts regulated under Florida’s ERP Program or USACE’s **Section 10 of the Rivers and Harbors Act/Section 404** of the **CWA** process need to be identified and evaluated.
5. A discussion of the proposed project’s potential contribution to cumulative impacts on the identified wetlands. Cumulative effects considerations under **NEPA** are different than those under the ERP Program and **Section 404** of the **CWA** permitting process (see FDOT’s [Cumulative Effects Evaluation Handbook](#)).
6. A discussion of practicable measures to avoid minimize harm to wetlands and other surface waters. Minimization could involve measures included in FDOT’s [Standard Specifications for Road and Bridge Construction](#).
7. A functional assessment of the wetlands in accordance with UMAM.

8. A discussion of the potential mitigation options available and description of how those measures can be incorporated into the project.

The District must submit the draft **NRE** to OEM for review prior to submitting to the appropriate agencies for coordination/consultation. A summary of the **NRE** and the results of agency coordination/consultation should be included in the Environmental Document. The **NRE** should be retained in the project file. See [Part 2, Chapter 16, Protected Species and Habitat](#) for additional guidance on preparing the **NRE**.

## 9.2.3 Conceptual Mitigation Plan

### 9.2.3.1 Federal Highway Administration Policy and Funding

Project impacts to wetlands are addressed through the development and consideration of a project alternative(s). The Council on Environmental Quality (CEQ) requires consideration of mitigation measures as defined by **NEPA** in the development of project alternative(s) (**40 CFR § 1508.20**). These measures are:

1. Avoiding the impact altogether by not taking a certain action or parts of an action
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action
5. Compensating for the impact by replacing or providing substitute resources or environments

Avoidance, minimization, and compensation are to be employed in sequence. First, project impacts must be avoided to the extent practicable. Second, unavoidable impacts should be minimized. Third, remaining unavoidable impacts should be mitigated through compensatory actions.

As described in the USACE's Final Rule: **Compensatory Mitigation for Losses of Aquatic Resources, 2008**, "Compensatory mitigation can be carried out through four methods: the restoration of a previously-existing wetland or other aquatic site, the enhancement of an existing aquatic site's functions, the establishment (i.e., creation) of a new aquatic site, or the preservation of an existing aquatic site."

The **USDOT Order 5660.1A, Preservation of the Nation's Wetlands, 1978** provides similar guidance regarding avoidance and minimization strategies prior to the use of compensatory mitigation for unavoidable wetland impacts. This policy requires demonstration that "there is no practicable alternative to the use of the wetlands and that

all practicable measures to minimize harm to the wetlands have been included.” While the lead agency has the authority to restore and enhance existing wetlands and to create new wetlands, these do not counterbalance the effects of adverse impacts to wetlands which are avoidable or satisfy USDOT policy for the “protection, preservation and enhancement of the nation’s wetlands to the fullest extent practicable.”

FHWA will fund the appropriate compensatory mitigation as per the ***Federal Highway Administration Environmental Policy Statement, 1994***. “It is FHWA policy to fully participate in the costs of environmental mitigation for project impacts that are necessary to satisfy Federal law while ensuring that mitigation necessitated by State law and all environmental enhancement measures represent a reasonable expenditure of highway funds.” In order for FHWA to participate in the funding of mitigation, the wetland analysis must meet the requirements of ***23 CFR Part 777***.

### 9.2.3.2 Wetland Mitigation

During the PD&E phase, FDOT considers a project’s location and design to reduce wetland impacts. The first step in mitigating for a project is to avoid wetland impacts. The next step is to minimize wetland impacts. Any remaining wetland impacts which cannot be avoided or minimized must be addressed with a conceptual mitigation plan, which discusses compensatory mitigation opportunities. The level of detail for the conceptual mitigation plan is determined through coordination with the appropriate regulatory agency(s) and is dependent upon the amount of mitigation required. These considerations should be discussed during interagency coordination and documented in the Environmental Document. During permitting, the District will coordinate with the permitting agencies and finalize the mitigation plan.

As per ***Section 373.4137, F.S.***, compensatory mitigation of wetland impacts resulting from FDOT projects “will be funded by the Department of Transportation and be carried out by the use of mitigation banks and any other mitigation options that satisfy state and federal requirements.” Specific information concerning the procedure for implementing the provisions of ***Section 373.4137, F.S.***, is included in [\*\*\*Part 1, Chapter 12, Environmental Permits\*\*\*](#).

For projects which cannot be mitigated through a permitted mitigation bank or the WMDs due to credit or site availability, respectively, FDOT will propose alternative mitigation and the general type(s) of mitigation (creation, restoration, enhancement, or preservation) to be used in the conceptual mitigation plan.

Early resolution of state and federal permit agencies' concerns and joint agreement on appropriate mitigation is promoted by OEM. Early agreements may substantially reduce delays during the permitting process and should be documented in the Comments and Coordination section of EAs and EISs.

FDOT documents compensatory mitigation for unavoidable impacts through the use of standard statements (see [\*\*\*Section 9.2.4\*\*\*](#)). If additional project-specific information (e.g.,

site selection, conceptual planning) is available on the individual mitigation project to be used, this information is also included in the Environmental Document.

The Environmental Document must describe the proposed mitigation opportunities considered and demonstrate that mitigation is available to offset impacts to wetlands. FDOT Districts should review mitigation information available on FDEP, WMD and USACE websites ([Figure 9-2](#)). This information is documented in the wetland section of the Environmental Document. District staff should coordinate with the District Permit Coordinator when considering mitigation opportunities.

## 9.2.4 Documentation

The Environmental Document includes a summary of the **NRE** including relevant wetland information, evaluations, and proposed mitigation. If there is more than one alternative, the discussion should provide adequate information to compare alternatives ([Part 2, Chapter 3, Engineering Analysis](#)).

### 9.2.4.1 Categorical Exclusions

Categorical Exclusions (CEs) may have wetland involvement so long as there are no significant wetland impacts. A UMAM or other functional assessment is conducted per state and federal guidelines as appropriate, based on interagency coordination and existing permitting thresholds, for any proposed CE project involving wetlands.

Wetland involvement may be identified for projects that do not require EST screening and immediately advance to the Design phase. For these projects, provide a summary of wetland impacts, agency coordination, and mitigation (as appropriate) as supporting information to the **Type 1 Categorical Exclusion Checklist** ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)). The appropriate wetland evaluation is included in the project file. Should this analysis indicate a significant impact, the project cannot be processed as a CE.

For Type 2 CE projects, documentation must include a concise summary of wetland impacts, agency coordination, the UMAM or other functional assessment, and if applicable, the mitigation standard statement and a “Wetlands Finding.” This information should be added to the wetland section of the **Type 2 Categorical Exclusion Determination Form**. The appropriate wetland evaluation is included in the project file.

Wetland mitigation should be documented by use of the following standard statement:

*Wetland impacts which will result from the construction of this project will be mitigated pursuant to Section 373.4137, F.S., to satisfy all mitigation requirements of Part IV of Chapter 373, F.S., and 33 U.S.C. §1344.*

The “Wetlands Finding” must reference **EO 11990** and include the rationale used to reach the determination that:

1. The proposed project will have no significant short-term or long-term adverse impacts to wetlands,
2. There is no practicable alternative to construction in wetlands, and
3. Measures have been taken to minimize harm to wetlands.

This finding should be concisely summarized in the wetland section of the **Type 2 Categorical Exclusion Determination Form** with detailed information contained in the project file.

## **9.2.4.2 Environmental Assessment and Environmental Impact Statement**

### **9.2.4.2.1 Environmental Analysis Section**

The Environmental Analysis section of an EA or EIS should include a description of the wetland environment within the proposed project alternatives. Documentation includes:

1. A description of wetland systems in the project vicinity (i.e., size and function)
2. A map showing the relationship of the project to the wetlands identified

Documentation for EA and EIS projects involving new construction in wetlands must contain an evaluation of potential wetland impacts to the level of detail appropriate for the involvement. The results of the wetland evaluation and relevant elements of the **NRE**, including the UMAM or other functional assessment, are summarized in the wetland section of the Environmental Analysis section. The following impact discussion must be included in the wetland section of the EA or EIS:

1. An identification of wetlands impacted by the proposed project alternatives using the USFWS Classification System and FLUCCS
2. A discussion of the importance of the wetlands impacted by the proposed project alternative to the surrounding biological community. This includes consideration of:
  - a. Primary functions of the wetlands (e.g., flood control, wildlife habitat, erosion control)
  - b. Relative importance of these functions to the total wetland resources of the area
  - c. Other factors, such as uniqueness, that may contribute to the wetland's importance

3. A description of the impacts of each alternative on the wetlands identified, including the approximate area impacted per site (both directly affected by dredge and fill and indirectly affected by project activities) and the potential loss of wetland function. This includes evaluation of:
  - a. Effects on the stability and quality of the wetlands
  - b. Short-term and long-term effects on the wetlands
  - c. Significance of any wetland loss on primary functions and values
4. An identification and evaluation of alternatives which would avoid wetland impacts
5. An identification of all practicable measures used to minimize wetland impacts
6. Maps showing the location of wetlands identified in relation to each alternative under consideration including alternatives to avoid construction in wetlands
7. A discussion of conceptual mitigation efforts necessary to compensate for unavoidable impacts to wetlands, based on the results of the UMAM or other functional assessment. Mitigation measures which should be considered include:
  - a. Compensatory mitigation pursuant to **Section 373.4137, F.S.**, and as appropriate, **33 CFR § 332**
  - b. Creation of new wetlands from upland areas
  - c. Acquisition of private wetlands for preservation, restoration or enhancement
8. A discussion of agency coordination on the proposed avoidance and minimization activities and conceptual mitigation measures to limit adverse impacts

For EA or EIS projects, a standard statement is used to provide information on the mitigation for the purposes of public information. The standard statement is included in the Environmental Analysis section. EA and EIS projects should include information on the conceptual mitigation plans and add the following standard statement:

*Wetland impacts which will result from the construction of this project will be mitigated pursuant to Section 373.4137, F.S., to satisfy all mitigation requirements of Part IV of Chapter 373, F.S., and 33 U.S.C. §1344. Compensatory mitigation for this project will be completed through the use of mitigation banks and any other mitigation options that satisfy state and federal requirements.*

### 9.2.4.3 Finding of No Significant Impact and Final Environmental Impact Statement

When there is no practicable alternative to an action which involves new construction in wetlands, the FONSI, FEIS/Record of Decision (ROD), or the FEIS must contain the "Wetlands Finding" required by **EO 11990** and **USDOT Order 5660.1A**.

Approval of the FONSI or FEIS containing the "Wetlands Finding" will document compliance with the requirements of **EO 11990**. The finding must contain in summary form the following information:

1. A reference to **EO 11990**
2. A discussion of the basis for the determination that there are no practicable alternatives to the proposed action
3. A discussion of the basis of the determination that the proposed action includes all practicable measures to minimize harm to wetlands
4. A standard concluding statement as follows:

*Based upon the above considerations, it is determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.*

If there is no wetlands involvement on a project, a finding is still provided. The wetland finding states that there is no wetland involvement and cites **EO 11990**, as provided below:

*The proposed project does not impact any wetlands, and, therefore, Executive Order 11990 does not apply.*

The "Wetlands Finding" statement must be placed in the Environmental Analysis section of the EA with FONSI or FEIS/ROD. It also is added to the Executive Summary of a FEIS if one is prepared separately from the ROD ([Part 1, Chapter 9, Final Environmental Impact Statement](#)).

Documentation of coordination with applicable agencies (e.g., letters, meetings, emails) should be included in the Appendix.

### 9.2.4.4 State Environmental Impact Report

SEIRs follow the same process for wetland evaluation as federal projects. The results of the wetland evaluation and relevant elements of the **NRE** or technical memorandum, including the UMAM or other functional assessment and conceptual mitigation, are

summarized in the wetland section (Block 3.C.1. Wetlands and Other Surface Waters) of the ***State Environmental Impact Report Form, Form No. 650-050-43*** ([Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)).

### 9.2.5 Public Notice of Wetland Involvement

In compliance with ***Executive Order 11990***, the FDOT “shall provide an opportunity for early public review of any plans or proposals for new construction in wetlands”. This opportunity is typically accomplished through traditional public involvement procedures during the ***NEPA*** process including but not limited to public meetings, workshops, flyers, or project websites. For projects requiring a public hearing, the public hearing advertisement must include a statement informing the public of any wetland involvement on a project, as described in [Part 1, Chapter 11, Public Involvement](#). In addition, FDOT’s public hearing presentation must also mention any wetland involvement for a project in order to increase public awareness of wetland impacts and provide an opportunity for public comment.

### 9.2.6 Merging the NEPA Process and Section 404 of CWA

In 1988, federal agencies including FHWA and the USACE developed a handbook titled ***Applying the Section 404 Permit Process to Federal-Aid Highway Projects***, also known as the ***Red Book***. It emphasized how the synchronization of ***NEPA*** and other federal regulatory reviews can help expedite project delivery. This handbook was updated in the ***2015 Red Book Synchronizing Environmental Reviews for Transportation and Other Infrastructure Projects***. This concurrent review by the lead transportation agency and the USACE for projects requiring a standard or individual ***Section 404*** permit can reduce duplication of analysis and allows for joint decision-making resulting in time and cost savings. The ***NEPA/404*** merger expedites project delivery for transportation projects and allows FDOT and the USACE to coordinate common elements under ***NEPA*** as both agencies are required to evaluate alternatives, assess impacts to resources, and balance resource impacts prior to making a ***NEPA*** decision. Information gathered during the FDOT’s ***NEPA*** process is coordinated with the USACE to ensure compliance with both agency’s requirements. For transportation projects requiring a standard/individual permit, the USACE may be invited by FDOT to be a cooperating agency for the action of preparing a ***NEPA*** document. A ***NEPA/404*** merger may not be warranted for projects requiring a general permit (e.g., Nationwide or Regional General Permits) as the consideration of alternatives is not directly applicable to general permits (***40 CFR Part 230.7***).

The common elements under ***NEPA*** and ***Section 404 of the CWA*** are:

1. Project Need
2. Wetlands Identification, Delineation (as coordinated with USACE or WMD), and Classification
3. Wetlands Impact Assessment



4. Alternatives Analysis
5. Avoidance and Minimization Analysis
6. Conceptual Mitigation
7. Coordination

### 9.2.6.1 Process

The **NRE** developed during the PD&E Study provides technical information on wetland impact assessment and mitigation analysis which supports the **NEPA** decision making process. It can also provide preliminary information toward satisfying the USACE's regulatory requirements in accordance with the **Section 404(b)(1)** Guidelines. The **NRE**, including the UMAM or other functional assessment, will be contained in the project file. Based on the information in the **NRE** a "Wetlands Finding" is included in the **NEPA** document. The common elements documented in the **NRE** which are relevant to both **NEPA** and **Section 404(b)(1)** Guidelines are detailed below:

1. **Project Need** - The project need will typically contain capacity information, system linkage, transportation demand, modal interrelationships, safety information, and roadway deficiencies as supporting evidence for the project.
2. **Wetlands Identification, Delineation, and Classification** - The identification, delineation, and classification will be developed according to the procedures described in [Section 9.2.2](#). The USACE Jacksonville District has a process for preparing preliminary jurisdictional determinations.
3. **Wetlands Impact Assessment** - The assessment of potential impacts to wetland functions will be developed using the information obtained in the identification and delineation procedure, and utilizing UMAM or WRAP.
4. **Alternatives Analyses** - Each alternative, including the No-Action alternative, will be analyzed for wetland involvement.
5. **Avoidance and Minimization Analysis** - The analysis will document practicable measures considered to avoid and/or minimize wetland impacts. The Environmental Document should clearly indicate the steps taken for avoidance and minimization of impacts in order to eliminate the need to reassess and justify project design during the permitting phase.
6. **Conceptual Mitigation Plan** - A conceptual mitigation plan for unavoidable wetland impacts is developed in the PD&E phase and refined during the permitting process. The conceptual mitigation plan should identify the estimated amount of mitigation necessary to replace the loss of wetland functions as identified by UMAM or other functional assessment. It should also identify mitigation opportunities that FDOT will implement to off-set adverse impacts such as the

purchase of mitigation credits from a permitted mitigation bank, payment to FDEP/WMD for mitigation services, development of its own mitigation site, or any other option that meets state and federal requirements. Appropriate regulatory agency coordination regarding the conceptual mitigation plan is necessary.

7. **Coordination** - Coordination on the elements contained in the **NRE** will be included in the Environmental Document. Coordination with federal, state and local regulatory agencies is necessary to the point that the environmental permits are achievable.

### 9.2.7 Permits for Wetland Impacts

FDOT is required to obtain authorization for wetland impacts pursuant to state and federal regulatory requirements. Refer to [Part 1, Chapter 12, Environmental Permits](#) for more information regarding FDOT procedures for obtaining permits and providing wetland mitigation.

### 9.2.8 Re-evaluation

Change in wetland impacts or mitigation strategies after approval of the Environmental Document must be documented per [Part 1, Chapter 13, Re-evaluations](#).

### 9.2.9 Design and Construction

Wetland impacts and mitigation established during the PD&E Study and/or agency coordination must be addressed through the permitting process. Wetland impact review during Design and permit compliance during Construction consists of the following:

1. Plans Received - Review for completeness; identify/confirm project limits.
2. Field Review - Conduct on-site field review(s) with appropriate professionals to confirm existing wetland resources within project limits that are addressed in the plans.
3. Regulatory Agency Coordination and Permitting - The District coordinates with regulatory agencies. Review mitigation specific to wetlands and coordinate with appropriate environmental staff to ensure wetland mitigation is addressed.
4. Impact Review - Review plans and provide comments on wetlands that were identified and resolutions that should be coordinated with appropriate regulatory agencies or incorporated into the contract documents.
5. Bid Document Review - Verify that completed final design plans and specifications incorporate required mitigation into the bid documents, as applicable.
6. Compliance during Construction - The Construction Office verifies compliance with permit conditions and commitments, as appropriate.

7. Construction Final Acceptance - Ensure that the wetland mitigation, as appropriate is addressed as specified in the contract plans, including modifications approved during construction. This is done by the Construction Office, but may require the Environmental Office involvement ([Construction Project Administration Manual \(CPAM\), Topic No. 700-000-000, Chapter 12, Section 12.1](#)). Permit and mitigation sign-off is done through a separate process with the regulatory agency.

The District should verify regulatory compliance as the project advances. Additional minimization actions can be conducted during the project Design phase. These additional actions may need to be addressed in permitting.

### 9.3 REFERENCES

Clean Water Act of 1972

Cowardin *et. al.*, U.S. Department of Interior - Fish and Wildlife Service. Classification of Wetlands and Deepwater Habitats of the United States. USFWS/OBS-79/31, December 1979

Endangered Species Act of 1973, as amended 1978, 1979 and 1982

FHWA. Environmental Policy Statement. Thomas D. Larson, April 20, 1990, amended 1994

FHWA. Synchronizing Environmental Reviews for Transportation and Other Infrastructure Projects: 2015 Red Book. FHWA Publication No. FHWA-HEP-15-047.  
[https://www.environment.fhwa.dot.gov/pubs\\_resources\\_tools/publications/RedBook\\_2015.aspx](https://www.environment.fhwa.dot.gov/pubs_resources_tools/publications/RedBook_2015.aspx)

Federal Register, Vol. 65, No. 251, December 29, 2000. Mitigation of Impacts to Wetlands and Natural Habitat. 23 CFR Part 777

FDOT. Construction Project Administration Manual. Topic No. 700-000-000

FDOT. Cumulative Effects Evaluation Handbook, 2012  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/cee/cee-handbook-2012-12183b410b4f04cf44f9ae1972577be52ba0b7f4290ddf11467fa22acded398d0508237a15c0eac844e193040a3899bb074181367d98d3424bebaf8c94900a1fc4e3d3cf79554d674a32b92c6cada8dda3b623acecd439cc41f999178af94010a78d.pdf?svrsn=3c5d70cd\\_10](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/cee/cee-handbook-2012-12183b410b4f04cf44f9ae1972577be52ba0b7f4290ddf11467fa22acded398d0508237a15c0eac844e193040a3899bb074181367d98d3424bebaf8c94900a1fc4e3d3cf79554d674a32b92c6cada8dda3b623acecd439cc41f999178af94010a78d.pdf?svrsn=3c5d70cd_10)

FDOT. Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002 <http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

FDOT. Florida Land Use, Cover and Forms Classification System (FLUCCS). January 1999

FDOT. Natural Resources Evaluation Outline and Guidance.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/2020/finalnreguidance070120.pdf?sfvrsn=b07c1725\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/2020/finalnreguidance070120.pdf?sfvrsn=b07c1725_2)

Memorandum of Agreement between the Army and Environmental Protection Agency. February 6, 1990. The Determination of Mitigation under the Clean Water Act Section 404(b)(1) Guidelines

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>

Presidential Executive Order 11990. Protection of Wetlands, May 23, 1977

Rivers and Harbors Act of 1899

Rule Chapter 62-340 Florida Administrative Code (F.A.C), Delineation of the Landward Extent of Wetlands and Surface Waters

Rule Chapter 62-345 F.A.C., Uniform Mitigation Assessment Method

Section 373.019, Florida Statutes (F.S.), Definitions

Section 373.4137, F.S., Mitigation Requirements for Specified Transportation Projects

Title 33 CFR § 320.4, General Policies for Evaluating Permit Applications.

[http://www.ecfr.gov/cgi-bin/text-idx?SID=2bd9905827b72ddd21ecf34c76714286&mc=true&node=pt33.3.320&rgn=div5#se33.3.320\\_14](http://www.ecfr.gov/cgi-bin/text-idx?SID=2bd9905827b72ddd21ecf34c76714286&mc=true&node=pt33.3.320&rgn=div5#se33.3.320_14)

Title 33 CFR Part 325, Processing of Department of the Army Permits

<http://www.ecfr.gov/cgi-bin/text-idx?SID=2bd9905827b72ddd21ecf34c76714286&mc=true&node=pt33.3.325&rgn=div5>

Title 33 CFR Part 328, Definition of Waters of the United States

<http://www.ecfr.gov/cgi-bin/text-idx?SID=2bd9905827b72ddd21ecf34c76714286&mc=true&node=pt33.3.328&rgn=div5>

Title 33 CFR Part 332, Compensatory Mitigation for Losses of Aquatic Resources

<http://www.ecfr.gov/cgi-bin/text-idx?SID=2bd9905827b72ddd21ecf34c76714286&mc=true&node=pt33.3.332&rgn=div5>

Title 40 CFR Part 230, Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material <http://www.ecfr.gov/cgi-bin/text-idx?SID=2bd9905827b72ddd21ecf34c76714286&mc=true&node=pt40.27.230&rgn=div5>

Title 40 CFR § 423.11, Specialized Definitions [http://www.ecfr.gov/cgi-bin/text-idx?SID=b09fd47cef5e508a6b7915dc7ae96db4&mc=true&node=pt40.31.423&rgn=div5#se40.31.423\\_111](http://www.ecfr.gov/cgi-bin/text-idx?SID=b09fd47cef5e508a6b7915dc7ae96db4&mc=true&node=pt40.31.423&rgn=div5#se40.31.423_111)

Title 40 CFR § 1508.20, Mitigation [http://www.ecfr.gov/cgi-bin/text-idx?SID=b09fd47cef5e508a6b7915dc7ae96db4&mc=true&node=pt40.37.1508&rgn=div5#se40.37.1508\\_120](http://www.ecfr.gov/cgi-bin/text-idx?SID=b09fd47cef5e508a6b7915dc7ae96db4&mc=true&node=pt40.37.1508&rgn=div5#se40.37.1508_120)

Title 30 U.S.C. Part 1344, Permits for Dredged or Fill Material

U.S. Army Corps of Engineers (USACE), Corps of Engineers Wetland Delineation Manual. Wetlands Research Program Technical Report Y-87-1, 1987

USACE, Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region. Version 2.0, November 2010

USACE, Compensatory Mitigation for Losses of Aquatic Resources, April 2008

U.S. Department of Transportation (USDOT) Order 5660.1A. Preservation of the Nation's Wetlands, August 24, 1978

USDOT, Federal Highway Administration. Report No. FHWA-IP-90-010. A Guide to Wetland Functional Design, July 1990

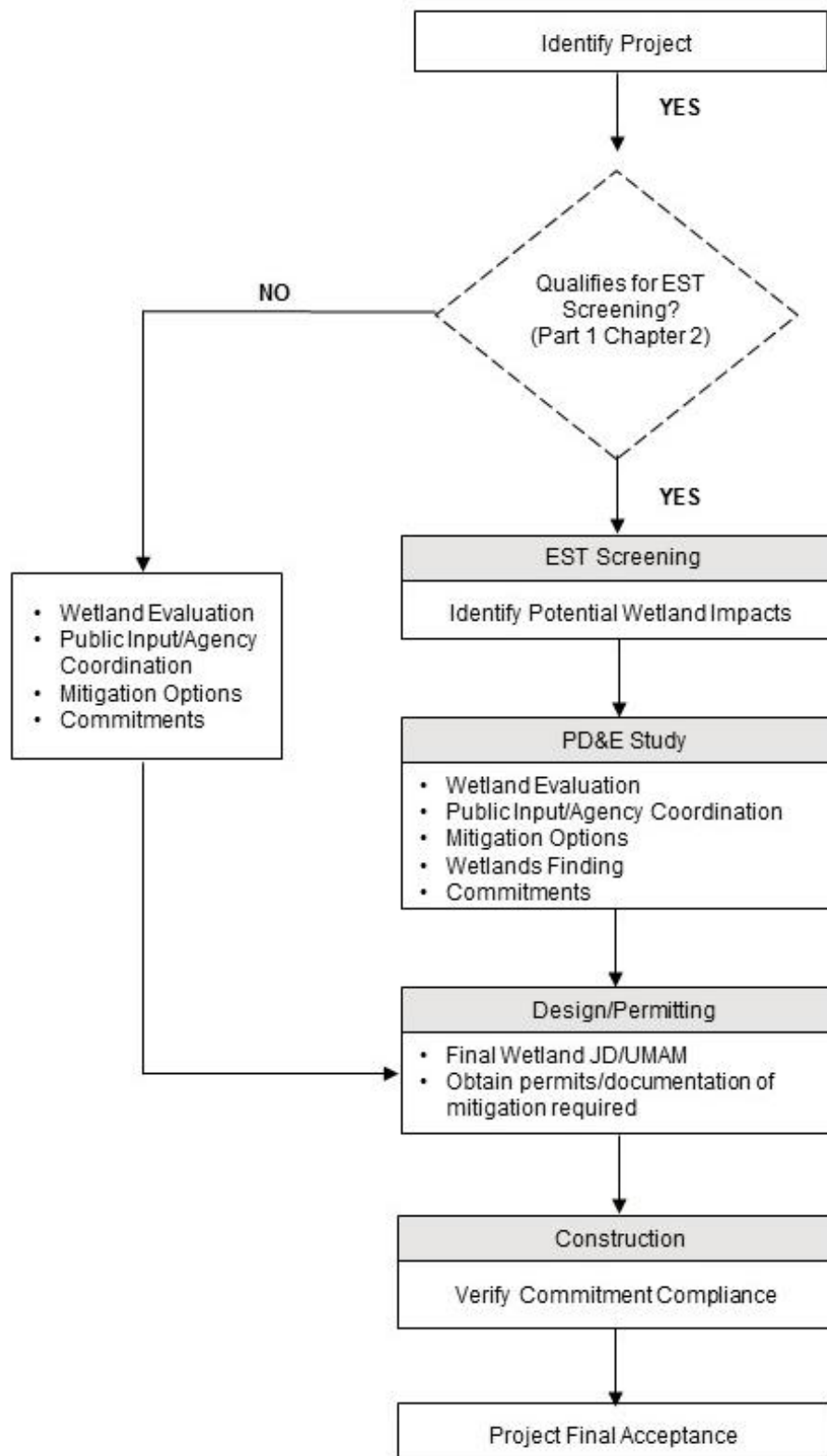
USDOT, Federal Highway Administration, October 30, 1987. Guidance for Preparing and Processing Environmental and Section 4(f) Documents, FHWA Technical Advisory T6640.8A

## 9.4 FORMS

[State Environmental Impact Report Form, Form No. 650-050-43](#)

## 9.5 HISTORY

4/14/1999, 11/20/2009, 4/24/2013, 8/22/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 18, 1/14/2019



**Figure 9-1 Wetland Evaluation Process**

**Florida Department of Environmental Protection:**

<https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking>

**Water Management Districts:**

Northwest Florida

<https://www.nfwwater.com/>

Southwest Florida

<https://www.swfwmd.state.fl.us/>

St. Johns River

<http://webapub.sjrwmd.com/agws10/mt/Default.htm>

South Florida

<https://www.sfwmd.gov/>

Suwannee River

<http://www.srwmd.state.fl.us/>

**United States Army Corps of Engineers:**

[https://ribits.usace.army.mil/ribits\\_apex/f?p=107:2](https://ribits.usace.army.mil/ribits_apex/f?p=107:2)

**Figure 9-2 FDEP, WMDs, and USACE Mitigation Information**

## **PART 2, CHAPTER 11**

# **WATER RESOURCES**

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## PART 2, CHAPTER 11

### WATER RESOURCES

#### 11.1 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).

This chapter provides procedures for assessing and documenting potential impacts to water resources from transportation projects to comply with **NEPA**, the **Clean Water Act (CWA)**, and other related federal and state environmental laws and regulations. The **CWA** is the primary law regulating pollution of the nation's waterways. Originally enacted in 1948 as the **Federal Water Pollution Control Act**, it was amended in 1972 under the **CWA** to add programs for water quality improvements with the goal of restoring and maintaining the chemical, physical, and biological integrity of the country's water (**33 U.S.C. § 1251 et seq.**). The **Clean Water Act** became the Act's common name with the amendments in 1972. The **CWA** made it unlawful to discharge any pollutant from a point source into navigable waters, unless a permit was obtained. Additionally, the Environmental Protection Agency (EPA) has set water quality standards for all contaminants in surface waters. In Florida, the Florida Department of Environmental Protection (FDEP) and five regional Water Management Districts (WMDs) implement the **CWA** programs under **Chapters 403 and 373, Florida Statutes (F.S.)**.

**Section 403.021(2), F.S.**, declares that it is public policy of the state to conserve the waters of the state and to protect, maintain, and improve their quality. Even though state surface water quality standards applicable to waters of the state do not apply within a stormwater management system, as provided by **Section 373.4142, F.S.**, as long as the stormwater management system is designed, constructed, operated, and maintained for stormwater treatment in accordance with a valid permit, this statute does require FDOT to provide reasonable assurance that the water quality within its stormwater management system will not adversely impact public health, fish and wildlife, or adjacent waters. Therefore, FDOT projects are evaluated for potential impacts on water quality from stormwater runoff, and are designed to address and mitigate impacts from stormwater

runoff through compliance with stormwater management plans and applicable regulatory requirements. **Section 373.4596, F.S.**, requires FDOT projects to fully comply with state, WMD, and when delegated by the state, local government stormwater management programs.

Additionally, this chapter provides guidance on documenting water resource information and coordinating with water resource agencies and other stakeholders. The chapter does not cover impacts to wetlands and other surface waters not related to stormwater. See [Part 2, Chapter 9, Wetlands and Other Surface Waters](#) for wetland evaluation procedures.

The term “water resources” used throughout this chapter includes both surface and groundwater, aquatic preserves, Outstanding Florida Waters (OFWs), and Sole Source Aquifers (SSA). The level of water quality impact analysis depends upon the extent of potential impacts of a proposed project on surface and/or groundwater resources. Specifically, the impacts covered in this chapter are related to direct and indirect stormwater discharges from transportation projects into surface water (other than wetlands) and groundwater.

### 11.1.1 Definitions

**Basin Management Action Plan (BMAP)** – a comprehensive plan, coordinated by the FDEP, of regulatory and non-regulatory actions to meet the Total Maximum Daily Load (TMDL) for a given waterbody. BMAPs are designed to implement restoration strategies that reduce pollutant concentrations to meet a TMDL.

**Designated Uses** – the present and future most beneficial use of a body of water as designated by the Environmental Regulation Commission by means of the Waterbody Classification.

**Environmental Look Around (ELA)** – an approach for proactively looking for opportunities for joint/regional stormwater management projects with agencies and/or stakeholders.

**FDEP Group Number** – the number and name assigned to waterbodies and water segments by FDEP, based on watersheds/basins that have been developed for the state and that form the basis for Basin Rotation.

**Impaired Waters** – surface waters that do not meet the standards set for them are determined to be “impaired” and in need of restoration. Using data from assessments, FDEP maintains a verified list of impaired Florida waterbodies. The impairments are separated into the following assessment categories:

- 1 Attains all designated uses.

- 2 Attains some designated uses and insufficient or no information or data are present to determine if remaining uses are attained.
- 3a No data and information are present to determine if any designated use is attained.
- 3b Some data and information are present but not enough to determine if any designated use is attained.
- 3c Enough data and information are present to determine that one or more designated uses may not be attained according to the Planning List methodology.
- 4a Impaired for one or more designated uses but does not require TMDL development because a TMDL has already been completed.
- 4b Impaired for one or more designated uses but does not require TMDL development because the water will attain water quality standards due to existing or proposed measures.
- 4c Impaired for one or more criteria or designated uses but does not require TMDL development because impairment is not caused by a pollutant.
- 4d Waterbody indicates non-attainment of water quality standards, but FDEP does not have enough information to determine a causative pollutant; or current data show a potentially adverse trend in nutrients or nutrient response variables; or there are exceedances of stream nutrient thresholds, but FDEP does not have enough information to fully assess non-attainment of the stream nutrient standard.
- 4e Waterbody indicates non-attainment of water quality standards and pollution control mechanisms or restoration activities are in progress or planned to address non-attainment of water quality standards, but FDEP does not have enough information to fully evaluate whether proposed pollution mechanisms will result in attainment of water quality standards.
- 5 Water quality standards are not attained and a TMDL is required.

**Municipal Separate Storm Sewer System (MS4)** – a publicly-owned conveyance or system of conveyances, such as roads with stormwater systems, municipal streets, or catch basins, that are designed or used for collecting or conveying stormwater that discharges into surface waters of the state.

**Nonpoint Source** – any pollutant source that cannot be considered a “point source” according to the **CWA** and EPA regulations. Nonpoint source pollution generally results from runoff, precipitation, atmospheric deposition, drainage, or seepage.

**Numeric Nutrient Criteria (NNC)** – statewide numeric nutrient standards for Florida’s waters (including springs, rivers, lakes and estuaries but excluding wetlands, tidal creeks,

managed conveyances and south Florida flowing waters) established under **Chapter 62-302.531, Florida Administrative Code (F.A.C.)** and **Chapter 62-302.532, F.A.C.**

**Point Source** – any discernable, confined, and discrete conveyance from which pollutants may be discharged, such as a pipe, vessel, channel, or ditch.

**Potable Water Well** – any water well which supplies water for human consumption to a community water system or to a non-transient non-community water system. (**Chapter 62-521, F.A.C.**)

**Reasonable Assurance Plan (RAP) or 4b Plan** – waterbody restoration plan for waterbodies that are impaired but with control programs already in place to restore water quality standards.

**Site Specific Alternative Criteria (SSAC)** – an alternative surface water quality standard that can replace the criteria applicable statewide in cases where site specific information supports different numeric criteria. The SSAC must fully support and protect the designated uses of the waterbody.

**Special Water** – a waterbody demonstrated to be of exceptional recreational or ecological significance as listed in **Chapter 62-302.700(9)(i), F.A.C.**

**Surface Water Improvement and Management (SWIM) Program** – established in 1987 as one mechanism to identify nonpoint pollutant sources and to consider a waterbody's needs as a system of connected resources rather than isolated wetlands or waterbodies. The WMDs are directly responsible for the SWIM program.

**Total Maximum Daily Load (TMDL)** – a scientific determination of the maximum amount of a given pollutant that a waterbody can absorb and still meet the water quality standards that protect human health and aquatic life. The FDEP is responsible for the TMDL program.

**Water Quality Criteria** – elements of the state water quality standards, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports the present and future most beneficial use.

**Waterbody Classification** – a classification of surface waters of the state according to designated use as established by **Chapter 62-302.400, F.A.C.**, as follows:

Class I	Potable Water Supplies
Class II	Shellfish Propagation or Harvesting
Class III	Fish Consumption; Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife

Class III-Limited	Fish Consumption; Recreation or Limited Recreation; and/or Propagation and Maintenance of a Limited Population of Fish and Wildlife
Class IV	Agricultural Water Supplies
Class V	Navigation, Utility, and Industrial Use

**Waterbody Identification Number (WBID)** – unique identifiers assigned to polygons that roughly delineate the drainage basins surrounding the waterbody assessment units (drainage basins, lakes, lake drainage areas, springs, rivers and streams, segments of rivers and streams, coastal, bay, and estuarine waters in Florida). WBIDs are assigned a FDEP district as part of their attribution. Projects can be in more than one WBID.

**Wellhead Protection Area** – an area consisting of a 500-foot radial setback distance around a potable water well where groundwater is provided the most stringent protection measures to protect the groundwater source for a potable water well and includes the surface and subsurface area surrounding the well (**Chapter 62-521, F.A.C.**).

## 11.2 WATER RESOURCES

### 11.2.1 Aquatic Preserves

**Section 258.37, F.S.**, defines aquatic preserve as “an exceptional area of submerged lands and its associated waters set aside for being maintained essentially in its natural or existing condition”. The Florida Legislature, through the **Florida Aquatic Preserve Act of 1975 (Act)**, **Sections 258.35 – 258.394** and **258.40 - 258.46, F.S.**, set aside state-owned submerged lands with exceptional biological, aesthetic, and scientific value as aquatic preserves. The Board of Trustees of the Internal Improvement Trust Fund through the FDEP Division of State Lands is responsible for the implementation, administration, and enforcement of the **Act**, including the adoption of rules for management of aquatic preserves as found in **Chapter 18-20, F.A.C.**

Most of the aquatic preserves are located along the coast and involve marine or estuarine environments, with the exception of a few aquatic preserves which are located inland. Many of the aquatic preserves are associated with state or federal parks and refuges. Generally, aquatic preserves designated under **Chapter 258, F.S.**, are also considered OFWs under **Rule 62-302.700(2)(f), F.A.C.** ([Section 11.2.2](#)).

### 11.2.2 Outstanding Florida Waters

**Section 403.061(27), F.S.**, grants FDEP rulemaking authority to establish a special category of waterbodies within the State, to be designated as OFWs, which shall be worthy of special protection because of their natural attributes. OFWs are listed in **Chapter 62-302.700(9), F.A.C.**, which include:

- (a) Waters within National Parks and National Memorials
- (b) Waters within National Wildlife Refuges
- (c) Waters within State Parks, State Wildlife Parks, and State Recreation Areas
- (d) Waters within State Ornamental Gardens, State Botanical Sites, State Historic Sites, and State Geological Sites
- (e) Waters within State Preserves, State Underwater Archaeological Preserves, and State Reserves.
- (f) Waters within Areas Acquired through Donation, Trade, or Purchased Under the Environmentally Endangered Lands Bond Program, Conservation and Recreation Lands Program, Land Acquisition Trust Fund Program, and Save Our Coast Program
- (g) Waters within National Seashores
- (h) Waters within State Aquatic Preserves

### 11.2.3 Sole Source Aquifer

The EPA defines a sole or principal source aquifer as an aquifer that supplies at least 50 percent of the drinking water consumed in the area overlying the aquifer **[40 Code of Federal Regulation (CFR) § 149]**. These areas may have no alternative drinking water source(s) that could physically, legally, and economically supply all those who depend on the aquifer for drinking water. EPA has identified two SSAs in Florida, the Volusia-Floridian and Biscayne Aquifers.

## 11.3 COORDINATION

Identifying and addressing water resource impacts associated with transportation projects involve engaging various state and federal agencies, as well as other local and regional stakeholders as early as the Planning phase and Efficient Transportation Decision Making (ETDM) process. The goal of early coordination is to proactively identify potential water quality and stormwater requirements and to explore opportunities for innovative stormwater solutions or joint/regional stormwater management projects with stakeholders. The District should document areas of potential cooperation in the project file for future follow up as the project progresses into the Design phase.

### 11.3.1 Aquatic Preserves

For projects in an aquatic preserve, coordination with FDEP is needed if potential impacts to an aquatic preserve have been identified [e.g., sovereign submerged lands, right of

way (ROW), in-water work]. Once ROW requirements have been defined, aerial maps depicting alternatives with ROW located within the boundary of an aquatic preserve are submitted to FDEP for review and comment. They are addressed to:

Director, Office of Resilience and Coastal Protection  
Florida Department of Environmental Protection  
3900 Commonwealth Blvd.  
Mail Station 235  
Tallahassee, FL 32399-3000

A letter requesting a response from FDEP within thirty days accompanies the aerials. This letter must contain the following standard statement for federal projects:

*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.*

If a determination is made that the project will have no impact after coordination with FDEP, provide documentation according to [Section 11.4.4.1.1](#). If there is an impact, document according to [Section 11.4.4.1.2](#).

### 11.3.2 Impaired Waters

**Section 303(d) of the CWA** requires states to identify waters where current pollution control technologies alone cannot meet the water quality standards set for that waterbody. Every two years, states are required to submit a list of impaired waters, plus any waters that may soon become impaired, to the EPA for approval. The impaired waters are prioritized based on the severity of the pollution and the designated use of the waterbody (e.g., fish propagation or human recreation). States must establish the TMDLs of the pollutant(s) in the waterbody for impaired waters on their respective lists.

The **Florida Watershed Restoration Act (FWRA)**, which is codified at **Section 403.067, F.S.**, was enacted to protect waters of the state through the TMDL program as required by **Section 303(d) of the CWA** and **33 U.S.C. § 1251**. The TMDL program promotes improvements in the quality of waters of the state by coordinating control of pollution from both point and nonpoint sources. TMDLs are adopted for waters identified as impaired by FDEP in accordance with **Chapter 62-303, F.A.C.**, also known as the **Impaired Waters Rule (IWR)**. TMDLs are adopted by law in **Chapter 62-304, F.A.C.** TMDLs may be implemented through BMAPs, National Pollutant Discharge Elimination System (NPDES) permits, or through other pollution reduction strategies.

BMAPs are formal plans for restoring impaired waters by reducing pollutant loadings. BMAPs are developed under **Section 403.067, F.S.**, with local stakeholders, including



FDOT. BMAP obligations upon cities and counties can be costly, and can serve as an incentive for local governments to seek joint/regional stormwater projects with FDOT. Examples of BMAPs are permit limits on wastewater facilities, urban and agricultural best management practices, stormwater best management practices, conservation programs, financial assistance, and revenue generating activities.

The list of TMDLs and their BMAPs can be found on the FDEP website, which is updated regularly. Projects that are located within a BMAP boundary or within the drainage basin of an impaired waterbody with established TMDLs may be subjected to meeting stricter regulatory requirements for water quality.

FDEP implements Reasonable Assurance Plans (RAPs) to restore waterbodies to meet their designated uses. Implementation of RAPs alleviates the need to establish TMDLs. **Chapter 62-303.600, F.A.C.** allows FDEP to omit impaired waters if pollution control programs, such as RAPs, are being implemented to restore water quality standards and are deemed sufficient to result in attainment of applicable water quality standards. The FDEP's decision shall be based on a plan that demonstrates reasonable assurance that the proposed pollution control mechanism and expected improvements in water quality in the water segment will attain applicable water quality standards. The list of adopted RAPs can be found on the FDEP website which is updated regularly. It is important to note that the BMAP and RAP boundaries generally encompass a much larger area than the area of the original TMDL or impaired waterbody.

If the project is located within and discharges into the WBID boundary of a waterbody with a BMAP or RAP, the District should coordinate with BMAP or RAP stakeholders to understand FDEP and local concerns. Such coordination may also identify the level of water quality evaluation, additional agencies and stakeholders with whom FDOT should collaborate, level of permitting required, project commitment for nutrients reductions, and whether any potential regional water resource improvement opportunities exist in the project area.

### 11.3.3 Sole Source Aquifers

When the project has the potential to impact a SSA, the District must coordinate with EPA's Region 4 Underground Injection Control (UIC) Section, to obtain EPA concurrence on the project in compliance with **Section 1424(e) of the Safe Drinking Water Act (SDWA)** and **40 C.F.R. § 149**. Coordination with EPA's Region 4 UIC Section should start during ETDM screening when the Advance Notification (AN) is distributed, and should continue throughout the PD&E Study. The Preliminary Environmental Discussion (PED) should indicate if the project is within the SSA boundary and would impact the SSA.

### 11.3.4 Regional Stormwater Management

Coordination with regulatory agencies and other stakeholders during a PD&E Study should include the Environmental Look Arouns (ELA) meetings as described in Chapter

5 of the [FDOT Drainage Manual, Topic No. 625-040-002](#). The ELA meetings provide an opportunity for assessing and utilizing options for FDOT to partner in innovative, cooperative regional stormwater management solutions and begins during the Planning phase through the ETDM process. These meetings lead to improved environmental benefit and/or reduced stormwater management costs. The District should convene ELA meeting(s) soon after the stormwater management requirements are estimated and before stormwater management design decisions are established. The ELA meetings should also explore watershed wide stormwater needs and innovative approaches to meeting permit requirements for the project.

Stakeholders may be able to provide information on current drainage issues, possible innovate stormwater management solutions, and possible mitigation credits for the project. Coordination with the stakeholders is an ongoing process and should continue through the Design, Construction, and Maintenance and Operations phases. Any existing issues or possible innovative solutions which may be pursued for a project must be coordinated with other FDOT offices such as Environmental Permits, Maintenance, Environmental Management, Drainage, Legal, and others as needed.

## 11.4 PROCEDURE

Project impacts to water resources must be evaluated regardless of whether the project is required to meet federal and/or state environmental review requirements. The water resources evaluation should provide the information necessary to estimate potential impacts to water resources as part of the project development process in compliance with the goals and requirements of the **CWA, Chapter 373, F.S.**, and **Chapter 403, F.S.** The **Water Quality Impact Evaluation Checklist, Form No. 650-050-37**, documents the technical information for the water quality impact evaluation that supports the **NEPA** decision making process.

### 11.4.1 Level of Assessment Determination

The level of assessment for water resources during the PD&E phase depends on the project's involvement with water resources, the quality of the water resources, potential impacts, and the potential implementation of non-traditional water quality treatments.

If the project is located in, over, or adjacent to a water resource designated as an OFW, aquatic preserve, or SSA, additional assessment may be needed. The location of the designated water resource may be determined by using the Environmental Screening Tool (EST). The information can also be found through the following references:

1. A list of aquatic preserves and a link to a map of their locations provided in [Figure 11-2](#). It may be necessary to confirm this determination by referencing **Chapter 258, F.S.**
2. A list of the OFWs provided in **Rule 62-302.700(9), F.A.C.** This list includes an

identification of all OFWs by County. Some examples of OFWs include aquatic preserves, National Seashores, waters in national parks, state parks and specially designated areas.

3. The list of SSAs in Florida maintained by EPA. There are two SSAs in Florida: Biscayne Sole Source Aquifer and Volusia Sole Source Aquifer.
4. Designated water resource data layers stored in the Florida Geographic Data Library, which can be accessed through the EST independent of running an ETDM screening event.

If further assistance is needed regarding aquatic preserves, and OFWs, the District should contact the FDEP Environmental Technical Advisory Team (ETAT) member; the EPA ETAT member should be contacted for SSAs.

For projects that were screened through the ETDM process, water resource data as well as potential associated project impacts provided through ETAT comments are presented in the ***Programming Screen Summary Report*** ([ETDM Manual, Topic No. 650-000-002](#)). The summary report specifically includes Geographic Information System (GIS) data and applicable maps that identify the proximity of the proposed action to aquatic preserves, OFWs, or SSAs. ETAT comments under the Special Designations issue should identify any potential project impacts to these resources. Comments by FDEP are especially important as they may identify potential project impacts on other issues such as Wetlands and Surface Waters, and Water Resources.

The Water Quality Impact Evaluation (WQIE) documents the analysis of potential project impacts on water quality within a PD&E Study. The WQIE documentation should have sufficient detail to reflect consideration of water quality issues and coordination with regulatory agencies including the ELA meetings (see [Section 11.3.4](#)).

Detailed evaluations are generally not warranted for transportation projects not qualifying for ETDM screening-[typically Type 1 Categorical Exclusions (CEs) and Non-Major State Actions (NMSAs)]. These projects have no significant environmental effects; therefore, they typically require minimal water quality evaluation.

A higher potential for water resource impacts typically exists with transportation projects qualifying for ETDM screening. Most PD&E projects receive prior consideration of water resource issues during the ETDM process. The WQIE in the PD&E Study focuses on issues identified during the ETDM Programming Screen and are documented in the ***Programming Screen Summary Report***.

In accordance with [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#), qualifying projects must complete an ETDM Programming Screen; these projects may have also completed an ETDM Planning Screen. The following items should be addressed as the projects advance through the project development process:

1. **ETDM Planning Screen Evaluation** – In the PED, the District will provide a discussion about known potential project involvement with surface waterbodies and groundwater and their designations in accordance with [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#). The District will identify water resources located within the project area using online resources maintained by the FDEP and WMDs, as well as other data sources.

Specific information identified during the screening may include:

a. Surface Water

1. Identification of surface waterbody to which stormwater ultimately discharges;
2. Any special designations of receiving waterbodies (OFW, Aquatic Preserve);
3. Whether the project is within a permitted MS4;
4. WBIDs in which the project is located and associated FDEP Group Number and Name;
5. WMD in which the project is located;
6. Water Control Districts or Regional Water Authorities;
7. Waterbody Classification;
8. Listing status—whether the WBID is identified as impaired, has a TMDL or is located within a BMAP or RAP boundary;
9. The appropriate numeric nutrient standard for the waterbody, if applicable; and
10. If project directly discharges to a waterbody identified as impaired [including the pollutant(s) of concern, numeric criteria, or TMDL (whichever applies)].

b. Groundwater

1. Groundwater recharge mechanism;
2. Identification of the aquifer where the project is located;
3. Identification of a SSA;
4. Potentially affected springsheds and spring protection zones;
5. Whether the potentially affected spring has a BMAP or RAP plan; and
6. Water Control Districts or Regional Water Authorities with potable water well fields.

2. **ETDM Programming Screen Evaluation** – The District will include a discussion about potential project involvement with surface and groundwater resources (based on the District’s familiarity with the project area and information from the Planning Screen) in the PED and the AN Package, as appropriate. As appropriate, the District ETDM Coordinator and the District Project Manager should coordinate with other District (staff such as the District Drainage Engineer, District Permits Coordinator, and others who will be involved with the project in subsequent phases). To document pertinent information regarding affected water resources and to explore opportunities and options for stormwater management for the project. The District will coordinate as needed with the ETAT and other stakeholders throughout the ETDM screening process.

## 11.4.2 Water Quality Impact Evaluation

The purpose of the WQIE in the PD&E Study is to identify and characterize existing water resources in a project area, assess a project’s potential impacts to water resources, identify and evaluate mitigation measures (if necessary) and document coordination that has occurred. Since water quality requirements and basin parameters affect stormwater pond size requirements and drainage criteria, the **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** should be completed prior to finalizing the pond siting analysis.

Project impacts to an aquatic preserve, Outstanding Natural Resource Waters (ONRW), or OFW must also be identified in the **Water Quality Impact Evaluation Checklist, Form No. 650-050-37**.

The District should prepare a WQIE for each alternative, as appropriate, and continue coordination with regulatory agencies and appropriate stakeholders which was initiated during planning. The appropriate level of documentation must be completed along with the appropriate conceptual drainage analysis based on the level of design detail in the PD&E Study ([Part 1, Chapter 4, Project Development Process](#)).

If coordination with regulatory agencies or other stakeholders is required, additional documentation in the form of a technical memo may be needed. WQIE results should be documented in the **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** ([Figure 11-3](#)), briefly summarized in the Environmental Document [Type 2 CE, Environmental Assessment (EA), Environmental Impact Statement (EIS), or State Environmental Impact Report (SEIR)] , and saved in the project file. The **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** should be updated during a re-evaluation if changes have occurred to water quality status, such as the delisting of a waterbody from the verified impaired waterbody list, adoption of new TMDLs, or inclusion in a BMAP or RAP boundary, or if the project impacts to water quality have changed.

### 11.4.2.1 Existing Conditions

When applicable, once an ETDM summary report is completed, review the ETAT comments provided for the following issues; Water Quality and Quantity (including comments pertaining to SSAs), Coastal and Marine, Wetlands and Surface Waters, Floodplains, and Special Designations. Also review the comments to identify for any innovative stormwater solutions or joint/regional opportunities suggested by ETAT members for consideration pertaining to the project. Determine the project's involvement with project specific or regional water resource issues from resource agencies' comments. Use information from the ETDM screening event to scope the water quality and stormwater evaluation efforts during the PD&E Study. The Project Manager should discuss scope activities with other offices such as Drainage, Environmental Permits, and Maintenance.

Using the results of the **Programing Screen Summary Report**, the existing conditions of water resources that may be affected by the proposed project can be documented.

Identify water resource basins or watershed boundaries where the project may have a direct impact on water quality and identify water resource characteristics within the basin boundaries. Review the project area for the existence of joint/regional stormwater management projects by using the ELA process. Joint/regional stormwater management projects may require expansion of the stormwater analysis beyond the project's immediate hydrologic basin boundary(ies). The Project Manager should coordinate with the District Drainage Design Office to determine any additional areas associated with pond siting, water storage, hydrologic restoration, recharge or treatment. Coordination should also include the District Permit Coordinator and NPDES/MS4 Coordinator to identify areas where pollutant load reduction efforts are needed.

Data to evaluate potential water resource issues within the project area can be obtained from various sources such as the EST, of both FDEP and the relevant WMD websites, GIS water resource data, county and city water atlases, regional stormwater master plans, and flood studies.

### 11.4.2.2 Water Quality Impact Evaluation Documentation

The detailed results of data collection efforts and continued coordination with water resource agencies and stakeholders are documented in the **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** ([Figure 11-3](#)) and summarized in the Environmental Document. If more than one project alternative is analyzed in detail, a **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** is completed for each alternative. In cases where the project alternatives are in the same drainage basin(s), one **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** is prepared. The results of each alternative are then compared and documented in the **Preliminary Engineering Report (PER)** and summarized in the Environmental Document.

### 11.4.3 Stormwater Impacts

Stormwater impacts associated with transportation projects are addressed through permitting of stormwater management systems.

In accordance with **Chapter 62-330.301, F.A.C.**, to obtain an approval of an Environmental Resource Permit, FDOT must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the project:

- a. will not cause adverse water quantity impacts to receiving waters and adjacent lands;
- b. will not cause adverse flooding to on-site or off-site property;
- c. will not cause adverse impacts to existing surface water storage and conveyance capabilities;
- d. will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters;
- e. will not adversely affect the quality of receiving waters such that the state water quality standards will be violated;
- f. will not cause adverse secondary impacts to the water resources;
- g. will not adversely impact the maintenance of surface or groundwater levels or surface water flows established pursuant to **Section 373.042, F.S.**
- h. will not cause adverse impacts to a Work of the District established pursuant to **Section 373.086, F.S.**;
- i. will be capable, based on generally accepted engineering and scientific principles, of performing and functioning as proposed;
- j. will be conducted by a person with the financial, legal, and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued; and,
- k. will comply with any applicable special basin or geographic area criteria established in **Chapter 62-330.301(1)(k), F.A.C.**

#### 11.4.3.1 Federal and State Stormwater Regulations and Permits

FDOT projects must adhere to federal and state regulations. This section summarizes some of those rules as well as the programs designed to aid in improving water quality and addressing stormwater aspects associated with transportation projects. Refer to [Part 1, Chapter 12, Environmental Permits](#) for more information regarding FDOT procedures for obtaining environmental permits.

FDOT transportation projects involving the construction, alteration, operation, maintenance, repair, abandonment and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works including structures,

dredging and filling located in, on or over wetlands or other surface waters as defined in **Chapter 62-340, F.A.C.**, are governed by the Environmental Resource Permit (ERP) Program under **Chapter 62-330, F.A.C.** ERP requirements prescribe stormwater management and vary among WMDs. Stormwater pond design criteria for slopes, berms, and clearances, in the [Drainage Manual, Topic Number 625-040-002](#), are set so as to satisfy similar WMD pond design criteria. Generally, ERP requirements regulate stormwater discharge leaving FDOT ROW. Typically, maximum post-development discharge is limited to no greater than pre-development discharge for the specified design storm events required by the WMD. However, in certain basins with historical flooding or limited stormwater conveyance infrastructure, WMDs require onsite development reductions from pre-development discharge. On FDOT transportation projects, ERPs are obtained prior to construction, typically when the drainage design is substantially complete (i.e., after Phase II design plans).

### 11.4.3.2 Conceptual Drainage and Pond Siting Analysis

Drainage and pond siting analysis conducted during the PD&E Study is dependent on the level of engineering and design analyses required for the PD&E project. The analysis is necessary to determine size and location for stormwater ponds and alternate stormwater management options (e.g., detention, retention, infiltration), as well as drainage concepts which are needed to ensure additional ROW beyond roadway improvements is analyzed for potential impacts to other environmental resources.

At a minimum, drainage and pond siting analysis during PD&E Study should identify the project's drainage requirements and possible challenges that may affect drainage and other design elements, and determine the overall stormwater management approach. Additionally, the analysis should identify possible stormwater design concepts that mitigate stormwater runoff, and estimate the general size and potential locations of stormwater management facilities (ponds) that meet regulatory requirements. Stormwater ponds are sized to meet both attenuation (quantity control) and treatment (quality control) requirements, including the special standards for OFWs and ONRWs set forth in **62-4.242(2) and (3), F.A.C.** Coordinate with stakeholders through the ELA meetings to determine potential regional stormwater solutions.

Drainage analysis is documented in the **PER, Pond Siting Report (PSR)**, and summarized in the Water Resources section of the Environmental Document. More information on the **PSR** can be found in the [Drainage Manual, Topic Number 625-040-002](#). The stormwater management facility type, size, location, and cost are documented in the **PSR**. Projects in an urban core area where adjacent land is fully built out would not necessarily warrant preparation of a **PSR** if ROW is not required for treatment; in such cases, a **Concept Drainage Design Report** is prepared to document a preliminary drainage analysis and data that will support drainage design in the Design phase. The contents for the **Concept Drainage Design Report** are typically expanded during the Design phase when the stormwater management systems are designed in detail.



The information presented in the *PSR* and *Concept Drainage Design Report* is specific to each project (including the potential) drainage approach. The reports must include a cover page prepared using the *Technical Report Cover Page, Form No. 650-050-38* and be signed and sealed by a professional engineer in accordance with *Chapter 471, F.S.* A sample cover page is shown in [Figure 11-3](#).

#### **11.4.3.2.1 Existing Drainage Conditions**

For each project alternative being evaluated in the PD&E Study, the existing drainage conditions should be identified, as follows:

1. General drainage patterns near the project;
2. Description of the existing drainage basins with their respective outfalls (include information about name and size of basin and whether it is an open or closed basin);
3. The receiving waterbodies, their classifications, their special designations (if appropriate), and if they are verified impaired through the FDEP's TMDL Program;
4. Previous permit information—WMD's permits and drainage connection permits;
5. Base flood elevation, tidal information, Water Control District's seasonal high water table or control elevations;
6. The land use within the project area;
7. Deficiencies in existing conditions—history of flooding, substandard clearances, scour/erosion problems;
8. The soil types within the project area;
9. Description of existing stormwater systems and stormwater management facilities including conveyance system; location and size of cross drains; location and description of bridges; location, type, and size of ponds; other stormwater facilities;
10. Known above or below ground contamination materials that have a potential to be impacted by the project and affect water quality; and
11. Information regarding historical, archeological, and environmental resources that have the potential to be impacted by the drainage of the project.

#### **11.4.3.2.2 Proposed Drainage Conditions**

The drainage analysis for proposed conditions should provide a conceptual drainage system, which appropriately includes the following items:

1. Description of the onsite drainage basins with their respective outfalls;

2. Discussion on how stormwater from offsite area will be handled;
3. WMD and FDOT requirements for water quality treatment and the rate (or volume) discharge;
4. Floodplain compensation requirements and estimated compensation volume;
5. General discussion of the preliminary proposed drainage (ditched, piped, ponds);
6. Approximate sizes and potential locations of Stormwater Management Facilities;
7. Approximate locations and sizes of cross drains (new and existing)—evaluate potential for ROW, drainage, or construction easements;
8. Treatment of existing cross drains (e.g., lengthened, type of end treatment, replaced, plugged);
9. Proposed new bridge structures;
10. Modifications to existing bridge structures and;
11. Drainage related design variations;
12. Utility conflicts;
13. Canal rework or relocation.

#### **11.4.3.2.3 Pond Siting Analysis**

For stormwater ponds requiring ROW acquisition, a pond siting evaluation is required during the PD&E Study. Location of ponds for the preferred alternative must be evaluated for potential impacts to the human, natural, cultural and/or physical environment. The Project Team should first explore innovative opportunities such as regional facilities, joint facilities, and stormwater re-use systems, through the ELA process. [Chapter 9 of the FDOT Drainage Design Guide](#) provides a process that can be followed during pond siting evaluation.

Stormwater pond design considerations during the PD&E Study include seasonal high groundwater table, soil permeability, tail water, maintenance, constructability, aviation safety issues, and environmental issues. When identifying the size and location of pond sites, it is important to consider the aesthetic qualities of stormwater management ponds on all FDOT projects. The [FDOT Drainage Manual, Topic No. 625-040-002](#) requires the design of stormwater management facilities to be consistent with the [Highway Beautification, Policy No. 000-650-011](#) and integrated with existing and proposed landscaping and adjoining land uses.

## 11.4.4 Environmental Document

Water resource involvement or impacts are summarized in the appropriate section of the Environmental Document for the project. The Environmental Document should summarize stormwater features such as ponds, which will be implemented to address potential water resource impacts from the project's implementation. Furthermore, the Environmental Document should state whether the project will meet the criteria and requirements of stormwater quantity and water quality criteria. The ***Water Quality Impact Evaluation Checklist, Form No. 650-050-37*** and ***Sole Source Aquifer Checklist (Figure 11-1)*** are maintained in the project file within the StateWide Environmental Project Tracker (SWEPT).

### 11.4.4.1 Documenting Project Involvement with Aquatic Preserves or Outstanding Florida Waters

#### 11.4.4.1.1 Documentation of Projects Without Aquatic Preserves Impacts

For Type 1 CE projects located in an aquatic preserve, which will have no impact on the aquatic preserve, a copy of the FDEP coordination letter(s) (if applicable) should be uploaded into the project file in SWEPT.

For a Type 2 CE, EA, EIS, or SEIR project located in an aquatic preserve, which will have no impact on the aquatic preserve, the following standard statement is included in the Aquatic Preserves and Outstanding Florida Waters section of the Environmental Document.

*This project is within the boundaries of (Name of Aquatic Preserve). After coordination with the Florida Department of Environmental Protection, it has been determined that the project will not have an impact on the (Name of Aquatic Preserve).*

Any coordination with FDEP should be discussed in the Environmental Document and coordination letters should be referenced in the document and included in the project file in SWEPT.

**Type 2 CE:** The standard statement above should be included in the Aquatic Preserves and Outstanding Florida Waters section of the ***Type 2 Categorical Exclusion Determination Form***. The FDEP coordination letter(s) should be included in the project file, if applicable.

**EA and EIS:** Include the above standard statement in the Aquatic Preserve and Outstanding Florida Waters section of the Environmental Document. Discussion of coordination with FDEP in the Comments and Coordination section should be consistent with the Aquatic Preserve and Outstanding Florida Waters section and a copy of FDEP coordination letter(s) should be placed in an Appendix.

**SEIR:** Place an "X" in the "No" column in the Environmental Analysis section of the SEIR. Include the above standard statement in the Aquatic Preserves and Outstanding Florida Waters section of the document. Provide justification of the decision in the Supporting Information column and supplement with attachments as necessary to substantiate the impact determination. Correspondence with FDEP should be referenced in the SEIR and included in the project file, if applicable.

#### **11.4.4.1.2 Documentation of Projects with Aquatic Preserve Impacts**

For a Type 1 CE, impacts to an aquatic preserve would be addressed during permitting. For a Type 2 CE, EA, EIS, or SEIR project located in an aquatic preserve, which will impact the aquatic preserve, the following areas should be assessed and included in the Aquatic Preserves and Outstanding Florida Waters section of the Environmental Document.

1. Identify the aquatic preserve affected and show the location of that part of the project that may affect the aquatic preserve on a figure or map.
  - a. Discuss the extent of potential impacts to the aquatic preserve.
  - b. Assess the impacts that the proposed project will have on the aquatic preserve.
  - c. Discuss why there is no practicable alternative to locating the project outside the aquatic preserve.
  - d. Identify all measures to minimize harm to the aquatic preserve.
  - e. Identify permits needed and appropriate permitting agencies.
  - f. Provide results of coordination with appropriate agencies having jurisdiction over the aquatic preserve and address related ETAT comments.

**Type 2 CE:** Document the results of the assessment in the Aquatic Preserves and Outstanding Florida Waters section of the ***Type 2 Categorical Exclusion Determination Form***. Provide supplemental information and coordination letter(s) in the project file in SWEPT.

**EA and EIS:** A copy of the FDEP coordination letter(s) and any other correspondence should be placed in an Appendix. In addition, discussion of coordination with FDEP, as applicable in the Comments and Coordination section should be consistent with the Aquatic Preserve and Outstanding Florida Waters section.

**SEIR:** In the Environmental Analysis section of the SEIR, place an "X" in the appropriate column indicating the level of impact. If an issue exists but the project will alter it in a positive manner, mark the column indicating "ENHANCE." If there is a potential for substantial impact, mark the column "YES". Provide justification of the decision in the

Supporting Information column and supplement with attachments as necessary to substantiate the impact determination. Correspondence with FDEP should be referenced in the SEIR and included in the project file.

#### **11.4.4.1.3 Projects with Impacts to Outstanding Florida Waters**

For Type 1 CE projects located in an OFW, a copy of the FDEP coordination letter(s) (if applicable) should be placed in the project file in SWEPT.

For Type 2 CE, EA, EIS, and SEIR projects located in an OFW, the following should be assessed and included in the Aquatic Preserves and Outstanding Florida Waters section of the Environmental Document.

1. Identify the OFW and provide a map or figure showing how it relates to the project,
2. Address related ETAT comments,
3. Identify potential impacts to OFWs that can be evaluated prior to permitting, including potential treatment strategies.

**Type 2 CE:** This information should be included in the Outstanding Florida Waters section of the **Type 2 Categorical Exclusion Determination Form**. Provide supplemental information and correspondence with FDEP in the project file in SWEPT.

**EA and EIS:** Include any correspondence with FDEP in an Appendix. In addition, discussion of coordination with FDEP in the Comments and Coordination section should be consistent with the Aquatic Preserves and Outstanding Florida Waters section.

**SEIR:** In Section 3.C.2, Environmental Analysis, of the **State Environmental Impact Report Form, Form No. 650-050-43** place an "X" in the appropriate column indicating the level of impact. If an issue exists but the project will alter it in a positive manner, mark the column indicating "ENHANCE." If an issue exists but there is little or no impact, mark the column indicating "NO." If there is a potential for substantial impact, mark the column "YES". Provide justification of the decision in the Supporting Information column and supplement with attachments as necessary to substantiate the impact determination. Correspondence with FDEP should be referenced in the SEIR and included in the project file.

#### **11.4.4.1.4 Section 4(f) Applicability**

Aquatic preserves and OFWs may be protected by **Section 4(f)** if their designated functions are primarily for park, recreation, or refuge purposes. Additionally, publicly owned lands in the immediate proximity of aquatic preserves or OFWs may also be protected by **Section 4(f)**, depending on the ownership and the manner in which they are administered by the managing agency. See [Part 2, Chapter 7, Section 4\(f\) Resources](#) for more information on **Section 4(f)** Applicability. The District should determine if there are multiple-use public land holdings per **23 CFR § 774.11(d)** within the aquatic preserve,

or OFW. **Section 4(f)** applies to only those portions of the aquatic preserve or OFW which are designated by statute or identified in the official management plan for the aquatic preserve or OFW and determined through coordination with the Official with Jurisdiction (OWJ) as functioning or planned for park or recreational purposes or as wildlife and waterfowl refuges or which are significant historic sites. In addition, the significance of those portions shall be made by the OWJ over the aquatic preserve, or OFW of those portions considered protected by **Section 4(f)**.

#### 11.4.4.2 Documenting Sole Source Aquifer Project Review

Projects with federal funding located within the boundaries of designated SSA must be planned and designed to assure they will not contaminate the aquifer. During PD&E study, **Sole Source Aquifer Checklist** ([Figure 11-1](#)) is completed to determine if the project has the potential to impact an SSA. The completed **Sole Source Aquifer Checklist** and **WQIE Checklist** is submitted to the EPA's Region 4 UIC Section by the District for EPA's evaluation and concurrence with the FDOT's proposed measures to protect the aquifer. The District should respond to EPA's inquiries, comments, or mitigation measures before the Environmental Document is finalized. Comments raised by EPA should be addressed in the Water Resources section of the Environmental Document, and when applicable, avoidance or minimization measures documented in the Commitments section. Additionally, the EPA concurrence letter must be referenced and attached to the final Environmental Document. The results of any coordination meetings should be documented in the Comments and Coordination section of an EA or EIS.

#### 11.4.4.3 Water Quality and Stormwater

Documentation for water quality and stormwater should be provided as follows:

**Type 1 CEs and NMSAs:** Verify that the project does not involve significant impacts on water resources. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) and [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#) for more guidance.

**Type 2 CE, EA and EIS:** Major elements of the **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** and **PSR** are summarized in the Water Resources section of the Environmental Document. The results of any coordination meetings should be documented in the Comments and Coordination section of an EA or EIS and, when applicable, the Commitments section.

**SEIR:** The **State Environmental Impact Report Form, Form No. 650-050-43** should indicate the level of water quality impact in the appropriate column. If a project does not involve impacts to water resources, mark the column indicating "NOINV." If water resources exist but the project will improve water quality, mark the column indicating "ENHANCE." If water resources exist but there is little or no impact, mark the column indicating "NO." If there is a potential for significant impacts to water resources, mark the column "YES." Provide justification of decision in the Supporting Information column as

necessary to support the impact determination. All commitments made through coordination efforts should be documented in the Commitments section of the **State Environmental Impact Report Form, Form No. 650-050-43**. The **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** should be saved in the project file.

#### 11.4.4.4 Commitments

Water resource commitments may be related to BMAP/RAP commitments, ELA commitments, or actions/activities required to advance the project and/or require action for the Contractor to implement. Commitments may include the retrofitting of structures to increase water quality treatment; building of water quality improvement features; hydrologic enhancement; recharge or reuse projects; or continued coordination with water resource agencies or other stakeholders. Commitments must be coordinated with other District offices prior to inclusion in the Environmental Document to ensure commitments are feasible.

Commitments related to water resource issues made by the FDOT should be included in the Environmental Document consistent with [Part 2, Chapter 22, Commitments](#) and transmitted to the next phase of project development in accordance with [Procedure No. 650-000-003, Project Commitment Tracking](#).

#### 11.4.4.5 Re-evaluation

Changes to the project which may affect water quality impacts after approval of the Environmental Document must be documented in a **Re-evaluation Form** consistent with [Part 1, Chapter 13, Re-evaluations](#). Commitments and coordination, and the status of permits, should be discussed in the Water Resources, Commitment Status, and/or Status of Permits sections of the **Re-evaluation Form**.

### 11.5 REFERENCES

Chapter 62-302, F.A.C., Surface Water Quality Standards

Chapter 62-303, F.A.C., Identification of Impaired Surface Waters

Chapter 62-304, F.A.C., Total Maximum Daily Loads

Chapter 62-621, F.A.C., Generic Permits

Chapter 62-624, F.A.C., Municipal Separate Storm Sewer Systems

Chapter 373, F.S., Water Resources

Chapter 403, F.S., Environmental Control Clean Water Act of 1972, as amended.  
<http://www.fws.gov/laws/lawsdigest/fwatrpo.html>

EPA, Safe Drinking Water Act, Section 1424(e), 1976.

<https://www.epw.senate.gov/sdwa.pdf>

FDEP, Guidance on Developing Restoration Plans and Alternatives to TMDLs – Assessment Category 4b and 4e Plans, April 2018.

<https://floridadep.gov/dear/watershed-assessment-section/documents/guidance-developing-restoration-plans-alternatives-tmdls>

FDEP, Permitted Phase I MS4s in Florida, April 2018.

<https://floridadep.gov/water/stormwater/content/stormwater-facility-information>

FDEP, Permitted Phase II MS4s in Florida, April 2018.

<https://floridadep.gov/water/stormwater/content/stormwater-facility-information>

FDEP, Wastewater Facility Information,

<http://dep.state.fl.us/water/wastewater/facinfo.htm>

FDOT, Drainage Manual, Topic No. 625-040-002.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/roadway/drainage/files/drainagemanual2020.pdf?sfvrsn=54b052a4\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/roadway/drainage/files/drainagemanual2020.pdf?sfvrsn=54b052a4_2)

FDOT, Efficient Transportation Decision Making Manual.

<http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

FDOT, Statewide Stormwater Management Plan, 2012.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/maintenance/fdotstormwatermgmtplan2012.pdf?sfvrsn=858ebaa2\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/maintenance/fdotstormwatermgmtplan2012.pdf?sfvrsn=858ebaa2_0)

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>

Memorandum of Understanding, EPA, FDOT and FHWA, executed on January 25, 1999.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/executed-fdot-nepa-assignment-mou-2016-1214.pdf?sfvrsn=fe9a018f\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/executed-fdot-nepa-assignment-mou-2016-1214.pdf?sfvrsn=fe9a018f_0)

## 11.6 FORMS

[State Environmental Impact Report Form, Form No. 650-050-43](#)

[Technical Report Cover Page, Form No. 650-050-38](#)

[Water Quality Impact Evaluation Checklist, Form No. 650-050-37](#)



## **11.7 HISTORY**

2/25/2004, 7/27/2016, 6/14/2017: NEPA Assignment, re-numbered from Part 2, Chapter 20, and re-named Water Quality and Water Quantity, 01/14/2019: re-named Water Quality and Stormwater

PROJECT NAME:

NAME OF SOLE SOURCE AQUIFER:

1. Location of project:
2. Project description.
3. Is there any increase of impervious surface? If so, what is the area?
4. Describe how storm water is currently treated on the site?
5. How will storm water be treated on this site during construction and after the project is complete?
6. Are there any underground storage tanks present or to be installed? Include details of such tanks.
7. Will there be any liquid or solid waste generated? If so, how will it be disposed of?
8. What is the depth of excavation?
9. Are there any wells in the area that may provide direct routes for contaminants to access the aquifer and how close are they to the project?
10. Are there any hazardous waste sites in the project area, especially if the waste site has an underground plume with monitoring wells that may be disturbed? Include details.
11. Are there any deep pilings that may provide access to the aquifer?
12. Are Best Management Practices planned to address any possible risks or concerns?
13. Is there any other information that could be helpful in determining if this project may have an effect on the aquifer?
14. Does this Project include any improvements that may be beneficial to the aquifer, such as improvements to the wastewater treatment plan?

*The EPA Sole Source Aquifer Program may request additional information if impacts to the aquifer are questionable after this information is submitted for review.*

**Figure 11-1 Sole Source Aquifer Checklist**

## AQUATIC PRESERVES

1. Fort Clinch State Park
2. Nassau River - St. Johns River Marshes
3. Pellicer Creek
4. Tomoka Marsh
5. Mosquito Lagoon
6. Banana River
7. Indian River - Malabar to Vero Beach
8. Indian River - Vero Beach to Fort Pierce
9. Jensen Beach to Jupiter Inlet
10. Loxahatchee River - Lake Worth Creek
11. Biscayne Bay
12. Biscayne Bay – Cape Florida to Monroe County Line
13. North Fork: St. Lucie
14. Yellow River Marsh
15. Fort Pickens State Park
16. Rocky Bayou State Park
17. St. Andrews State Park
18. St. Joseph Bay
19. Apalachicola Bay
20. Alligator Harbor
21. St. Martins Marsh
22. Matlacha Pass
23. Pine Island Sound
24. Cape Romano - Ten Thousand Islands
25. Lignumvitae Key
26. Coupon Bight
27. Lake Jackson
28. Pinellas County
29. Estero Bay
30. Cape Haze
31. Wekiva River
32. Rookery Bay
33. Cockroach Bay
34. Gasparilla Sound - Charlotte Harbor
35. Terra Ceia
36. Guana River Marsh
37. Big Bend Seagrasses
38. Boca Ciega Bay
39. Rainbow Springs
40. Lemon Bay
41. Oklawaha River

Detailed information on Aquatic Preserves: <https://floridadep.gov/fco/aquatic-preserve>

Map showing locations of Aquatic Preserves: <https://ca.dep.state.fl.us/mapdirect/?focus=conpro>

**Figure 11-2 Aquatic Preserves**

## WATER QUALITY IMPACT EVALUATION CHECKLIST

### PART 1: PROJECT INFORMATION

Project Name:	
County:	
FM Number:	
Federal Aid Project No:	
Brief Project Description:	

### PART 2: DETERMINATION OF WQIE SCOPE

Does project discharge to surface or groundwater?  Yes  No

Does project alter the drainage system?  Yes  No

Is the project located within a permitted MS4?  
Name:  Yes  No

If the answers to the questions above are no, complete the applicable sections of Part 3 and 4, and then check Box A in Part 5.

### PART 3: PROJECT BASIN AND RECEIVING WATER CHARACTERISTICS

#### Surface Water

Receiving water names:

Water Management District:

Environmental Look Around meeting date: \_\_\_\_/\_\_\_\_/\_\_\_\_

*Attach meeting minutes/notes to the checklist.*

Water Control District Name(s) (list all that apply):

#### Groundwater

Sole Source Aquifer (SSA)?  Yes  No Name \_\_\_\_\_

If yes, complete Part 5, D and complete SSA Checklist from EPA website ([Figure 11-1](#))

Other Aquifer?  Yes  No Name \_\_\_\_\_

Springs vents?  Yes  No Name \_\_\_\_\_

Well head protection area?  Yes  No Name \_\_\_\_\_

### Figure 11-3 Water Quality Impact Evaluation

Groundwater recharge?  Yes  No Name \_\_\_\_\_

Notify District Drainage Engineer if karst conditions are expected or if a higher level of treatment may be needed due to a project being located within a WBID verified as Impaired in accordance with Chapter 62-303, F.A.C.

Date of notification: \_\_\_\_/\_\_\_\_/\_\_\_\_

#### **PART 4: WATER QUALITY CRITERIA**

List all WBIDs and all parameters for which a WBID has been verified impaired, or has a TMDL in **Table 1**. This information should be updated during each re-evaluation as required.

Note: If BMAP or RAP has been identified in **Table 1**, **Table 2** must also be completed. *Attach notes or minutes from all coordination meetings identified in Table 2.*

EST recommendations confirmed with agencies?  Yes  No

BMAP Stakeholders contacted?  Yes  No

TMDL program contacted?  Yes  No

RAP Stakeholders contacted?  Yes  No

Regional water quality projects identified in the ELA?  Yes  No

If yes, describe:

Potential direct effects associated with project construction and/or operation identified?  Yes  No

If yes, describe:

Discuss any other relevant information related to water quality including Regulatory Agency Water Quality Requirements.

#### **Figure 11-3 Water Quality Impact Evaluation (Page 2 of 5)**

**PART 5: WQIE DOCUMENTATION**

- A. No involvement with water quality
- B. No water quality regulatory requirements apply.
- C. Water quality regulatory requirements apply to this project (provide Evaluator’s information below). Water quality and stormwater issues will be mitigated through compliance with the design requirements of authorized regulatory agencies.
- D. EPA Ground/Drinking Water Branch review required.  Yes  No  
Concurrence received?  Yes  No  
If Yes, Date of EPA Concurrence: \_\_\_/\_\_\_/\_\_\_ (Attach the concurrence letter)

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.

Evaluator Name (print):	
Title:	
Signature:	Date:

**Figure 11-3 Water Quality Impact Evaluation (Page 3 of 5)**

**Table 1: Water Quality Criteria**

Receiving Waterbody Name (list all that apply)	FDEP Group Number / Name	WBID(s) Numbers	Classification (I,II,III,IIIL,IV,V)	Special Designations*	NNC limits**	Verified Impaired (Y/N)	TMDL (Y/N)	Pollutants of concern	BMAP, RA Plan or SSAC

\* ONRW, OFW, Aquatic Preserve, Wild and Scenic River, Special Water, SWIM Area, Local Comp Plan, MS4 Area, Other

\*\* Lakes, Spring vents, Streams, Estuaries

Note: If BMAP or RAP has been identified in Table 1, Table 2 must also be completed.

**Figure 11-3 Water Quality Impact Evaluation (Page 4 of 5)**

**Table 2: Regulatory Agencies/Stakeholders Contacted**

<b>Receiving Water Name (list all that apply)</b>	<b>Agency's Contact and Title</b>	<b>Date Contacted</b>	<b>Follow-up Required (Y/N)</b>	<b>Comments</b>

**Figure 11-3 Water Quality Impact Evaluation (Page 5 of 5)**



POND SITING REPORT (OR CONCEPT DRAINAGE DESIGN REPORT)

Florida Department of Transportation

District X

Project Title

Limits of Project

County, Florida

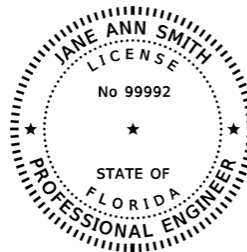
Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

Date

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.

(Signature Block as Needed)



THIS DOCUMENT HAS BEEN DIGITALLY  
SIGNED AND SEALED BY:

**JANE ANN SMITH**  
**Date: 2013.10.09**  
**16:40:48 - 4'00'**

PRINTED COPIES OF THIS DOCUMENT ARE  
NOT CONSIDERED SIGNED AND SEALED.  
THE SIGNATURE MUST BE VERIFIED  
ON THE ELECTRONIC DOCUMENTS.

ROADWAY ENGINEERS, INC.  
123 MAIN STREET  
TALLAHASSEE, FL 32301  
CERTIFICATE OF AUTHORIZATION: 12345  
JANE ANN SMITH, P.E. NO. 99992

Figure 11-4 Sample Pond Siting Report Cover Page

## **PART 2, CHAPTER 12**

### **WILD AND SCENIC RIVERS**

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## PART 2 CHAPTER 12

### WILD AND SCENIC RIVERS

#### 12.1 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).

This chapter provides procedures for identifying and determining effects of federal or federally permitted transportation projects on designated Wild and Scenic Rivers, Study Rivers, or rivers listed on the Nationwide Rivers Inventory (NRI). This includes determining whether the project impacts a designated Wild and Scenic River or Study River and consultation with the National Park Service (NPS) to avoid or mitigate direct and adverse effects to these resources. Guidance is also given on determining if a river is listed on the NRI and subsequent coordination with the NPS, if necessary.

##### 12.1.1 Definitions

**Eligibility** - Qualification of a river for inclusion into the National Wild and Scenic Rivers System through the determination that it is free-flowing and, with its adjacent land area, possesses at least one river-related value considered to be outstandingly remarkable. This determination is made by the NPS. (*Interagency Wild and Scenic Rivers Coordinating Council, A Compendium of Questions & Answers Relating to Wild & Scenic Rivers*).

**Nationwide Rivers Inventory (NRI)** - A source list of rivers which have been determined by the NPS and other federal land managing agencies as being potentially eligible for the National Wild and Scenic Rivers System (*Interagency Wild and Scenic Rivers Coordinating Council, A Compendium of Questions & Answers Relating to Wild & Scenic Rivers*). Please note, these are not the same as Study Rivers.

**Outstandingly Remarkable Values (ORVs)** - Values among those listed in **Section 1(b) of the Wild and Scenic Rivers Act (WSRA)** are "scenic, recreational, geological, fish and wildlife, historical, cultural, or other similar values..." Other similar values which may be considered include botanical, hydrological, paleontological, scientific, rare landscapes, or unique attractions within a river segment. The NPS uses professional judgment to

determine whether values exist to an outstandingly remarkable degree (***Interagency Wild and Scenic Rivers Coordinating Council, A Compendium of Questions & Answers Relating to Wild & Scenic Rivers***). They are resources within a river corridor worthy of special protection.

**River Administering Agency** - One of the four federal agencies that may be charged with administration of a component of the Wild and Scenic Rivers System. These agencies are the Bureau of Land Management (BLM), NPS, U.S. Fish and Wildlife Service (USFWS), and U.S. Forest Service (USFS). (***Interagency Wild and Scenic Rivers Coordinating Council, Wild & Scenic Rivers Act: Section 7***). For federally designated Wild and Scenic Rivers in Florida, only the NPS is a River Administering Agency.

**River Corridor** - A river and the adjacent area within the boundaries of a designated Wild and Scenic River, or a river and the adjacent area within one-quarter mile of the banks of a congressionally authorized Study River.

**Study River** - a river and the adjacent area within one quarter mile of the banks of the river which is designated for study as a potential addition to the National Wild and Scenic River System pursuant to ***Section 5(a) of the WSRA (36 CFR §297.3)***.

**Water Resources Project** - any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the ***Federal Power Act (16 U.S.C Chapter 12)*** or other construction of developments which would affect the free-flowing characteristics of a Wild and Scenic River or Study River. Water resources projects may also include dams, water diversion projects, fisheries habitat and watershed restoration/enhancement projects, bridges and other roadway construction/reconstruction projects, bank stabilization projects, channelization projects, levee construction, recreation facilities, and activities that require a 404 permit from the U.S. Army Corps of Engineers (USACE) (***Interagency Wild and Scenic Rivers Coordinating Council, Wild & Scenic Rivers Act: Section 7***).

**Wild and Scenic River** - a river and the adjacent area within the boundaries of a component of the National Wild and Scenic Rivers System pursuant to ***Section 3(a) or 2(a) (ii) of the WSRA (36 CFR § 297.3)***.

### **12.1.2 Federally Designated Wild and Scenic Rivers and Study Rivers**

The ***Wild and Scenic Rivers Act (WSRA), 16 U.S.C. 1271 et seq.***, as amended, was signed into law on October 2, 1968 (***Public Law 90-542, as amended***) to identify and preserve select river segments and their immediate surroundings possessing “outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values in free-flowing condition” for the enjoyment of present and future generations.

Wild and Scenic Rivers are designated by Congress or through an administrative action by the Secretary of the Interior to include a river already protected by a state upon the

request of that state's governor. Boundaries of designated segments generally average one-quarter mile on either bank to protect river-related values, and may include tributaries. Each river is administered by a federal River Administering Agency. The NPS is the River Administering Agency for the two designated Wild and Scenic rivers in Florida.

Designated Wild and Scenic Rivers create the National Wild and Scenic Rivers System and are classified, designated, and administered as one of the following:

1. **Wild River Areas:** Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.
2. **Scenic River Areas:** Those rivers or sections of rivers that are free of impoundments with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.
3. **Recreational River Areas:** Those rivers or sections of rivers that are readily accessible by roads or railroads, that may have some development along their shorelines, and that may have undergone some impoundments or diversion in the past.

The following segments of two rivers in Florida are currently designated as Wild and Scenic Rivers:

1. **Northwest Fork of the Loxahatchee River:** From River Bend Park downstream 7.6 miles to Jonathan Dickinson State Park. The responsible agency/federal River Administering Agency is the NPS, however it is considered state-administered and Jonathan Dickinson State Park is identified as the managing agency. This river segment is located in FDOT District 4.
2. **Wekiva River:** Consists of 41.6 total miles. The Wekiva River from its confluence with the St. Johns River to Wekiwa Springs. Rock Springs Run from its headwaters at Rock Springs to the confluence with the Wekiva Springs Run. Black Water Creek from the outflow from Lake Norris to the confluence with the Wekiva River. The Southeast Regional Office of the NPS is identified as the responsible/federal River Administrating Agency and the managing agency. This river segment is located in FDOT District 5.

The **WSRA** also identifies Study Rivers for possible inclusion in the Wild and Scenic Rivers System. These rivers, along with others identified since creation of the **WSRA** have been authorized by congress to be studied further for potential inclusion into the Wild and Scenic Rivers System. These Study Rivers are protected for three years from the date the President forwards the study report to Congress and are also protected during the multi-year study phase prior to formal submission of the report.

The only Study River located in Florida is the St. Marys River, which is located in FDOT District 2. The study area included the river from the headwaters of the North prong at

river mile 125.8 downstream to the confluence of Bells River at river mile 12. It was found to be not suitable for designation in 1995. Although the study report was never transmitted to Congress, the **WSRA** provides no expiration period in a case where the study report is not transmitted. Based on the law and current policy, the St. Marys remains in permanent Study River status, and is subject to review and determination under **Section 7(a)** of the **WSRA**.

**Section 7(a)** of the **WSRA**, along with the implementing rules, requires that no federal license, permit, or other authorization (federal assistance) be issued for a water resources project (defined in [Section 12.1.1](#)) which would have a direct and adverse effect on the values for which a designated Wild and Scenic River or Study River was established, namely its free-flowing condition, water quality, and ORVs. Some water resources projects that are related to transportation projects include, but are not limited to: transmission lines and pipelines; bridge and other roadway construction/reconstruction projects; water conduits; bank stabilization projects; channelization projects; levee construction; reservoirs; recreation facilities, such as boat ramps or fishing piers; or dredge and fill projects that require a federal permit. Federal assistance includes federal funding of projects. The “direct and adverse” standard applies to projects within the river corridor and may apply to abutting lands that contribute to the ORVs.

**Section 7(a)** also precludes federal assistance to projects outside the river corridor but on the same river, or on a tributary of a designated Wild and Scenic River that have been determined to “invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of designation...”. The “invade or unreasonably diminish” standard applies to projects below (downstream), above (upstream), or on a stream tributary to the boundaries. This section provides the same protection to Study Rivers, except that the qualifying word “unreasonably” does not appear before “diminish”. The effect is to provide greater protection for study rivers during the short term study process. See [Section 12.2.2](#) for guidance on how this determination takes place during the **NEPA** process.

### 12.1.3 Rivers on the Nationwide Rivers Inventory

The NRI is a listing of rivers (or river segments), which are considered to meet eligibility criteria for the National Wild and Scenic River System based on their free-flowing status and resource values. The NRI is maintained and revised as necessary by the NPS. Listing on the NRI, or any other source list, does not represent an official determination of eligibility, and conversely, absence does not indicate a river’s ineligibility.

Rivers on the NRI are afforded some protection from the adverse impacts of federal projects until they can be studied in detail. The NRI was compiled to fulfill **Section 5(d)(1) of the WSRA’s** mandate that federal agencies consider impacts on potential Wild and Scenic Rivers in all agency “planning for the use and development of water and related land resources.” Under a **Presidential Directive issued in 1979**, each federal agency, as part of its normal planning and environmental review processes, is required to take care to avoid or mitigate adverse effects to rivers in the NRI. As part of the environmental

process, consultation with the NPS is required prior to taking actions which could effectively foreclose wild, scenic, or recreational river status on rivers in the NRI.

#### 12.1.4 Florida Wild and Scenic Designation

A segment of the Myakka River in Manatee, Sarasota, and Charlotte Counties is designated as a Florida Wild and Scenic River by **258.501, Florida Statutes, Myakka River Wild and Scenic Designation and Preservation Act** because of its outstandingly remarkable ecological, fish and wildlife, and recreational values which are unique in the State of Florida. This segment (river area) includes the corridor of land surrounding and beneath the Myakka River between river mile 7.5 and river mile 41.5 together with a corridor including the maximum upland extent of wetlands vegetation as delineated by the Florida Department of Environmental Protection (FDEP). This segment is located in FDOT District 1, between State Road 780 in Sarasota County and the Sarasota-Charlotte County line.

The **Myakka River Wild and Scenic River Rule, Chapter 62D-15, Florida Administrative Code (F.A.C.)** implements a regulatory program that includes a permit program to protect and enhance the resource values identified in the **Myakka River Wild and Scenic River Management Plan**. Activities within the river area, which may have adverse impacts on resource values are regulated by FDEP Division of Recreation and Parks and listed in **Chapter 62D-15, F.A.C.** A Myakka Wild and Scenic River permit is required under **62D-15.006, F.A.C.** for renovating, replacing, or expanding facilities required for utilities, bridges or roads as well as constructing or creating after the effective date of the rule, utility, bridge or road crossings in unimpacted areas. The standards for issuance or denial of a Myakka River permit is that, “no permit shall be issued unless the department finds that the proposed activity will not adversely impact resource values in the river area”.

The **Myakka River Wild and Scenic Designation and Preservation Act** also designates a Wild and Scenic Protection Zone which includes a corridor of uplands surrounding the river area which extends 220 feet landward from the river area. This area is managed by local governments to ensure compatibility of land development within the zone. Activities such as construction and development, earthmoving, onsite sewage disposal systems, vegetation removal, tree removal and wetland impacts within this zone may be prohibited by the **Sarasota County Consolidated Myakka River Protection Ordinance 2008-002** and **City of North Port Myakka River Protection Zone Ordinance 2008-36**.

If an FDOT project is located near this segment of the Myakka River, a Myakka Wild and Scenic River permit from the FDEP will be required. Districts will coordinate with local governments as appropriate. Any coordination with FDEP or local governments should be documented in the Environmental Document.



## 12.2 PROCEDURE

### 12.2.1 Determination of Involvement

Projects with federal (FHWA) funding or federal actions (federal projects), as well as projects requiring federal permits need to be reviewed for potential impacts to Wild and Scenic Rivers, Study Rivers, and rivers on the NRI. FDOT projects that are not federal projects, with no anticipated federal permits, do not require Wild and Scenic River project review, but should be given careful consideration towards avoiding adverse environmental impacts.

It is the responsibility of the District to determine whether a project involves a designated Wild and Scenic River, Study River, or a river listed in the NRI, as early as possible in the project development process. There is involvement with a Wild and Scenic River or Study River if project activities are located within the river corridor (at within one quarter mile of the banks), across, or adjacent to (upstream, downstream, or on a tributary) the designated river segment. There is involvement with a river on the NRI if a project is located within the vicinity of the NRI segment.

Involvement is often determined during the Efficient Transportation Decision Making (ETDM) process where qualifying projects are entered into the Environmental Screening Tool (EST) by the ETDM Coordinator ([ETDM Manual, Topic No. 650-000-002](#)). The presence of Wild and Scenic Rivers, Study Rivers, or rivers on the NRI should be described in the Preliminary Environmental Discussion (PED) under Special Designations. This information should be included in the Wild and Scenic Rivers section.

During the Project Development and Environment (PD&E) Study, the District reviews information from the ETDM process contained in the **Programming Screen Summary Report**, especially any Environmental Technical Advisory Team (ETAT) comments for the “Special Designations” issue. It may be helpful to also review ETAT comments on other issues such as “Water Resources.” Comments by the NPS are especially important.

Detailed evaluations are generally not warranted for projects not qualifying for ETDM screening; however, the District must determine if the project involves a river segment designated as a Wild and Scenic River, Study River, or a river listed in the NRI. These river segments can be delineated and identified using the Area of Interest (AOI) tool in the EST. Mapping tools are also available on the National Wild and Scenic Rivers System and NPS NRI websites. The NPS NRI website also includes a link to other research sources for NRI rivers. See [Figure 12-1](#) for links to these websites. No involvement with designated Wild and Scenic Rivers, Study Rivers, or rivers listed in the NRI should be documented in the Environmental Document according to [Section 12.2.3.2.1](#), and no further action is required.

If the project involves a Wild and Scenic River or Study River, consultation is needed with OEM. Through coordination, OEM may assist with impact determination, or recommend a change in Class of Action (COA). If the project may adversely affect a river segment designated as a Wild and Scenic River, Study River, or listed in the NRI, it **cannot** be

classified as a Type 1 Categorical Exclusion (CE). A Type 2 CE, Environmental Assessment (EA), or an Environmental Impact Statement (EIS) may be required, depending on the significance of the effects. If an EIS is necessary on projects that involve rivers designated as a Wild and Scenic River or as Study River, or affect a river listed on the NRI, FDOT should request NPS to be a Cooperating Agency.

## 12.2.2 Federally Designated Wild and Scenic Rivers and Study Rivers

### 12.2.2.1 Coordination and Analysis

For federal projects involving either a designated Wild and Scenic River or Study River, consultations with the NPS and managing agency must be conducted in accordance with **Section 7** of the *WSRA (Interagency Wild and Scenic Rivers Coordinating Council: Wild & Scenic Rivers Act: Section 7, 2004)*. The NPS will provide direction on the scope of data and analysis needed for their effects determination. Coordination with the NPS and other interested parties should occur early in the planning process to avoid or greatly minimize possible adverse consequences and to avoid delays or costs associated with projects that are unacceptable under **Section 7**. Establishing this contact is especially important for Wild and Scenic Rivers, or Study Rivers with existing transportation systems (or those with potential for expansion) within the river corridor. See [Figure 12-1](#) for NPS contact information. There is no way to draw a clear line establishing a threshold for when a project may have an adverse effect on wild and scenic river values. Critical factors to consider are 1) the size of a river, 2) the amount and types of existing development, and 3) the outstandingly remarkable values of the river, whether the proposed project is within or outside the designated river or a congressionally authorized Study River. Therefore, projects that involve Wild and Scenic Rivers or Study Rivers (regardless of COA) should be coordinated with the NPS. River managers will provide input for the environmental analysis if requested and may recommend measures to eliminate adverse effects.

For minor activities, a simple email from the NPS will suffice to document that there is no adverse effect. Other times, a more formal adverse effects determination will be conducted. During the PD&E Study, the District conducts analysis of potential impacts the project would have on a designated Wild and Scenic River or Study River. For each alternative under consideration, the environmental analysis will identify the potential effects on the natural, cultural and recreational values of the designated Wild and Scenic River or Study River. If the NPS determines any of the alternatives could adversely impact the values for which a river was designated, or foreclose options to designate a congressionally authorized Study River, those alternatives cannot be selected without elimination of adverse effects.

The **NEPA** analysis in itself does not substitute for a **Section 7** Determination by the NPS. The NPS is responsible for conducting the **Section 7** analysis and making a determination under the statute. A **Section 7** Determination is required when:

1. A federal project is proposed in the bed or banks of a designated Wild and Scenic River or congressionally authorized Study River, or

2. A federal project is proposed in the bed or banks of river below (downstream), above (upstream) or on a stream tributary to a designated Wild and Scenic River or congressionally authorized Study River **and** the project is likely to result in effects within a designated Wild and Scenic River or congressionally authorized Study River.

### 12.2.2.2 Documentation

As appropriate, the Environmental Document will document involvement with a Wild and Scenic River or Study River and include the results of coordination with the NPS and managing agency. If applicable, this should include discussion of avoiding or mitigating impacts. In this case, the final Environmental Document should identify measures that will be included in the Preferred Alternative to avoid or mitigate such impacts.

#### 12.2.2.2.1 Projects Not Involving Designated Wild and Scenic or Study Rivers

Documentation for projects not involving rivers designated as Wild and Scenic or Study Rivers is as follows:

**Type 1 CE:** In the Wild and Scenic Rivers section of the ***Type 1 Categorical Exclusion Checklist***, identify that the project does not involve a river designated as a Wild and Scenic or Study River.

**Type 2 CE:** Select “not present” on the Wild and Scenic Rivers section of the ***Type 2 Categorical Exclusion Determination Form***.

**EA or EIS:** Identify that the project does not involve a Wild and Scenic River or Study River and clearly state that the ***WSRA*** does not apply to this project. Clarify that project activities are not located within the river corridor (including within one quarter mile of the banks), across, or adjacent to (upstream, downstream, or on a tributary) the designated river segment. However, the scope of a study report on impacts to a river corridor is not limited to a quarter mile from the ordinary high water mark on each side of the river.

#### 12.2.2.2.2 Projects Involving Designated Wild and Scenic or Study Rivers Without Impacts

Documentation for projects involving rivers designated as Wild and Scenic or Study Rivers which will have no impacts on the river, is as follows:

**Type 1 CE:** In the Wild and Scenic Rivers section of the ***Type 1 Categorical Exclusion Checklist***, identify the name of the river and in the comment box, summarize results of coordination with OEM and the NPS. Identify that there will be no direct or adverse effects on the values for which the river was designated. Correspondence with NPS should be added to the project file in the StateWide Environmental Project Tracker (SWEPT).

**Type 2 CE:** Select “present” and then “not impacted” on the **Type 2 Categorical Exclusion Determination Form** for the Wild and Scenic Rivers category. Select Federally Designated Wild and Scenic River or Study River and identify the name of the river. This section identifies that there will be no direct or adverse effects on the values for which the river was designated. In the comment box include details to support this determination and identify if there are any other protected rivers present in the project limits. Correspondence, or an NPS **Section 7** Determination should be added as a Technical Material in the project file in SWEPT.

**EA or EIS:** The Wild and Scenic Rivers section should identify the name of the river or river segment that is designated as a Wild and Scenic River or Study River, identify if it is a Wild and Scenic River or Study River, and discuss the results of the analysis and coordination with the NPS. This section should identify that there will be no direct or adverse effects on the values for which the river was designated. NPS and managing agency correspondence, and the NPS **Section 7** Determination should be included in the Appendix along with appropriate information in the Comments and Coordination section.

### **12.2.2.2.3 Projects Impacting Rivers Designated as Wild and Scenic or Study Rivers**

For projects with potential impacts to rivers designated as Wild and Scenic Rivers or Study Rivers , the following areas should be assessed and included in the summary in the Wild and Scenic Rivers section of the **Type 2 Categorical Exclusion Determination Form**, or the Wild and Scenic Rivers section of the EA, or EIS.

Identify the name of the river and/or segment of the river, and identify whether it is a Wild and Scenic, or Study River. Address comments submitted by the NPS, managing agency, and other appropriate agencies and include the reference letters in the Appendix, or in the project file. NPS completed **Section 7** Determination should be included in, or appended to, the project’s Environmental Document.

For each alternative under consideration, identify the potential adverse effects through coordination with the NPS. Examples of adverse impacts would be:

1. Alteration of free-flowing nature of river,
2. Alteration of the setting,
3. Deterioration of water quality, or
4. An increase in the degree of activity from the project or otherwise causing visual, noise or air quality impacts on the river corridor that would conflict with the values of a wild, scenic, or recreational river.

The final Environmental Document should identify measures that will be included in the Preferred Alternative to avoid or mitigate impacts.

## 12.2.3 Rivers Listed on the Nationwide Rivers Inventory

### 12.2.3.1 Analysis and Coordination

If the project involves a river on the NRI, further analysis is needed. The effect of proposed developments within the river corridor should be assessed in terms of severity of the effect and extent of area affected. Developments outside the river corridor which would cause visual, noise, or air quality impacts on the river corridor should also be examined.

Only proposed new construction or proposed expansion of existing developments need be considered in assessing impacts. Repair or rehabilitation of existing structures would not have a negative impact, except if the action would result in substantial expansion of the facility or if the construction process itself would cause an irreversible impact on the environment. These types of projects may involve rivers on the NRI, but will not affect the river segment. For example, repaving an existing bridge over an NRI river segment is unlikely to impact the river. If the project will not affect an NRI river, provide documentation in the Environmental Document ([Section 12.2.3.2.2](#)), and no further action is necessary.

If the project may affect the river, then the first step is to determine if there will be an adverse effect on the natural, cultural or recreational values of the NRI segment. If it is unclear whether or not a project will adversely affect an NRI river segment, the NPS can provide technical assistance.

Any action which could alter the river segment's ability to meet the eligibility and classification criteria for inclusion in the National System should be considered an adverse impact. Adverse effects on NRI rivers may occur under conditions which include, but are not limited to:

1. Destruction or alteration of all or part of the free-flowing nature of river;
2. Introduction of visual, audible, or other sensory intrusions which are out of character with the river or alter its setting;
3. Deterioration of water quality; or
4. Transfer or sale of property adjacent to an NRI river without adequate conditions or restriction for protecting the river and its surrounding environment.

If a project, including one or more alternatives, could have an adverse effect on an NRI river, an EA or an EIS must be prepared, depending on the significance of impacts. NPS staff is available to assist in determining the significance or severity of the effects in connection with the project.

Guidance on determining whether the project could have adverse effects is provided in the ***Guide for Identifying Potential Adverse Effects***, which is appended to the ***Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory***.

If the project could have an adverse effect on the natural, cultural or recreational values of the NRI, or effectively downgrade any portion of the NRI segment, coordination with NPS is required. The ***Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory*** document identifies types of developments that generally require consultation with NPS because of the potential for adverse effects. Examples of the developments include: small bulkhead, clearing and snagging, drainage canal, culvert or outfall, rip-rap, bank stabilization or erosion control structure, small reservoir, increase in commercial navigation, dredging or filling, road, railroad, building (any type), pipeline, transmission line, bridge or ford, water well, recreation area, and change in flow regime.

The next step is to determine whether the proposed action could foreclose options to classify any portion of the NRI segment as wild, scenic, or recreational river areas. A project such as repaving is not likely to do that; however, something like a bridge replacement, concrete boat ramp, riprap, even lighting could. NPS may assist in determining whether any of the alternatives under consideration would foreclose designation by providing an analysis of the impacts on natural cultural and recreational values.

The ***Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory*** document identifies types of development that are most likely to cause adverse effects if constructed adjacent to or in close proximity to an NRI river. Examples include a major highway, impoundment, channelization, airport, or railroad yard. The developments identified almost always require consultation with NPS because: 1) effects are likely to conflict with the values of a potential wild, scenic or recreation river and 2) effects could be severe enough to foreclose designation of the affected river segment.

The last step is to incorporate mitigation/avoidance measures in the project to the maximum extent feasible within FDOT's authority. NPS may also assist in developing appropriate avoidance/mitigation measures. FDOT must avoid or mitigate projects that could foreclose the river from potential Wild and Scenic designation at some point in the future.

To coordinate with NPS, aerials depicting alternatives including conceptual right of way (ROW) limits will be submitted for review and comment to the NPS. See NPS contact information in [Figure 12-1](#).

The letter should include the following 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 December 14, 2016 and executed by FHWA and FDOT.*

The NPS should respond to the request within 30 days. Any responses or comments received should be resolved. There are times when this may require close coordination with the NPS for certain projects where there may be either a physical or visual intrusion

of the proposed project on the river. It is FDOT's responsibility to ensure that effects to NRI rivers are avoided or mitigated. Instructions on the consultation process with NPS are available in the ***Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory*** and on the NPS NRI website ([Figure 12-1](#)). In all cases, the responses, comments and resolutions are included and discussed in the Wild and Scenic Rivers section of the Environmental Document, as appropriate ([Section 12.2.3.2](#)). If NPS does not respond to a request for assistance within 30 days, proceed with preparation of the Environmental Document. Even where NPS has been unable to comment on the Environmental Document, FDOT is still obligated to avoid or mitigate projects that could foreclose the river from potential Wild and Scenic designation at some point in the future.

### **12.2.3.2 Documentation**

As appropriate, the Environmental Document will document involvement with a river listed on the NRI and include the results of any coordination with the NPS.

#### **12.2.3.2.1 Projects Not Involving Rivers Listed on the Nationwide Rivers Inventory**

Documentation for projects not involving rivers included on the NRI, is as follows:

**Type 1 CE:** In the Wild and Scenic Rivers section of the ***Type 1 Categorical Exclusion Checklist***, identify that the project will not involve a river on the NRI.

**Type 2 CE:** Select "not present" on the Wild and Scenic Rivers section of the ***Type 2 Categorical Exclusion Determination Form***.

**EA or EIS:** Identify that the project is not located within the vicinity of an NRI segment and clearly state that the ***WSRA*** does not apply to this project.

#### **12.2.3.2.2 Projects Involving Rivers Listed on the Nationwide Rivers Inventory Without Impacts**

Documentation for projects involving rivers included on the NRI which will have no impacts on the NRI river segment, is as follows:

**Type 1 CE:** In the Wild and Scenic Rivers section of the ***Type 1 Categorical Exclusion Checklist***, identify that the project will involve, but will not affect a river segment on the NRI. In the comment box identify the name of the river and include details to support this determination. Any correspondence with NPS should be added to the project file in SWEPT.

**Type 2 CE:** Select "present" and then "not impacted" on the ***Type 2 Categorical Exclusion Determination Form*** for the Wild and Scenic Rivers category. Select Nationwide Rivers Inventory and identify the name of the river. This section should identify that there will be no direct or adverse effects on the natural, cultural, or recreational values

of the NRI River segment. In the comment box include details to support this determination and identify if there are any other protected rivers present in the project limits. Any correspondence with NPS should be added as a Technical Material in the project file in SWEPT.

**EA or EIS:** The Wild and Scenic Rivers section should identify the name of the river that is listed in the NRI and identify it as an NRI river. This section should summarize the analysis and discuss any coordination with the NPS. This section should identify that there will be no direct or adverse effects on the natural, cultural, or recreational values of the NRI River segment. Any NPS correspondence should be included in the Appendix along with appropriate information in the Comments and Coordination section.

### **12.2.3.2.3 Projects Impacting Rivers Listed on the Nationwide Rivers Inventory**

Documentation for projects with potential impacts to rivers on the NRI is as follows:

**Type 1 CE:** In the Wild and Scenic Rivers section of the ***Type 1 Categorical Exclusion Checklist***, identify that the project will affect a river on the NRI, but will not have an adverse effect on the natural, cultural, or recreation values of the NRI river segment. Identify the name of the river in the text box and include details to support this determination. Any correspondence with NPS should be added as a Technical Material in the project file in SWEPT. If the project will have an adverse effect on the on the natural, cultural, or recreation values of the NRI river segment, coordination with the NPS is required and the project cannot be processed as a Type 1 CE.

**Type 2 CE, EA, EIS:** The following should be included in the summary in the Wild and Scenic Rivers section of the ***Type 2 Categorical Exclusion Determination Form*** or the Wild and Scenic Rivers section of the EA or EIS. Identify the name of the river and identify that the river is listed on the NRI. Identify any adverse impacts on natural, cultural, and recreational values. Address comments submitted by the NPS and other appropriate agencies and reference letters included in the Appendix, or in the project file. If applicable, describe avoidance or mitigation to avoid impacts that could foreclose the river from potential Wild and Scenic designation at some point in the future.

## **12.2.4 Section 4(f) Applicability**

Publicly-owned waters of designated Wild and Scenic Rivers, Study Rivers, or NRI rivers may be protected by **Section 4(f)** based upon their designated functions or the designated functions adjacent to and within sections of the designated river. Publicly owned lands in the immediate proximity of such rivers may also be protected by **Section 4(f)**, depending on the ownership and, when publicly owned, the manner in which they are administered by the federal, state, or local government managing the land. Designation under the ***WSRA*** does not in itself create a **Section 4(f)** resource. However, ORVs often include consideration of surrounding areas or areas within the river which function for **Section 4(f)** protected purposes. In addition, the river management may include **Section 4(f)** functions over the length of the river or in certain areas of the river.



**Section 4(f)** would only apply to sites that function as, or which are designated as public parks, recreation areas, wildlife and waterfowl refuges, and historic and archaeological sites. Therefore, during the consultations with the NPS for projects which are within, across, or adjacent to rivers designated as Wild and Scenic, Study Rivers, or listed in the NRI, the FDOT District must include consultations regarding the functions of the river and its surroundings in the area of the proposed project. When **Section 4(f)** applies to the use of property which is either within the river corridor or which represents an element of the ORVs, consultations with the official of the agency having jurisdiction over the property in question, the NPS, and other appropriate agencies will be needed to evaluate and resolve potential alterations to the protected functions of the river and the river corridor. Concurrence on the **Section 4(f)** finding/approval will need to fulfill the coordination and approval requirements of **Sections 7 and 12** of the *WSRA*. See [Part 2, Chapter 7, Section 4\(f\) Resources](#), or Questions 21 B,C and D contained in the **July 20, 2012 Section 4(f) Policy Paper** located at FDOT's [Section 4\(f\) References](#) web page for more information.

## 12.3 REFERENCES

- CEQ Memorandum, Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory, August 10, 1980. Includes Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory and Guide for Identifying Potential Adverse Effects. <https://www.nps.gov/subjects/rivers/upload/Council-on-Environmental-Quality.pdf>
- City of North Port Myakka River Protection Zone Ordinance 2008-36. [http://myakkarivermanagement.org/Files/MRWSMP/Appendix%20K%20-%20Ord08-36-MyakRProtZone\[1\].pdf](http://myakkarivermanagement.org/Files/MRWSMP/Appendix%20K%20-%20Ord08-36-MyakRProtZone[1].pdf)
- FHWA, 2012. Section 4(f) Policy Paper. July 20, 2012. <https://www.environment.fhwa.dot.gov/4f/4fpolicy.asp>
- FDEP and South Florida Water Management District, Loxahatchee River National Wild and Scenic River Management Plan, Plan Update 2010. <https://www.rivers.gov/documents/plans/loxahatchee-plan.pdf>
- FDOT, Efficient Transportation Decision Making Manual, Topic No. 650-000-002. <http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>
- Interagency Wild and Scenic Rivers Coordinating Council, An Introduction to Wild and Scenic Rivers, November 1998. <https://www.rivers.gov/documents/wsr-primer.pdf>
- Interagency Wild and Scenic Rivers Coordinating Council, Implementing the Wild & Scenic Rivers Act: Authorities and Roles of Key Federal Agencies, January 1999. <https://www.rivers.gov/documents/federal-agency-roles.pdf>
- Interagency Wild and Scenic Rivers Coordination Council, The Wild and Scenic River Study Process, December 1999. <https://www.rivers.gov/documents/study-process.pdf>

Interagency Wild and Scenic Rivers Coordinating Council, Wild and Scenic Rivers Act (WSRA): Section 7. October 2004. <http://www.rivers.gov/documents/section-7.pdf>

Interagency Wild and Scenic Rivers Coordinating Council, A Compendium of Questions & Answers Relating to Wild & Scenic Rivers, January 2017. <https://www.rivers.gov/documents/q-a.pdf>

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>

Myakka River Wild and Scenic River Management Plan. <http://myakkarivermanagement.org/MRWManagementPlan.htm>

Myakka River Wild and Scenic River Rule, Chapter 62D-15, Florida Administrative Code (F.A.C.). <http://myakkarivermanagement.org/Files/Wild%20and%20Scenic%20River%20Rule.pdf>

NPS Southeast Regional Office, St. Marys River Wild and Scenic River Study, Florida and Georgia, Final Report, March 1999

NPS Southeast Support Office, Wekiva River Rock Spring Run & Seminole Creek Wild and Scenic River Study, June 1999

National Wild and Scenic Rivers Systems; Final Revised Guidelines for Eligibility, Classification and Management for River Areas, Federal Register, Vol. 47, No. 173, September 7, 1982

Presidential Directive, Wild and Scenic Rivers and National Trails, August 2, 1979

Sarasota County Consolidated Myakka River Protection Ordinance 2008-002. <http://myakkarivermanagement.org/Files/MRW SMP/Appendix%20J%20-%202008-002.pdf>

Section 258.501, F.S., Myakka River Wild and Scenic Designation and Preservation Act. <http://myakkarivermanagement.org/Files/Myakka%20Wild%20and%20Scenic%20Designation%20and%20Preservation%20Act%20258%20501.pdf>

Title 16 U.S.C. Chapter 28, Wild and Scenic Rivers. <http://uscode.house.gov/view.xhtml?jsessionid=72C5E2A8FB942B854E70859F751839DB?req=granuleid%3AUSC-prelim-title16-chapter28&saved=%7CZ3JhbnVsZWIKOIVTQy1wcmVsaW0tdGI0bGUxNi1zZWN0aW9uMTI3OA%3D%3D%7C%7C%7C0%7Cfalse%7Cprelim&edition=prelim>

Title 36 CFR Part 297, Wild and Scenic Rivers. <https://www.gpo.gov/fdsys/pkg/CFR-2012-title36-vol2/pdf/CFR-2012-title36-vol2-part297.pdf>

The Wild and Scenic Rivers Act, P.L. 90-542

## **12.4 HISTORY**

3/15/2004, 1/8/2008, 8/15/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 23, 1/14/2019

**National Park Service Contact:**

Jeffery R. Duncan, PhD.  
National Park Service-Southeast Region  
Science and Natural Resources Division  
Fisheries and Aquatic Resources  
100 West Martin Luther King, Jr. Blvd., Suite 215  
Chattanooga, TN 37402  
(423) 987-6127  
[Jeff\\_duncan@nps.gov](mailto:Jeff_duncan@nps.gov)

**Websites:**

National Wild and Scenic Rivers System website: <https://www.rivers.gov/index.php>

Nationwide Rivers Inventory website: <https://www.nps.gov/subjects/rivers/nationwide-rivers-inventory.htm>

**Figure 12-1 National Park Service Contact Information and Websites**

## **PART 2, CHAPTER 13**

### **FLOODPLAINS**

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## PART 2, CHAPTER 13

### FLOODPLAINS

#### 13.1 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).

This chapter outlines the procedure for evaluating project impacts on 100-year (base) floodplains, and provides guidance on how to document floodplain analysis in the Environmental Document to comply with **23 Code of Federal Regulations (CFR) Part 771** and applicable regulations, guidance, and Executive Orders (EO).

Protection of floodplains and floodways is required by **Executive Order 11988: Floodplain Management; USDOT Order 5650.2, Floodplain Management and Protection**; and **Federal-Aid Policy Guidance on Location and Hydraulic Design of Encroachments on Flood Plains, 23 CFR Part 650A**. The intent of these regulations is to avoid or minimize highway and land use development encroachments that reduce storage and increase water surface elevations within base floodplains. Where encroachment is unavoidable, the regulations require FDOT to take appropriate measures to minimize or mitigate impacts. Further guidance for implementation of **Executive Order 11988: Floodplain Management** can be found in the **Guidelines for Implementing Executive Order 11988, Floodplain Management**.

Location hydraulics studies required by **23 CFR Part 650A** must be prepared during the Project Development and Environment (PD&E) Study commensurate with the level of encroachment to allow consistent evaluation and identification of impacts. The results of location hydraulic studies should be documented in the **Location Hydraulics Report (LHR)**. The **LHR** must be reviewed by the District Drainage Engineer to verify that all base floodplains are identified and the **LHR** is consistent with existing basin and floodplain management program. The results of the location hydraulic studies should be briefly summarized in the Environmental Document and considered when making the **NEPA** decision.

### 13.1.1 Definitions

**Base Flood** - The flood or tidal event having a 1% chance of being equaled or exceeded in any given year (commonly known as a 100-year flood).

**Base Floodplain** - The area subject to flooding by the base flood.

**Direct Effects** – Impacts which occur as a direct result of an action and occur at the same time and place as the action.

**Encroachment** - Activities or construction within the floodplain including fill, new construction, substantial improvements, and other development.

**Floodplain** - Any land area susceptible to being inundated by floodwaters from any source.

**Flood Receptor** -The entity that may be harmed (e.g., a person, property, habitat), by flood.

**Hydraulic Capacity** - Measure of the volume of water which can pass through a given structure or culvert or measure of the volume and flow of water within a watercourse.

**Impact** - The effect of an encroachment upon the human, natural or physical environment.

**Indirect Effects** – Impacts which are reasonably foreseeable effects that occur because of an action but occur later in time or are removed from the action location.

**Natural and Beneficial Floodplain Values** - Include but are not limited to fish, wildlife, plants, open space, natural beauty, scientific study, outdoor recreation, agriculture, aquaculture, forestry, natural moderation of floods, water quality maintenance, and groundwater recharge.

**Regulatory Floodway** - The floodplain area that is reserved in an open manner by federal, state or local requirements, i.e., unconfined or unobstructed either horizontally or vertically, to provide for the discharge of the base flood so that the cumulative increase in water surface elevation is no more than a designated amount [not to exceed 1 foot as established by the Federal Emergency Management Agency (FEMA) for administering the National Flood Insurance Program (NFIP)].

**Risk** - The consequences associated with the probability of flooding attributable to an encroachment, including the potential for property loss and hazard to life during the service life of a facility.

**Support Base Floodplain Development** - The process to encourage, allow, serve, or otherwise facilitate additional base floodplain development. Direct support results from an encroachment, while indirect support results from an action out of the base floodplain.



## 13.2 PROCEDURE

Potential floodplain impacts shall be assessed for all FDOT projects which involve activities or construction near or within the floodplain. Each project alternative should be analyzed for potential floodplain encroachment and the resulting impacts (positive, negative and indirect impacts) must be documented in the *LHR* (as applicable) and briefly summarized in the Environmental Document. Consideration should also be given to indirect and cumulative impacts to floodplain, as appropriate.

Evaluation of potential floodplain impacts involves the following activities:

1. Determine if a project is located in or will affect the base floodplain.
2. Conduct early public involvement and interagency coordination.
3. Identify and evaluate practicable alternatives to locating in the base floodplain, including alternative sites outside of the floodplain.
4. Identify impacts (direct and indirect) of the project on the floodplain.
5. If impacts cannot be avoided, develop measures to minimize the impacts; and measures to restore and preserve the floodplain, as appropriate.
6. Re-evaluate alternatives to determine if locating the project in the floodplain is still practicable.
7. Document the results in the *LHR* and Environmental Document, and present the findings to the public.

### 13.2.1 Determine Level of Analysis

The level of assessment and documentation for potential impacts to floodplains during the PD&E phase depends on the significance of the base floodplain encroachments. Detailed floodplain evaluations are generally not warranted for transportation projects not qualifying for screening in the FDOT's Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) [typically Type 1 Categorical Exclusions (CEs) and Non-Major State Actions (NMSA)], or where there is no floodplain involvement. In these projects, reviewing the Federal Emergency Management Agency (FEMA) ***Flood Insurance Rate Maps (FIRM)*** and identifying if any cross drains culverts are to be modified may be sufficient. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for more guidance on how to document floodplains on Type 1 CE projects.

Transportation projects qualifying for ETDM screening generally are more complex. In accordance with [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#), qualifying projects must complete the ETDM Programming Screen and may also have completed the Planning Screen.

The Project Manager should coordinate with the regulatory and resource agencies, and local agencies throughout the project development process. Coordination with these agencies is useful in identifying floodplain issues, environmental data, and local drainage or watershed specific studies in the project area. Additionally, the Project Manager should coordinate with the District staff such as District Drainage Engineer, District Permit Coordinator, District Environmental Office staff, and others who may be involved in the project.

1. **Planning Screen Evaluation** - Prepare Preliminary Environmental Discussion (PED) in accordance with [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#). Include a discussion about known potential project involvement with floodplains, drainage basins/watershed and receiving water bodies and their designations.

Review information available in the Planning Screen regarding the location of floodplains as identified by FEMA **FIRM**, the locations of Special Flood Hazard Areas (SFHA), and Flood Insurance Study (FIS). Review specific information about areas of flood hazards that were provided by the Environmental Technical Advisory Team (ETAT).

2. **Programming Screen Evaluation** - Include discussion about known potential project involvement related to the floodplain, drainage basins and receiving water bodies [based on information obtained in the Planning Screen (if completed) and the District familiarity with the project area in the PED and the Advance Notification (AN), as appropriate.

After screening is completed, review ETAT comments related to the floodplain from the **Programming Screen Summary Report**. Use this information to determine the level of potential floodplain impacts and how they may be evaluated and mitigated in the PD&E Study. Begin to evaluate and document existing conditions for use in the floodplain analysis.

3. **PD&E Evaluation** - Review the **Programming Screen Summary Report** for ETAT comments for floodplain issues as well as ETAT comments on other issues that may concern possible floodplain impact and drainage designs, such as “Coastal and Marine” and “Wetlands and Surface Waters”. The Water Management Districts (WMDs) comments may reference a recent drainage study as being the best available information, which may supersede existing floodplain maps. Verify if the modeling in the WMD drainage study was performed to certain standards, such as FEMA guidelines.

The impacts of the project on floodplain must be understood before the preferred alternative is selected. Complete the appropriate level of analysis and documentation based on the project context, anticipated impacts, and outcome of any resource agency coordination. There are four categories of encroachments as they pertain to base floodplain involvement: no involvement, no encroachment, minimal encroachment, and significant encroachment (see [Section 13.2.2](#)). The

Project Manager should make preliminary determination of the level of floodplain encroachment and the type of documentation necessary for **LHR** based on field review, ETDM screening results and consultation with the District Drainage Engineer.

Where floodplain impacts will occur, the analysis must be sufficient to determine the level of impacts and whether they will be significant. The analysis will be documented in the **LHR**. Document floodplain commitments in the Environmental Document and transmit to the next phase of project development in accordance with [Procedure No. 650-000-003, Project Commitment Tracking](#) and [Part 2, Chapter 22, Commitments](#). See [Section 13.2.4.3](#) for documentation of floodplain impacts in the Environmental Document.

### 13.2.2 Location Hydraulic Studies and Report

**Title 23 CFR Part 650A** requires location hydraulic studies for all alternatives containing floodplain encroachments and for those actions which would support base floodplain development, commensurate with the significance of the risk or environmental impact. These studies must include discussion of the following:

1. Evaluation and discussion of the practicability of alternatives to any longitudinal encroachments
2. Discussion of the following items, commensurate with the significance of the risk or environmental impact, for all alternatives containing encroachments and for those actions which would support base flood-plain development:
  - a. The risks associated with implementation of the action.
  - b. The impacts on natural and beneficial floodplain values.
  - c. The support of incompatible floodplain development.
  - d. The measures to minimize floodplain impacts associated with the project.
  - e. The measures to restore and preserve the natural and beneficial floodplain values impacted by the project.
3. Shall include evaluation and discussion of the practicability of alternatives to any significant encroachments or any support of incompatible floodplain development.

To satisfy the requirement of preparing a location hydraulic studies for all alternatives containing floodplain encroachments, FDOT requires a **LHR** to be prepared for any Type 2 CE, Environmental Assessment (EA), Environmental Impact Statement (EIS), or State Environmental Impact Report (SEIR) project that has a potential to encroach on the base floodplain, pursuant to **23 CFR Part 650A**, see [Section 13.2.2.5](#) for additional information. A **LHR** is not typically required for Type 1 CE or for NMSAs. The **LHR** describes the types of construction activities near floodplains and includes a description

of the measures to avoid or minimize floodplain impacts associated with the project. The District Drainage Engineer or designee must review the **LHR** and verify that all base floodplains are identified and the **LHR** is consistent with existing basin and floodplain management program. Additionally, the project manager or designee should consult with local natural resource and floodplain management agencies when a hydraulic study shows an impact to the floodplain.

The information contained in the **LHR** is site specific, but the level of floodplain analysis is dependent upon the flood risk associated with each type of encroachment. Use of detailed calculations for every drainage structure associated with a project is not usually necessary and should be avoided, unless the project is accelerated and includes design phase activities with the PD&E Study or detailed calculations are required to develop the preferred roadway alternative for a new alignment. The encroachment types are listed below:

1. **No Involvement** - No involvement means that there are no floodplains in the vicinity of the project alternatives.
2. **No Encroachment** - No encroachment means that there are floodplains in the vicinity of the project alternatives, but there is no floodplain encroachment.
3. **Minimal Encroachments** - Minimal encroachments on a floodplain occur when there is floodplain involvement but the impacts on human life, transportation facilities, and natural and beneficial floodplain values are not significant and can be resolved with minimal efforts. Normally, these minimal efforts to address the impacts will consist of applying FDOT's drainage design standards and following the WMD's procedures to achieve results that will not increase or significantly change the flood elevations and/or limits.
4. **Significant Encroachments** - A highway encroachment and any direct support of likely base floodplain development that would involve one or more of the following construction or flood related activities:
  - a. A significant potential for interruption or termination of a transportation facility which is needed for emergency vehicles or which provides a community's only evacuation route
  - b. A significant risk including the potential for property loss and hazard to life
  - c. A significant adverse impact on natural and beneficial floodplain values

When the project causes significant encroachment on a floodplain a risk analysis is required to establish a level of risk allowable for a project area and to design the alternative to that level.

Note that even though the amount of floodplain involvement could be small, the impacts may be important or notable enough to be considered a significant encroachment.

It is possible that a project will involve more than one type of encroachment. When this occurs, it is necessary to include information that addresses each of the encroachment types in the **LHR**.

### 13.2.2.1 Location Hydraulic Study

Every wetland and cross drain has an associated floodplain; however, it is not necessary to evaluate the hydraulic impacts of each one. The impacts to flood elevations and limits are minimized by designing cross drain facilities in accordance with the [FDOT Drainage Manual, Topic No. 625-040-002](#). Only those alternatives or design features that may create substantial differences in flood elevations and limits should be evaluated. For projects or alternatives that would not create substantial changes in the flood elevations, include a statement in the **LHR** indicating that the drainage features will be designed in accordance with the [FDOT Drainage Manual, Topic No. 625-040-002](#), and no adverse impacts to floodplains are anticipated as a result of the project. See [Figure 13-1](#) for sample statements to be included in the **LHR** and Environmental Document.

The expected change in flood elevations due to a project must be estimated to perform the appropriate level of risk evaluation, see [Section 13.2.2.4](#). Alternatives that avoid longitudinal encroachment of the floodplain will include evaluation and discussion of the practicability of the alternatives. New alignment alternatives usually require a preliminary evaluation to determine hydraulic capacity for anticipated bridge/culvert size. When new alignments include longitudinal encroachments, they should be analyzed to determine any increase in the base flood elevation. On existing alignments, the possibility of decreased hydraulic performance of existing structures requires an evaluation to determine the change in the base flood elevation upstream (and downstream where appropriate).

If the hydraulic evaluation determines that flood elevations will not change significantly, no further evaluation is needed and the encroachment should be minimal.

If the hydraulic evaluation shows that flood elevations will increase either upstream or downstream, a location hydraulic study must be performed on the area impacted to evaluate the potential for flood impacts. The location hydraulic study should consist of a more detailed floodplain model to size proposed structures (bridges/culverts) appropriately. The model needs to identify the downstream constraint (tailwater limitation) that is affecting the floodplain stage and limits within the project. This information needs to be documented in the **LHR** to demonstrate the resulting impacts have been adequately addressed by the proposed design and the constraints are outside of the FDOT's control.

Additionally, the location hydraulic study should consist of an evaluation of the floodplain to determine any increase in the number of flood receptors and the increase in damage to flood receptors that will result from any increase in flood elevations. If necessary, appropriate coordination with FEMA, and local natural resource and floodplain management agencies should be initiated to adequately assess flood impacts.

Whenever it is determined that the project will involve a regulatory floodway, the District Drainage Engineer, or designee, must coordinate with local agencies and FEMA to ensure the project will be developed consistent with local floodway plans and floodplain management programs. This coordination effort and all associated drainage work must be documented in the **LHR** and summarized in the Environmental Document.

The impacts of each encroachment on natural floodplain values must be evaluated. After evaluating the impacts to the floodplain, a statement explaining the significance of any encroachments will be included in the **LHR** for each type of construction activity in the floodplain. Similar types of floodplain construction activities should be grouped together and the significance of their floodplain encroachments addressed accordingly. [Figure 13-1](#) provides several sample statements for use in the Environmental Document. The statements may be modified to fit the project activities and flood risk identified in the **LHR**.

### 13.2.2.2 Significant Encroachment

Evaluation to determine the significance of each encroachment should include assessment of construction or flood related impacts to lives, property, and transportation facilities that serve emergency vehicles or provide emergency evacuation. Additionally, the evaluation should include assessment of construction or flood related impacts to determine the potential for loss or gain to natural and beneficial floodplain values. The following floodplain values should be included in assessment:

1. Natural moderation of floods
2. Water quality maintenance
3. Groundwater recharge
4. Fish and wildlife habitat
5. Plants
6. Open space and natural beauty
7. Recreation
8. Agriculture and Aquaculture
9. Forestry

If floodplain analysis determines that the impacts to lives, property and floodplain values cannot be avoided, the District must develop measures to minimize and mitigate the impacts to the floodplain.

### 13.2.2.3 Only Practicable Alternative Finding

Pursuant to **23 CFR § 650.113**, a proposed alternative which includes a significant encroachment will not be approved unless it is the only practicable alternative. The finding of the only practicable alternative must be approved by FHWA. To obtain the finding, the District must provide the recommendation and supporting information to the District's FHWA Transportation Engineer with a copy to OEM. The only practicable alternative finding must be included in the final Environmental Document and must be supported by the following information:

1. The reasons why the proposed action must be located in the floodplain,
2. The alternatives considered and why they were not practicable, and
3. A statement indicating whether the action conforms to applicable State or local floodplain protection standards.

### 13.2.2.4 Risk Evaluation

Determination of floodplain encroachments should include an evaluation of flood-related risk to the project and surrounding environment. Evaluation of risk should include the following:

1. Risks to transportation infrastructure – road closure, repair costs.
2. Risks to highway users – loss of life, service disruption.
3. Risks to residents – damages, service disruption, property loss.

Typically, the level of risk is reduced through application of design standards and drainage design procedures when the project potentially encroaches into the floodplain. FDOT has established design parameters for the design frequency, backwater limitations, and limiting velocity, which are based on the importance of the transportation facility to the system and allowable risk for that facility. Additionally, design standards of other agencies that have control or jurisdiction over the waterway or facility concerned are considered in the evaluation.

To quantify the risk on project alternatives that encroach floodplains, FDOT uses risk assessment or risk analysis depending on the significance of floodplain encroachment. Risk assessment is performed for minimal encroachments while risk analysis is performed for significant encroachments that are anticipated to increase or substantially change floodplain elevations and/or limits. The cost and effort required for a risk analysis is considerably higher than for a risk assessment. Risk evaluation must be documented in the **LHR**. The District Drainage Engineer and Project Manager must review **LHR** and verify the determination of the significance of each floodplain encroachment and any risk evaluation.

Risk assessment is a subjective analysis of the risks resulting from various design alternatives, without detailed quantification of flood risks and losses. It may consist of developing the construction costs for each alternative, and subjectively comparing the risks associated with each alternative. A risk assessment is more appropriate for small structures, or for structures which size is not influenced by hydraulic constraints.

Risk analysis is an economic comparison of alternatives using expected total costs (construction costs plus risks costs) to determine the alternative with the least total expected cost to the public. It should include probable flood related costs during the service life of the facility for highway operation, maintenance, and repair, for highway aggravated flood damage to other property, and for additional or interrupted highway travel. See Chapter 4 of the [Drainage Design Guide](#) for more guidance on this evaluation.

### 13.2.2.5 Location Hydraulic Report

The LHR is prepared during the PD&E Study. The **LHR** should have headings and subheadings to effectively delineate the sections appropriate to the level of analysis. The cover page of the **LHR** should be prepared using **Technical Report Cover Page, Form No. 650-050-38** and contain the following 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 December 14, 2016 and executed by FHWA and FDOT.*

A sample **LHR** cover page is provided in [Figure 13-2](#).

The following describes the requirements necessary for the completion of the **LHR** for each level of significance of encroachment.

1. **No Encroachment or No Involvement** - For projects where the level of significance for the floodplain encroachment is No Encroachment or No Involvement, a location hydraulic report is not required and the review of the project alternatives is documented in the Environmental Document and the **Preliminary Engineering Report (PER)**.
2. **Minimal Encroachments** - If a project has minimal impacts due to floodplain encroachments, the **LHR** should describe the types of floodplain construction activities and measures to minimize project impact to floodplain. Any commitments made to restore and/or preserve floodplain should be documented in the Environmental Document.

The following items must be included in the **LHR** for all alternatives containing minimal encroachments. Each item should be discussed to a level that adequately addresses the environmental impacts and flood risks:



- a. General description of the project including location, length, existing and proposed typical sections, drainage basins, and cross drains;
  - b. Determination of whether the proposed action is in the base floodplain;
  - c. The history of flooding of the existing facilities and/or measures to minimize any impacts due to the proposed improvements;
  - d. Determination of whether the encroachment is longitudinal or transverse, and if it is a longitudinal encroachment, an evaluation and discussion of practicable avoidance alternatives;
  - e. The practicability of avoidance alternatives and/or measures to minimize impacts;
  - f. Impact of the project on emergency services and evacuation;
  - g. Impacts of the project on the base flood, likelihood of flood risk, overtopping, location of overtopping, backwater.;
  - h. Determination of the impact of the project on regulatory floodways, if any, and documentation of coordination with FEMA and local agencies to determine the requirements for the project to be developed consistent with the regulatory floodway;
  - i. The impacts on natural and beneficial floodplain values, and measures to restore and preserve these values (this information may also be addressed as part of the wetland impact evaluation and recommendations);
  - j. Consistency of the project with the local floodplain development plan or the land use elements in the Local Government Comprehensive Plan (LGCP), and the potential of encouraging development in the base floodplain;
  - k. Measures to minimize flood-plain impacts associated with the project, and measures to restore and preserve the natural and beneficial flood-plain values impacted by the project.
  - l. A map showing project, location, and impacted floodplains. A **FIRM Map** should be used if available. If not, other maps (e.g., US Geological Survey (USGS), U.S. Army Corps of Engineers (USACE), Soil Conservation Service (SCS), Bureau of Land Management, U.S. Forest Service, or best available information from the WMDs) may be used. Copies of applicable maps should be included in the appendix; and,
  - m. Results of any risk assessments performed.
3. **Significant Encroachments** - In addition to the items listed in the requirements for minimal encroachments, the following items must be included in the **LHR** for all

alternatives containing significant encroachments and for those actions which would support base flood development:

- a. Measures to minimize floodplain impacts associated with the project;
- b. The practicability of avoidance alternatives to significant encroachments or support of incompatible floodplain development;
- c. The hydraulic adequacy of existing structures;
- d. The frequency of traffic interruption due to flooding for the existing facility;
- e. When replacing structures and for structures proposed as alternatives on new alignments, discuss the requirements to meet hydraulic needs for the project;
- f. Drainage problems which would result from extending or replacing existing structures in addition to downstream tailwater constraints that affect the flood elevations within the project limits;
- g. Estimate both the existing floodplain volume (capacity) and the volume of the encroachment (this information can be estimated based on USGS Maps, FIRM Maps, LiDAR maps, existing drainage maps, or best available information from the WMDs; and
- h. Flooding impacts to private property both upstream and downstream.

If the project involves a bridge structure, and if a separate **Bridge Hydraulic Report (BHR)** is not prepared during PD&E, the following items must be addressed in the **LHR**:

1. Conceptual bridge length,
2. Conceptual scour considerations, and
3. Preliminary clearances both vertically and horizontally.

The scope of the **LHR** should be scaled to fit the scope and impacts of the project and should be coordinated with the District Drainage Engineer. Once the **LHR** is complete, its information is briefly summarized in the Environmental Document per [Section 13.2.4](#).

### 13.2.3 Bridge Hydraulic Report

**BHRs** are not normally completed during the PD&E phase of a project. However, a **BHR** may be prepared to determine the “hydraulic length” of the bridge or the length necessary to meet the hydraulic requirements. This is particularly important in situations where the bridge or culvert has a history of roadway overtopping. Correcting the overtopping usually involves raising the road and providing much larger hydraulic capacity through the bridge or culvert. This situation may be appropriate for a Risk Analysis to compare the

construction costs to risk costs. The construction costs should be documented in the Environmental Document. If bridge alternatives will be developed to avoid or minimize wetland impacts, then a **BHR** will analyze and document the costs and benefits of the additional bridge length, in accordance with Chapter 4 of the [FDOT Drainage Manual, Topic No. 625-040-002](#).

If the entire project consists of a bridge replacement with no other encroachments, then the requirements of the **LHR** must be included in the draft **BHR**.

When the draft **BHR** is prepared during the PD&E Study, its cover page shall contain the following 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 December 14, 2016 and executed by FHWA and FDOT.*

## 13.2.4 Environmental Document

### 13.2.4.1 Type 2 Categorical Exclusion

For a Type 2 CE, summarize the project involvement with the floodplain based on the results of floodplain analysis in the Floodplains Section of the **Type 2 Categorical Exclusion Determination Form** (See [Part 1, Chapter 5, Type 2 Categorical Exclusion](#)) and upload the **LHR**, **BHR** and any other supporting documentation into the StateWide Environmental Project Tracker (SWEPT). Sample statements that can be included in the form for projects with No Encroachment can be found in [Figure 13-1](#). The summary should at least answer the following questions:

1. Is there a floodplain within the vicinity of the proposed alternative(s)?
2. Will there be an encroachment or a benefit to the floodplain as a result of the project?
3. What type of encroachment impact will the preferred alternative have on the floodplain and what is the level of encroachment?
4. What measures have been taken to minimize and mitigate floodplain impacts associated with the project?

If there is regulatory floodway involvement then the supporting documentation to the **Type 2 Categorical Exclusion Determination Form** must address the project's consistency with the regulatory floodway's ability to discharge the base flood without cumulatively increasing the water surface elevation more than the designated height, and demonstrate coordination with FEMA and local floodway management agencies on the consistency issue. For additional information, see **FEMA Guidance for Flood Risk Analysis and Mapping, November 2016**.

### 13.2.4.2 State Environmental Impact Report

For SEIRs, include the results of the coordination in the Environmental Analysis section of the SEIR by summarizing the project involvement with floodplains and including documentation in the project file. See [Part 1, Chapter 10, State, Local Agency and Private Project Delivery](#).

1. **NoInv** is marked if there are no floodplains in the vicinity of the proposed alternatives.
2. **Enhance** is marked if the project will be a benefit to the floodplain, such as improving hydraulic opening on a bridge.
3. **No** is marked when there are floodplains in the vicinity but there are no floodplain encroachment impacts from the preferred alternative.
4. **Yes** is marked if there is a potential floodplains impact. Provide justification of decision in the Supporting Information column and supplement with attachments as necessary to substantiate the impact determination (see [Section 13.2.4.3](#)).

### 13.2.4.3 Environmental Assessment and Draft Environmental Impact Statement

The Floodplain section for an EA or Draft Environmental Impact Statement (DEIS) must include:

1. Identification of the geographic area of the base floodplain and a determination of whether the proposed action will encroach upon the base floodplain using available reference maps. The potential references include:
  - a. **FIRM** must be used, if available. The map reference number must be provided in the document. If the project is not in a FEMA-identified hazard area, **FIRM** will not be available and other sources should be used.
  - b. Other maps (e.g., USGS, USACE, SCS, Bureau of Land Management, U.S. Forest Service, or best available information from the WMDs) may be used.
  - c. Appropriate maps will be developed by the Drainage Engineer if no other maps are available.
2. An exhibit showing the relationship of each project alternative under study with each base floodplain and regulatory floodway involved.
3. If there is no encroachment on a base floodplain and the proposed action will not support development in the base floodplain, a statement to that effect will be provided (see [Figure 13-1](#) for sample statements).

4. If the project encroaches or supports base floodplain development within a base floodplain, discuss the following information for each proposed alternative that causes the impacts commensurate with the level of impacts:
  - a. Flood risks associated with, or resulting from, the proposed action.
  - b. Impacts on natural and beneficial floodplain values.
  - c. Degree to which the action provides direct effects or indirect effects in the support of development in the base floodplain, see [FDOT Cumulative Effects Evaluation Handbook](#).
  - d. The potential for significant interruption or termination of community's only evacuation route or facility for emergency vehicles.
  - e. Measures to minimize floodplain impacts associated with each alternative.
  - f. Measures to restore and preserve the natural and beneficial floodplain values that are impacted.

The EA or DEIS should briefly summarize the results of the **LHR**. The EA or DEIS should identify the number of encroachments and any support of incompatible base floodplain developments and their potential impacts. Where an encroachment results in substantial impacts or supports incompatible floodplain development, the EA or DEIS should provide more information on the location, impacts, and appropriate mitigation measures. The EA or DEIS should also include an evaluation and discussion of practicable alternatives to avoid or minimize such involvements.

If an alternative encroaches upon a regulatory floodway, the following questions must be addressed in the EA or DEIS:

1. Can the highway encroachment be located so that it is consistent with the regulatory floodway? or
2. Can the regulatory floodway be revised to accommodate the project? (This typically involves a FEMA map revision.)

For each alternative encroaching upon a designated or proposed regulatory floodway, the EA or DEIS should provide a preliminary indication of whether the encroachment would be consistent with, or require a revision to the regulatory floodway. Engineering and environmental analyses should be undertaken, commensurate with the level of encroachment, to allow the appropriate evaluation of impacts. Coordination with FEMA and appropriate state and local governmental agencies should be undertaken for each regulatory floodway encroachment.

#### 13.2.4.4 Finding Of No Significant Impact and Final Environmental Impact Statement

When the preferred alternative includes significant encroachments but the human environment is not significantly affected, the finding must be provided in the Floodplain section of an EA with Finding of No Significant Impact (FONSI).

If the preferred alternative includes significant encroachments that significantly affect the human environment, the Environmental Analysis Section and the Executive Summary of the Final Environmental Impact Statement (FEIS) must include an "Only Practicable Alternative Finding" required by **23 CFR § 650.113** and **Executive Order 11988** (See [Section 13.2.2.2](#)).

If the preferred alternative encroaches on a regulatory floodway, the FONSI or FEIS should discuss the consistency of the action with the regulatory floodway. If a regulatory floodway revision is necessary, the FONSI or FEIS should include evidence from FEMA and local or State agency indicating that such revision is acceptable.

If the project has no involvement with or is not located within a floodplain, a finding is still provided. See [Figure 13-1](#) for sample statements.

#### 13.2.5 Public Involvement

In accordance with **Executive Order 11988**, the FDOT must provide public notice if there will be a significant floodplain encroachment. To comply, the District must include in its public workshop or hearing advertisements, a statement that the project involves encroachments on base floodplains and, if applicable, involvement with a regulatory floodway. At all public workshops, the District should include information concerning any anticipated floodplain encroachments. If a public hearing is held, the presentation at the public hearing must also include any anticipated floodplain encroachments.

### 13.3 REFERENCES

Federal-Aid Policy Guide 23 CFR § 650A.

<https://www.fhwa.dot.gov/legsregs/directives/cfr23toc.htm>

FEMA. Guidance for Flood Risk Analysis and Mapping, February 2019.

[https://www.fema.gov/media-library-data/1556727028010-090889650cfe5ad6845c3f2f39863053/General\\_Hydrologic\\_Considerations\\_Guidance\\_Feb\\_2019.pdf](https://www.fema.gov/media-library-data/1556727028010-090889650cfe5ad6845c3f2f39863053/General_Hydrologic_Considerations_Guidance_Feb_2019.pdf)

FHWA. Technical Advisory T6640.8A, Guidance for Preparation and Processing Environmental and Section 4(f) Documents.

<https://www.environment.fhwa.dot.gov/projdev/impTA6640.asp>

FDEP. website [www.dep.state.fl.us/](http://www.dep.state.fl.us/)

FDOT. Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002.

<http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

FDOT. Cumulative Effects Evaluation Handbook

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/cee/cee-handbook-2012-12183b410b4f04cf44f9ae1972577be52ba0b7f4290ddf11467fa22acded398d0508237a15c0eac844e193040a3899bb074181367d98d3424bebaf8c94900a1fc4e3d3cf79554d674a32b92c6cada8dda3b623acecd439cc41f999178af94010a78d.pdf?sfvrsn=3c5d70cd\\_10](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/cee/cee-handbook-2012-12183b410b4f04cf44f9ae1972577be52ba0b7f4290ddf11467fa22acded398d0508237a15c0eac844e193040a3899bb074181367d98d3424bebaf8c94900a1fc4e3d3cf79554d674a32b92c6cada8dda3b623acecd439cc41f999178af94010a78d.pdf?sfvrsn=3c5d70cd_10)

FDOT. Drainage Manual, Topic No. 625-040-002

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/roadway/drainage/files/drainagemanual2020.pdf?sfvrsn=54b052a4\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/roadway/drainage/files/drainagemanual2020.pdf?sfvrsn=54b052a4_2)

FDOT. Standard Plans for Road and Bridge Construction.

<http://www.fdot.gov/roadway/DS/17/STDs.shtm>

Guidelines for Implementing Executive Order 11988, Floodplain Management and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input. October 8, 2015. <http://www.fema.gov/media-library/assets/documents/110377>

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>

Presidential Executive Order 11988, Floodplain Management and Protection.

<http://www.whitehouse.gov/the-press-office/2015/01/30/executive-order-establishing-federal-flood-risk-management-standard-and-> or  
<https://www.fema.gov/executive-order-11988-floodplain-management-0>

## 13.4 FORMS

[Technical Report Cover Page, Form No. 650-050-38](#)

## 13.5 HISTORY

1/7/2008, 8/17/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 24, 1/14/2019

## Suggested Statements for Environmental Documents

The following sample summary statements may be appropriate for common types of base floodplain construction activities not resulting in significant floodplain impacts. These statements should be modified based on the results of the location hydraulic studies documented in the Location Hydraulics Report.

### 1- PROJECTS WHICH WILL NOT INVOLVE ANY WORK BELOW THE 100 YEAR FLOOD ELEVATION

The following statement is used when the 100-year flood elevation is available from existing information, and it is evident that project will not involve any work below the 100-year flood elevation.

*Although this project is located within the limits of the 100-year floodplain, no work is being proposed below the 100-year flood elevation and, thus, this project does not encroach upon the base floodplain.*

### 2- PROJECTS WHICH WILL NOT INVOLVE THE REPLACEMENT OR MODIFICATION OF ANY DRAINAGE STRUCTURES

These projects must be on existing alignment. They may involve a change in the profile grade elevation of a magnitude normally associated with resurfacing. There are no known drainage problems within the limits of the project, or other factors that override the need for concurrent drainage improvements.

*This project will not involve the replacement or modification of any existing structures, or the addition of any new drainage structures. Thus, this project will not affect flood heights or base floodplain limits. Additionally, the project will not increase flood risks or damage; and there will be no significant change in the potential for interruption or termination of emergency service or emergency evacuation routes. Therefore, it has been determined that this encroachment is not significant.*

### 3- PROJECTS INVOLVING MODIFICATION TO EXISTING DRAINAGE STRUCTURES

Work under this type of project will not involve the replacement of any existing drainage structures or the construction of any new drainage structures. Work will only involve modification of existing structures (e.g., extending cross drains, adding headwalls, or extending bridge piers). Projects that affect flood heights and flood limits, even minimally, may require further evaluation to support statements that emphasize the insignificance of the modifications.

**Figure 13-1 Floodplain Statements**



*Modifications to existing drainage structures (SPECIFY e.g., extending cross drains, adding headwalls, or extending bridge piers) included in this project will result in an insignificant change in their capacity to carry floodwater. These modifications will cause minimal increases in flood heights and flood limits which will not result in any significant adverse impacts on the natural and beneficial floodplain values or any significant change in flood risks or damage. There will be no significant change in the potential for interruption or termination of emergency service or emergency evacuation routes as the result of modifications to existing drainage structures. Therefore, it has been determined that this encroachment is not significant.*

4- PROJECTS ON EXISTING ALIGNMENT INVOLVING REPLACEMENT OF EXISTING DRAINAGE STRUCTURES WITH NO RECORD OF DRAINAGE PROBLEMS

This type of work excludes replacement activities that would increase the hydraulic performance of existing facilities. Also, there should be no record of drainage problems and no unresolved complaints from residents in the area.

*The proposed structure will perform hydraulically in a manner equal to or greater than the existing structure, and backwater surface elevations are not expected to increase. Thus, there will be no significant adverse impacts on natural and beneficial floodplain values. There will be no significant change in flood risk, and there will not be a significant change in the potential for interruption or termination of emergency service or emergency evacuation routes. Therefore, it has been determined that this encroachment is not significant.*

5- PROJECTS ON EXISTING ALIGNMENT INVOLVING REPLACEMENT OF DRAINAGE STRUCTURES IN HEAVILY URBANIZED FLOODPLAINS

These projects include work in flood sensitive, heavily urbanized floodplains, where the conditions of flooding are largely attributable to the low-lying terrain. The work does not include those replacement structures that will reduce the hydraulic performance of existing facilities or a change in the profile grade when the existing grade is overtopped by an event below the 100-year storm. Replacement drainage structures are limited to hydraulically equivalent structures in most instances.

*Replacement drainage structures for this project are limited to hydraulically equivalent structures which are not expected to increase the backwater surface elevations. The limitations to the hydraulic equivalency being proposed are basically due to restrictions imposed by the geometrics of design, existing development, cost feasibility, or practicability. An alternative encroachment location is not considered since it does not meet the project's purpose and need or is economically unfeasible. Since flooding conditions in the project area are inherent in the topography or are a result of other outside contributing sources, and there is no practical alternative to eradicate flooding problems in any significant amount, existing flooding will continue, but will not increase as the result of the construction of this project.*

**Figure 13-1 Floodplain Statements (Page 2 of 3)**

*Furthermore, the project will not affect existing flood heights or floodplain limits. There will be no significant change in the potential for interruption or termination of emergency service or emergency evacuation routes as the result of construction of this project. Therefore, it has been determined that this encroachment is not significant.*

In addition to the above statements, for those projects which do not involve regulatory floodways and do not support incompatible base floodplain development, the following positive statement can be added:

*It has been determined, through consultation with local, state, and federal water resources and floodplain management agencies that there is no regulatory floodway involvement on the project and that the project will not support base floodplain development that is incompatible with existing floodplain management programs.*

**Figure 13-1 Floodplain Statements (Page 3 of 3)**

## LOCATION HYDRAULICS REPORT

Florida Department of Transportation

District X

Project Title

Limits of Project

County, Florida

Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

Date

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.

**Figure 13-2 Sample Location Hydraulics Report Cover Page**

## **PART 2, CHAPTER 14**

# **COASTAL ZONE CONSISTENCY**

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## PART 2, CHAPTER 14

# COASTAL ZONE CONSISTENCY

### 14.1 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).

To resolve conflicts between competing uses in the nation's coastal zone, Congress passed the **Coastal Zone Management Act (CZMA)** in 1972. The **CZMA** sought to preserve, protect, develop, and where possible, restore and enhance the resources of the nation's coastal zone. In order to achieve its goal, Congress provided coastal states with incentives to encourage them to develop and implement comprehensive management programs which balance the need for coastal resource protection with the need for economic growth and development within the coastal zone.

The **CZMA** authorizes the federal government, through the Secretary of Commerce, to provide coastal states with grant-in-aid to assist with the development and implementation of their coastal management programs. Coastal states are first required to submit their management programs to the Secretary of Commerce's designee, the Director of the National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management for approval. When the state management program receives federal approval, **Section 307** of the **CZMA** provides the state with the ability to review federal activities within or adjacent to their coastal zone to determine whether the federal activity complies with the enforceable policies included in the state's approved management program.

**Section 307** of the **CZMA** and its implementing regulations, **15 Code of Federal Regulation (CFR) Part 930**, stipulate that all federal agency activities that affect any land or water use or natural resource of the coastal zone must be consistent, to the maximum extent practicable, with the enforceable policies of the state's federally approved management program. Federal licenses or permits, and federal financial assistance for activities affecting any land or water use or natural resource of the coastal zone are

required by **Section 307** to be fully consistent with the enforceable policies of state coastal management programs.

The **Florida Coastal Management Act of 1978 [Chapter 380, Part II, Florida Statutes (F.S.)]** authorized the state to develop a comprehensive state coastal management program based on existing statutes and rules. The Florida Coastal Management Program (FCMP) received federal approval on September 24, 1981. The Florida Department of Environmental Protection (FDEP) published a **Florida Coastal Management Program Guide** detailing information about the program.

The FCMP consists of a network of twenty-four statutes administered by nine state agencies and the five water management districts, designed to ensure the wise use and protection of the state's water, cultural, historic, and biological resources; to minimize the state's vulnerability to coastal hazards; to ensure compliance with the state's growth management laws; to protect the state's transportation system; and to protect the state's proprietary interest as the owner of sovereign submerged lands. [Figure 14-1](#) provides a list of statutes included in the FCMP. [Figure 14-2](#) lists the participating state agencies.

The State of Florida's review of federal activities for consistency with the **CZMA** is coordinated by FDEP, which serves as the lead agency for the FCMP. In accordance with **Section 403.061(42), F.S.**, the FDEP serves as the state's single point of contact for performing the responsibilities described in **Executive Order 12372 - Intergovernmental review of Federal programs**. FDEP uses the State Clearinghouse (SCH), which is located within FDEP, to facilitate the coordination process. Federal agencies and applicants are required by the FCMP to provide the SCH with a detailed description of proposed federal activities in accordance with **15 CFR Part 930**. Proposed federal activities are distributed by the SCH to each FCMP member agency with a statutory interest in the activity (consistency reviewer). Comments provided by the FCMP agencies are used by FDEP to make a determination on behalf of the State of Florida regarding the consistency of a proposed federal action with the policies included in the FCMP.

### 14.1.1 Federal Consistency

As a member of the FCMP network, FDOT participates in the review of federal activities to ensure consistency with the FCMP statutes under its purview, and reviews federal activities within or adjacent to the state to ensure that the federal activity will not result in adverse impacts to the state transportation system, or FDOT's ability to perform its statutory functions. Individual federal actions are evaluated by FDOT for compliance with the applicable requirements of **Chapter 334** and **Chapter 339, F.S.**

When FDOT is seeking federal funding, a determination of consistency with the FCMP may be required prior to the allocation of federal funds for the project depending on the project's Class of Action. If the project also requires a federal license or permit, a separate consistency review for federal licenses or permit applications may be required in accordance with **15 CFR § 930, Subpart D** and **Section 380.23, F.S.** Consistency reviews of projects which require permits from the U.S. Army Corps of Engineers (USACE) or the U.S. Coast Guard (USCG), or a state Environmental Resource Permit

are conducted during the permitting process. In accordance with **Section 380.23, F.S.**, the issuance or denial of the state permit serves as the state's consistency decision for analogous USACE or USCG permits. Procedures governing the consistency review of state permits are included in **Section 373.428, F.S.**

## 14.2 PROCEDURE

### 14.2.1 Projects Requiring a Consistency Review

Environmental Assessment (EA) and Environmental Impact Statement (EIS) projects are always, and Type 2 Categorical Exclusions (CEs) are usually subject to consistency review. State Environmental Impact Reports (SEIRs) do not require a federal consistency determination during Project Development and Environment (PD&E) unless a federal license or permit is required. Federal consistency review is typically not required for minor projects during PD&E. Federal consistency determination for Type 1 CE and Non-Major State Action projects are completed at the time of project permitting if a permit is required.

### 14.2.2 Consistency Review with Advance Notification

For projects requiring the preparation of an Advance Notification (AN) Package, the District Efficient Transportation Decision Making (ETDM) Coordinator or Project Manager prepares the package in accordance with [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#) and [Chapter 4, Programming Screen](#) of the [ETDM Manual, Topic No. 650-000-002](#). The AN can occur during the Programming Screen or be processed separately before the PD&E Study. If done during screening, the completed AN package is emailed along with a Programming Screen Notice to the SCH and to each FCMP member agency with a statutory interest in the activity (consistency reviewer). The SCH may then forward the information to additional interested parties, if needed. The Federal Consistency Review Process in the Environmental Screening Tool (EST) can be found in [Chapter 4, Programming Screen](#) of the [ETDM Manual, Topic No. 650-000-002](#).

Issuance of the electronic notice for the Programming Screen begins a 45-calendar day comment period, to allow for the distribution, receipt, and discussion of agency responses consistent with the Programming Screen and federal consistency review. Upon notification by the District ETDM Coordinator/Project Manager, consistency reviewers are responsible for providing comments in the EST to ensure that the project complies with the statutes and requirements within their jurisdiction. Each state agency's consistency reviewer will also indicate whether the project is consistent with the FCMP.

The SCH has 15 days after receipt of all comments to complete the federal consistency review for the State of Florida. The SCH consolidates the consistency reviewers' comments, reviews the comments, and indicates a determination of the project's consistency with the FCMP in the EST. This consistency decision is based on the consistency comments, findings, or recommendations of all state agencies with a statutory interest in the project.

Should additional review time be required, a written request for a 15-day time extension must be submitted to the District ETDM Coordinator within the initial 45-day comment period. If more than a 30-day extension is required by the SCH, the project should be placed into issue resolution ([Section 14.2.4.1](#)) until the review is complete. The District shall not proceed with further project development before receiving a consistency determination.

FDEP's consistency determination is included in the **Final Programming Screen Summary Report**. The Coastal Zone Consistency section of an EA, or EIS should reference this determination and include the following standard statement:

*The State of Florida has determined that this project is consistent with the Florida Coastal Zone Management Program.*

The standard statement should also be included in the Final Environmental Impact Statement (FEIS) Executive Summary when applicable. The statement is included on the **Type 2 Categorical Exclusion Determination Form** for projects that were reviewed by the SCH through the ETDM screening.

Whenever a project is determined to be inconsistent with the FCMP, a letter of inconsistency will be issued by the FDEP on behalf of the state. A finding of inconsistency must cite the section of the relevant statute under the reviewing agency's authority with which the project is inconsistent, and must identify actions that can be taken to resolve the conflict. Prior to issuing a finding of inconsistency, the reviewing agency should immediately call the SCH if problems are identified. If any consistency reviewing agency indicates that the project is not consistent, this would trigger discussions with the SCH and possibly initiate the issue resolution process (**Chapter 4, Programming Screen** of the [ETDM Manual, Topic No. 650-000-002](#)). If an inconsistency letter is received, it is uploaded to the EST as support documentation for the project file.

If significant concerns are identified during the AN review, the District will be advised by FDEP of conditions of approval or the need for additional coordination. The SCH should be provided with project information of sufficient scope and detail to determine whether the project is consistent with the requirements of all applicable FCMP statutes. The requested project information should be provided as soon as the information becomes available. All issues or concerns identified during the AN review should be addressed. When **NEPA** documents are prepared for the project, a draft document may be used to provide the required data and information. If significant concerns are not identified during the review, additional coordination will not be required unless the nature, location, or scope of the project is substantially changed. The District is still required to comply with all conditions needed to ensure compliance with the FCMP.

### **14.2.3 Subsequent Consistency Review**

Changes in a determination can come at any stage of project development. If after review of the AN for federal-aid projects that qualify for ETDM screening, a FCMP agency determines that the project is no longer consistent, the consistency determination may be



modified. There is also an opportunity for the SCH to review EA and EIS documents after Location Design and Concept Acceptance. Upon approval, these Environmental Documents are submitted to the SCH through the EST.

## 14.2.4 Mediation of Determinations of Inconsistency

### 14.2.4.1 Mediation During Advance Notification

If a recommendation or determination of inconsistency with the FCMP is made by the SCH and its consistency reviewing agencies during AN, the project will go through the ETDM Issue Resolution Process, which is discussed in detail in **Chapter 2, ETDM Process** of the [ETDM Manual, Topic No. 650-000-002](#). The goal of the ETDM issue resolution process is to resolve conflicts at the agency staff level, providing as many opportunities for resolution as possible prior to elevation of the dispute within FDOT and the review agencies. Once the issue has been resolved, the issue resolution process will be documented in the EST. The [EST Handbook](#) provides additional guidance on tracking and documenting the issue resolution process.

### 14.2.4.2 Mediation During Subsequent Consistency Review

If a state agency determines that a project is inconsistent at a later stage of project development, the agency must provide FDEP with a written determination signed by the agency head or authorized designee which includes the following:

1. The specific statutes, rules, or regulations with which the project is in conflict; and
2. Provide for FDOT's consideration of suggested alternatives, if any, that would allow the project to be consistent with the FCMP.

Where an agency fails to identify the authority with which the project is in conflict, or the agency's objection is signed by an unauthorized individual, the determination will not form the basis of a finding of inconsistency by FDEP, the lead coastal management agency.

If FDEP receives a state agency objection or notice of a pending objection; FDOT will be advised of the basis for the objection. FDEP will work in consultation with the Governor's Office, FDOT, and the objecting agency to resolve the objection prior to the need for a formal state consistency decision. If the objection cannot be resolved, the FDEP will provide FDOT and the NOAA Office for Coastal Management with a state consistency objection letter in accordance with **15 CFR Part 930**.

When FDOT receives a **Letter of Inconsistency** from FDEP, or when it is communicated via the Director level or above that a **Letter of Inconsistency** is anticipated, FDOT will not advance the project to the next development phase (Design) until an agreement, allowing the objection to be lifted, is reached between the objecting agency and FDOT. The FDEP will mediate interagency disputes in an attempt to resolve conflicts. This

mediation will be a tiered process, beginning with the interagency review group and continuing, if necessary, to the agency head.

If, after the FDEP mediation, an objecting agency continues to deem the project to be inconsistent, FDOT and/or the FDEP may refer the objection to the Governor for final determination in accordance with **Section 380.23(2)(b), F.S.**

In the event of a disagreement between FDEP and FDOT regarding whether or not a federal assistance activity is subject to consistency review, FDOT may seek mediation by the Secretary of Commerce in accordance with **15 CFR § 930.99**. In such cases, the procedures and time limits set forth in **15 CFR § 930, Subpart G**, will apply.

### 14.3 REFERENCES

Chapter 334, F.S., Transportation Administration

Chapter 339, F.S., Transportation Finance and Planning

Chapter 380, Part II, F.S., Coastal Planning and Management

FDEP, Florida Coastal Management Program State Clearinghouse Manual.

[http://www.dep.state.fl.us/secretary/oip/state\\_clearinghouse/manual2.htm](http://www.dep.state.fl.us/secretary/oip/state_clearinghouse/manual2.htm)

FDEP, 2017. Florida Coastal Management Program Guide - A Guide to the Federally Approved Florida Coastal Management Program.

[https://floridadep.gov/sites/default/files/FCMP-Program-Guide-2017\\_0.pdf](https://floridadep.gov/sites/default/files/FCMP-Program-Guide-2017_0.pdf)

FDOT, Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002

FDOT, Environmental Screening Tool (EST) Handbook

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>

Section 373.428, F.S., Federal Consistency

Title 15 CFR Part 930, Federal Consistency with Approved Coastal Management Programs

Title 16 United States Code 1456, Coordination and Cooperation

## **14.4 HISTORY**

8/18/1999, 4/12/2011, 1/5/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 25, 1/14/2019

The enforceable policies of Florida's federally approved management program, the Florida Coastal Management Program, consist of the following Florida Statutes and their implementing regulations in the Florida Administrative Code. The authority derived from these statutes is applied by the state agencies charged with their implementation to ensure protection of Florida's coastal resources.

Chapter 161	Beach and Shore Preservation
Chapter 163, Part II	Intergovernmental Programs: Growth Policy; County and Municipal Planning; Land Development Regulation <i>Enforceable policy includes only Sections 163.3164; .3177(6)(a), (10)(h&amp;l), &amp; (11)(a&amp;c); .3178(1) &amp; (2)(d-j); .3180(2)(a-c), (5)(a&amp;c), (6), &amp; (8); .3194(1)(a); .3202(2)(a-h); and .3220(2)&amp;(3)</i>
Chapter 186	State and Regional Planning
Chapter 252	Emergency Management
Chapter 253	State Lands <i>Section 253.61(1)(d) is not approved as enforceable policy</i>
Chapter 258	State Parks and Preserves
Chapter 259	Land Acquisitions for Conservation or Recreation
Chapter 260	Florida Greenways and Trails Act
Chapter 267	Historical Resources
Chapter 288	Commercial Development and Capital Improvements
Chapter 334	Transportation Administration
Chapter 339	Transportation Finance and Planning
Chapter 373	Water Resources
Chapter 375	Outdoor Recreation and Conservation Lands
Chapter 376	Pollutant Discharge, Prevention and Removal
Chapter 377	Energy Resources <i>Sections 377.06, .24(9), and .242(1)(a)5 are not approved as enforceable policy</i>
Chapter 379	Fish and Wildlife Conservation <i>Sections 379.2551 and .362 are not approved as enforceable policy</i>
Chapter 380	Land and Water Management <i>Section 380.23(3)(d) is not approved as enforceable policy</i>
Chapter 381	Public Health; General Provisions <i>Enforceable policy includes only Sections 381.001, .0011, .0012, .006, .0061, .0065, .0066, and .0067</i>
Chapter 388	Mosquito Control
Chapter 403	Environmental Control <i>Section 403.7125(2) and (3) are not approved as enforceable policy</i>
Chapter 553	Building Construction Standards <i>Enforceable policy includes only Sections 553.73 and .79</i>
Chapter 582	Soil and Water Conservation
Chapter 597	Aquaculture

**Figure 14-1 Florida Coastal Management Program Statutes**

Department of Economic Opportunity

Department of Environmental Protection

Department of Agriculture and Consumer Services

Department of Health

Department of State, Division of Historical Resources

Department of Transportation

Fish and Wildlife Conservation Commission

Florida Division of Emergency Management

Florida Department of Business and Professional Regulation, Florida Building  
Commission

Northwest Florida Water Management District

St. Johns River Water Management District

South Florida Water Management District

Southwest Florida Water Management District

Suwannee River Water Management District

**Figure 14-2 Florida Coastal Management Program Agencies**

## **PART 2, CHAPTER 15**

# **COASTAL BARRIER RESOURCES**

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## PART 2, CHAPTER 15

# COASTAL BARRIER RESOURCES

### 15.1 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).

This chapter contains the procedures to determine whether a FDOT project is subject to the provisions of the **Coastal Barrier Resources Act of 1982 (CBRA)** which was later amended by the **Coastal Barrier Improvement Act (CBIA) of 1990**, collectively "the Acts", found at **16 U.S.C. §§ 3501-3510**. The chapter also details the coordination, consultation and documentation required to ensure compliance with the Acts. This chapter is only applicable to federally funded projects.

In 1982, the **CBRA** was signed into law (**Pub. L. 97-348**), to preserve the ecological integrity of areas that serve to buffer the U.S. mainland from storms and provide important habitats for fish and wildlife by prohibiting federal expenditures for the development of designated undeveloped coastal barriers and their associated aquatic habitat, including wetlands, estuaries, and inlets. The **CBRA** and **CBIA** required the U.S. Department of the Interior (USDOI) to establish the Coastal Barrier Resource System (CBRS) creating designated "units" or areas that fall under this protection. However, the **CBRA** contains exceptions, described in [Section 15.1.2.1](#), to allow the use of federal funds on certain projects.

Three goals of the **CBRA** are to:

1. Minimize loss of human life by discouraging development in high risk areas;
2. Reduce wasteful expenditure of federal resources; and
3. Protect the natural resources associated with coastal barriers.

The **CBRA** accomplishes these goals by restricting federal expenditures and financial assistances which have the effect of encouraging development of coastal barriers, by

establishing the CBRS, and by considering the means and measures by which the long-term conservation of these fish, wildlife, and other natural resources may be achieved.

### 15.1.1 Types of Coastal Barrier Resources

The **CBRA** defines an “undeveloped coastal barrier” as:

(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that–

(i) consists of unconsolidated sedimentary materials,

(ii) is subject to wave, tidal, and wind energies, and

(iii) protects landward aquatic habitats from direct wave attack; and

(B) all associated aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters; but only if such feature and associated habitats contain few manmade structures and these structures, and man’s activities on such feature and within such habitats, do not significantly impede geomorphic and ecological processes.

Types of coastal barriers include:

1. **Bay barriers** – Coastal barriers that connect two headlands, and enclose a pond, marsh, or other aquatic habitat.
2. **Tombolos** – Sand or gravel beaches that connect offshore islands to each other or to a mainland.
3. **Barrier spits** – Coastal barriers that extend into open water and are attached to the mainland at only one end.
4. **Barrier islands** – Coastal barriers completely detached from the mainland.

The **CBIA** amended the **CBRA** by adding units to the CBRS and establishing a category identified as Otherwise Protected Areas (OPAs). OPAs are undeveloped coastal barriers within the boundaries of lands reserved as wildlife refuges, parks, or areas for other conservation purposes. New construction within OPAs cannot receive federal flood insurance unless it conforms to the purposes for which the area is protected. No other restrictions are placed on federal expenditures in these areas.

In Florida, CBRS units (i.e. specific coastal barriers) have been designated along the Atlantic and Gulf Coasts. The U.S. Fish and Wildlife Service (USFWS) issues maps identifying the boundaries of CBRS units and OPAs. These maps can be found on the USFWS website (see [Section 15.3](#) for website).



## 15.1.2 Limitations on Federal Expenditures

The **CBRA** restricts most federal or financial assistance for development within the boundaries of designated coastal barrier units, except for OPAs identified on maps of the System. The **CBRA** defines financial assistance as "any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect federal assistance." **Section 5** of the **CBRA (16 U.S.C. § 3504)** provides that no new expenditures or new financial assistance may be made available under authority of any federal law for any purpose within the CBRS, including, but not limited to:

1. Construction or purchase of any structure, appurtenance, facility, or related infrastructure;
2. Construction or purchase of any road, airport, boat landing facility, or other facility within a CBRS unit;
3. Construction of a bridge or causeway leading to any CBRS unit; and
4. Assistance for erosion control or stabilization of any inlet, shoreline, or inshore area, except in certain emergencies.

### 15.1.2.1 Exceptions to Limitations on Federal Expenditures

Exceptions to the prohibition on financial assistance are provided in **Section 6** of the **CBRA (16 U.S.C. § 3505)**. Listed below are summaries of the exceptions that may be applicable to FDOT:

A federal expenditure is allowable within CBRS units if it meets any of the following exceptions [**16 U.S.C. § 3505(a)(1)-(5)**]:

1. Maintenance or construction of improvements to existing federal navigation channels (including the Intracoastal Waterway) and related structures (such as jetties), including disposal of dredge materials related to such maintenance or construction.
2. The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system.
3. Construction, operation, maintenance, and rehabilitation of U.S. Coast Guard (USCG) facilities and access to them.

A federal expenditure is allowable within CBRS units if it meets any of the following exceptions [**16 U.S.C. § 3505(a)(6)**] and is also consistent with the three purposes of the **CBRA**:

1. Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats,

- and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.
2. Scientific research, including aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.
  3. Maintenance, replacement, reconstruction, or repair, but not the expansion (except for U.S. Highway 1 in the Florida Keys) of publicly owned or publicly operated roads, structures, or facilities; (All highways on the federal network are essential links in a larger network or system)
  4. Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore a natural stabilization system

### 15.1.3 Consultation Overview

For projects which may qualify for exception under **Section 6** of **CBRA**, the consultation requirements described in the Advisory Guidelines contained in the **48 Federal Register (FR) 45664, 10/06/1983**, must be satisfied. Under these guidelines, the USFWS must be consulted with and allowed to comment on the proposed action prior to commitment of federal funds. The USFWS will provide comments and determine if the federal action is consistent with the **CBRA**. Consultation with USFWS is not required in areas identified as OPAs.

Projects which are not eligible for federal funding under **Section 5** of the **CBRA** are either removed from FDOT's Work Program or assigned for state or local funds. This determination occurs during the Planning phase (see [Section 15.2](#)).

For other projects that are within, or in the vicinity of a coastal barrier resource, the consultation process is completed during the project development phase as described in this chapter. The consultation process is shown in [Figure 15-1](#).

## 15.2 PROCEDURE

The following procedures apply to Type 2 Categorical Exclusions (Type 2 CEs), Environmental Assessments (EAs), and Environmental Impact Statements (EISs), ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)).

Since funding for a project can be rescinded by Lead Federal Agencies, it is necessary to determine, as early as possible, whether a project is located within, or in the vicinity of, a coastal barrier resource designated under the **CBRA**. This determination should be made during the Planning and/or Programming Screens of the Efficient Transportation Decision Making (ETDM) process ([ETDM Manual, Topic No.650-000-002](#)) and should be discussed during any Statewide Acceleration Transformation (SWAT) team meetings where the Acts may apply.

## 15.2.1 Determining if Provisions of Coastal Barrier Resources Act Apply

The first step is for the District to determine if a project is subject to provisions of the **CBRA**. During the development of the Preliminary Environmental Document (PED), the District should review the CBRS unit maps and include its initial evaluation of coastal barrier involvement for the project ([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)) and review the results of the Geographical Information System (GIS) analysis for the **CBRA** data layer. The unit type on **CBRA** data layer's metadata should identify whether the area is an OPA or CBRS unit. During the screening events, the Environmental Technical Advisory Team (ETAT) will review the PED and available GIS layers in the Environmental Screening Tool (EST). At the end of the Programming Screen, the District should review the information published in the **Programming Screen Summary Report** with attention to any ETAT comments and degree of effect determinations for the Coastal and Marine issue. Comments by USFWS are especially important. If a proposed project is in the vicinity of or leads directly to a designated coastal barrier resource unit that is not otherwise identified as an OPA, then consultation is required with the USFWS.

If the District determines that the project is neither in the vicinity of nor leads directly to a designated coastal barrier resource unit, then no additional documentation is required other than a statement indicating that the coastal barrier resource data layer or maps were reviewed and no resources were identified within the project area.

For projects along coastal areas where the provisions of the **CBRA** could apply but the appropriate review has taken place and it has been determined that there is no CBRS involvement, add the following or similar statement to the Coastal Barrier Resources section of the Environmental Document accordingly:

It has been determined that this project is neither in the vicinity of, nor leads directly to a designated coastal barrier resource unit pursuant to the **Coastal Barrier Resources Act of 1982 (CBRA)** and the **Coastal Barrier Improvement Act of 1990 (CBIA)**.

For projects that are not along coastal areas, the Environmental Document does not require a statement in this regard.

If the District determines that the project is in the vicinity of, or leads directly to a designated coastal barrier resource unit then the USFWS must be consulted as required in [Section 15.2.2](#). Documentation of this coordination is included in the Environmental Document according to [Section 15.2.3](#). Consultation with USFWS is not required for projects designated as OPA units.

## 15.2.2 Consultation Requirements

The District is responsible for preparing the following:

1. A transmittal letter, which includes the following 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 December 14, 2016 and executed by FHWA and FDOT.*

2. A description of the proposed action.
3. A map showing the project location, the CBRS unit(s), and a reference to the appropriate CBRS unit map (see link under [Section 15.3](#)).

This information is sent to the local field office of the USFWS with a copy to the District's USFWS ETAT representative. See [Figure 15-2](#) to determine the appropriate field office and mailing address.

The subject line of the transmittal letter should contain the project's ETDM Number, Financial Management Number, and Federal-Aid Project Number (if available). A statement should be made to the effect that:

This project information package is being provided to you to initiate consultation in compliance with the **Coastal Barrier Resources Act (CBRA)**. The subject project and its relationship to a federally-designated coastal barrier resource is described in this package.

Please review the attached information and provide the District Environmental Engineer/Manager a written opinion regarding whether the project meets the exception under **Section 6** of **CBRA** within thirty (30) calendar days.

### 15.2.3 Documentation in Environmental Document

Documentation in Type 2 CEs, EAs, and EISs is necessary if the project is subject to the consultation requirements of the **CBRA**.

**For Type 2 CEs** – The consultation process and final determination should be briefly summarized in the **Type 2 Categorical Exclusion Determination Form** as appropriate based on the outcome of the consultation. The correspondence and other documents developed during the consultation process should be contained in the project file in the StateWide Environmental Project Tracker (SWEPT) and referenced in the **Type 2 Categorical Exclusion Determination Form**.

**For an EA or EIS** – The consultation process and final determination should be summarized in the Coastal Barrier Resources sub section of the Environmental Analysis section. The correspondence and other documents developed during the consultation process should be referenced and contained in the Appendix.

## 15.3 REFERENCES

Coastal Barrier Improvement Act of 1990

Coastal Barrier Resources Act of 1982

Coastal Barrier Resources Reauthorization Act of 2000

Coastal Barrier Resources Reauthorization Act of 2005

FR, 1982. Coastal Barrier Resources Act; Delineation Criteria. FR Vol. 47, No. 158

FR, 45664, 08/06/1983

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.

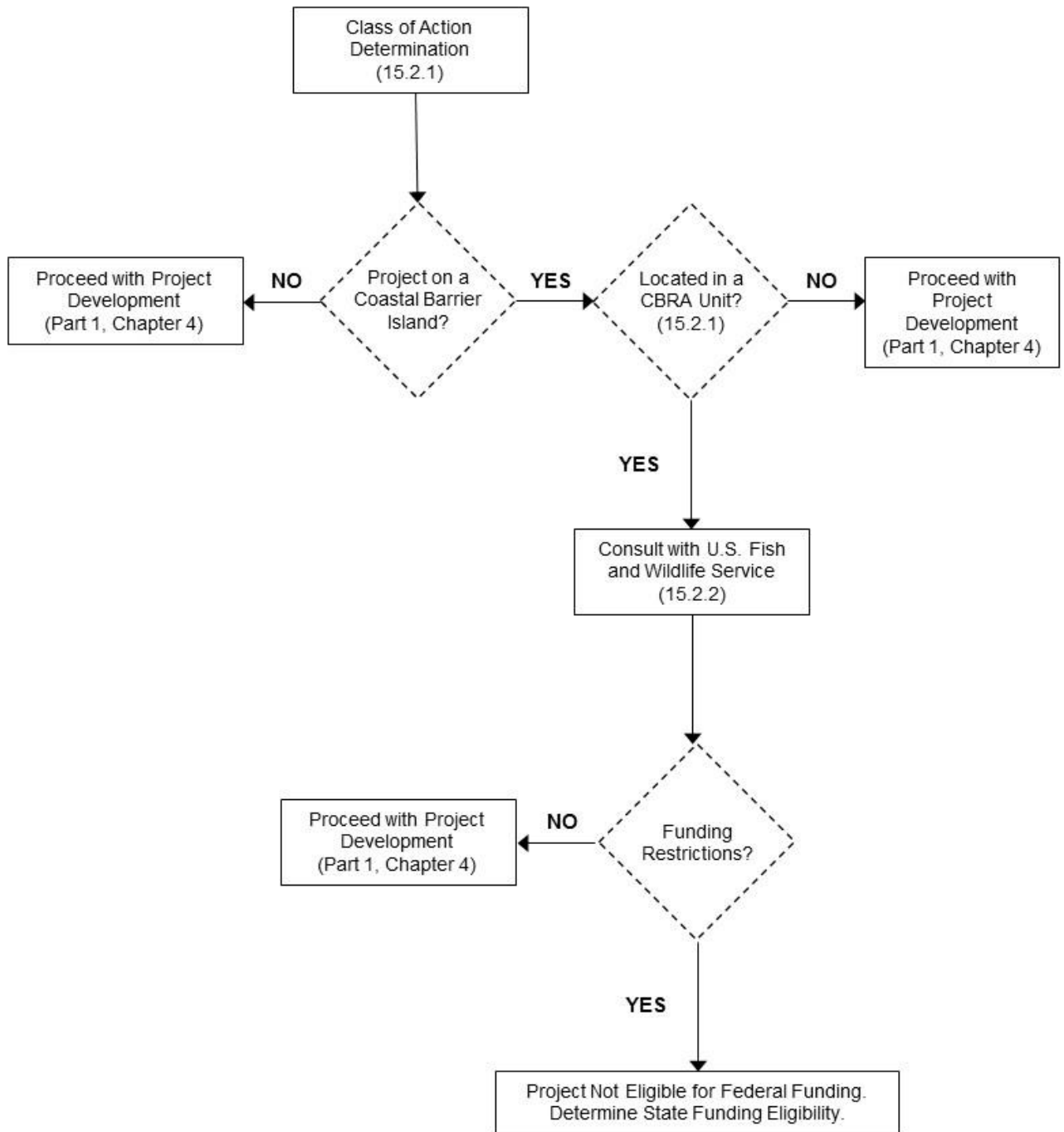
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Public Law 97-348 – October 18, 1982

USFWS website link to CBRS unit maps: <https://www.fws.gov/cbra/maps/index.html>

## 15.4 HISTORY

8/18/2000, 2/1/2011, 7/15/2016, 7/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 26, 1/14/2019



**Figure 15-1 Coastal Barrier Resources Act Consultation**

## **Process United States Fish and Wildlife Service**

### **Vero Beach**

#### **[FDOT Districts 1, 4, 5, 6 (Osceola Co. only)]**

CBRA Consultation  
South Florida Ecological Services Field Office  
1339 20th Street  
Vero Beach, FL 32960  
Phone: (772) 562-3909  
Fax: (772) 562-4288  
<http://www.fws.gov/verobeach/>

### **Panama City**

#### **(FDOT District 3)**

CBRA Consultation  
Panama City Ecological Services Field Office  
1601 Balboa Avenue  
Panama City, FL 32405  
Phone: (850) 769-0552 x232  
Fax: (850) 763-2177  
<http://www.fws.gov/panamacity/>

### **Jacksonville**

#### **[FDOT Districts 1, 2, 5, 7 (Manatee Co. only)]**

CBRA Consultation  
North Florida Ecological Services Field Office  
7915 Baymeadows Way, Suite 200  
Jacksonville, FL 32256-7517  
Phone: (904) 731-3336  
Fax: (904) 731-3045  
<http://www.fws.gov/northflorida/>

**Figure 15-2 United States Fish and Wildlife Service Contacts**

## **PART 2, CHAPTER 16**

### **PROTECTED SPECIES AND HABITAT**

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## PART 2, CHAPTER 16

# PROTECTED SPECIES AND HABITAT

### 16.1 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).

#### 16.1.1 Purpose and Use

This chapter provides procedures for determining effects of transportation projects on protected species and habitat. The chapter also provides guidance on coordinating with natural resource agencies to ensure compliance with the **Endangered Species Act (ESA) of 1973**, as amended, and the **Florida Endangered and Threatened Species Act, Section 379.2291, Florida Statutes (F.S.)**. The term protected species is used throughout this chapter as a general term for species that are protected by law, regulation, or rule. When the term listed species is used, it refers to species that are identified as threatened or endangered at the federal or state level. This chapter also provides guidance on documenting protected species and habitat impacts, coordination with natural resource agencies, and related commitments. Guidance on consultation with natural resource and regulatory agencies, documentation, and procedures during Design (permitting) and Construction phases, as well as emergency consultation with resource agencies is also provided.

#### 16.1.2 Definitions

**Action agency** – Any department or agency of the United States proposing to authorize, fund, or carry out an action under existing authorities (**Endangered Species Glossary**).

**Action area** - All areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action [**50 Code of Federal Regulations (CFR) § 402.02**].

**Adverse modification (or destruction) of critical habitat** - A direct or indirect alteration that appreciable diminishes the value of critical habitat as a whole for the conservation of a listed species (**50 CFR § 402.02**).

**Affect/Effect** - To affect (a verb) is to bring about a change (“The proposed action is likely to adversely affect piping plovers nesting on the shoreline”). The effect (usually a noun) is the result (“The proposed highway is likely to have the following effects on the Florida scrub jay”). “Affect” appears throughout **Section 7** regulations and documents in the phrases “may affect” and “likely to adversely affect.” “Effect” appears throughout **Section 7** regulations and documents in the phrases “adverse effects,” “beneficial effects,” “discountable effects”, “effects of the action,” and “no effect”.

**Biological Assessment (BA)** - Information prepared by, or under the direction of, a Lead Federal Agency to determine whether a proposed action is likely to: (1) adversely affect listed species or designated critical habitat; (2) jeopardize the continued existence of species that are proposed for listing; or (3) adversely modify proposed critical habitat. **BAs** must be prepared for "major construction activities". The outcome of the **BA** determines whether formal consultation or a conference opinion is necessary (**50 CFR § 402.02, 50 CFR § 402.12**).

**Biological Opinion (BO)** - Document which includes: (1) the opinion of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) as to whether a federal action is likely to jeopardize the continued existence of listed species, or result in the destruction or adverse modification of designated critical habitat; (2) a summary of the information on which the opinion is based; and (3) a detailed discussion of the effects of the action on listed species or designated critical habitat [**50 CFR § 402.02, 50 CFR § 402.14(h)**].

**Candidate species** - Plant and animal taxa considered for possible addition to the List of Endangered and Threatened Species pursuant to the **ESA**. These are taxa for which USFWS has on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposal to list, but issuance of a proposed rule is currently precluded by higher priority listing actions [**61 Federal Register (FR) 7596-7613 (February 28, 1996)**].

**Compensatory Mitigation** - Serves to compensate for unavoidable impacts to species or habitat by replacing or providing substitute resources having similar functions of equal or greater ecological value.

**Conference** - Process of early interagency cooperation involving informal or formal discussions between a federal agency and USFWS or NMFS pursuant to **Section 7(a)(4)** of the **ESA** regarding the likely impact of an action on proposed species or proposed critical habitat. Conferences are: (1) required for proposed federal actions likely to jeopardize the continued existence of a proposed species, or destroy or adversely modify proposed critical habitat; (2) designed to help federal agencies identify and resolve potential conflicts between an action and species conservation early in a project's planning; and (3) designed to develop recommendations to minimize or avoid adverse

effects to proposed species or proposed critical habitat (**50 CFR § 402.02, 50 CFR § 402.10**).

**Conservation measures** - Actions to benefit or promote the recovery of listed species that are included by the federal agency as an integral part of the proposed action. These actions will be taken by the resource agency or applicant, and serve to minimize or compensate for project effects on the species under review. These may include actions taken prior to the initiation of consultation, or actions which the federal agency or applicant have committed to complete in a **BA** or similar document.

**Conservation recommendations** - The Service(s)'s non-binding suggestions resulting from formal or informal consultation that: (1) identify discretionary measures a federal agency can take to minimize or avoid the adverse effects of a proposed action on listed or proposed species, or designated or proposed critical habitat; (2) identify studies, monitoring, or research to develop new information on listed or proposed species, or designated or proposed critical habitat; and (3) suggestions on how an action agency can assist species conservation as part of its action and in furtherance of the authorities under **Section 7(a)(1)** of the **ESA; 50 CFR § 402.02**.

**Constituent elements** - Designated or proposed critical habitat essential to the conservation of the species takes into consideration both physical and biological features, including, but not limited to: (1) space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and (5) habitats that are protected from disturbance or are representative of the historic geographic and ecological distributions of a species as prescribed by **50 CFR § 424.12(b)**. **Primary constituent elements** are specific elements of physical or biological features that provide for a species' life history processes and are essential to species conservation.

**Critical habitat** - For listed species consists of: (1) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of **Section 4** of the **ESA**, on which are found those physical or biological features (constituent elements) (a) essential to the conservation of the species and (b) which may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of **Section 4** of the **ESA**, upon a determination by the Secretary that such areas are essential for the conservation of the species (**16 U.S.C. § 1532-1533**). Designated critical habitats are described in **50 CFR § 17 and § 226**.

**Effects of the action** – All consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the propose action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside of the immediate area involved in the action (**50 CFR § 402**).

**Environmental baseline** – Refers to the condition of the listed species or its designated critical habitat in the action area, without the consequences to the listed species or designated critical habitat caused by the proposed action. The past and present impacts of all federal, state, or private actions and other human activities in an action area, the anticipated impacts of all proposed federal projects in an action area that have already undergone formal or early **Section 7** consultation, and the impact of state or private actions that are contemporaneous with the consultation in process. The consequences to listed species or designated critical habitat from ongoing agency activities or existing agency facilities that are not within the agency's discretion to modify are part of the environmental baseline (**50 CFR § 402**).

**Essential Fish Habitat (EFH)** - Those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. For the purpose of interpreting the definition of essential fish habitat: "Waters" include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; "substrate" includes sediment, hard bottom, structures underlying the waters, and associated biological communities; "necessary" means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem; and "spawning, breeding, feeding, or growth to maturity" covers a species' full life cycle. EFH is described in **Fishery Management Plans**, and is approved by the Secretary of Commerce acting through the National Oceanic and Atmospheric Administration (NOAA) Fisheries (**50 CFR § 600.10**).

**Formal consultation** - A process between USFWS or NMFS and a federal agency or applicant that: (1) determines whether a proposed federal action is likely to jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat; (2) begins with a federal agency's written request and submittal of a complete initiation package; and (3) concludes with the issuance of a biological opinion and incidental take statement by either USFWS or NMFS. If a proposed federal action may affect a listed species or designated critical habitat, formal consultation is required (except when USFWS or NMFS concur, in writing, that a proposed action "may affect, is not likely to adversely affect" listed species or designated critical habitat) (**50 CFR § 402.02, 50 CFR § 402.14**).

**Findings** - A determination made by the lead agency on the level of impact a proposed action has on a resource. This determination is derived from all known information including coordination/consultation with the resource/regulatory agency.

**Incidental take (federal)** - Take of listed fish or wildlife species that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by a federal agency or applicant, or contractors working on behalf of the applicant (**50 CFR § 402.02**).

**Incidental Take (state)** - Any taking otherwise prohibited, if such taking is incidental to, and not the purpose of the carrying out of an otherwise lawful activity [**Chapter 68A-27.001(5), Florida Administrative Code, (F.A.C.)**].

**Incidental Take Statement (federal)** - The part of a non-jeopardy **BO** that estimates the amount or extent of incidental take of listed species anticipated from the action subject to consultation as authorized under **50 CFR § 402.14(i)** and the resulting incidental take will not violate **ESA Section 9 (16 U.S.C. § 15.38)** take prohibitions.

**Indirect effects** - Those effects that are caused by or will result from the proposed action and are later in time, but are still reasonably certain to occur (**USFWS and NMFS, 1998**).

**Informal consultation** - An optional process that includes all discussions and correspondence between the Service(s) and a federal agency or designated non-federal representative, prior to formal consultation, to determine whether a proposed federal action may affect listed species or critical habitat. This process allows the federal agency to utilize the Services expertise to evaluate the agency's assessment of potential effects or to suggest possible modifications to the proposed action which could avoid potentially adverse effects. Upon receipt of a written request for concurrence, the Service shall provide written concurrence or non-concurrence within 60 days. If a proposed federal action may affect a listed species or designated critical habitat, formal consultation is required (except when USFWS or NMFS concur, in writing, that a proposed action "may affect, is not likely to adversely affect" listed species or designated critical habitat) (**50 CFR § 402.02, 50 CFR § 402.13**).

**Jeopardize the continued existence of** - To engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (**50 CFR § 402.02**).

**Listed species (federal)** - Any species of fish, wildlife or plant which has been determined to be endangered or threatened under **Section 4** of the **ESA**. Listed species are found in **50 CFR § 17.11-17.12 (50 CFR § 402.02)**.

**Listed species (state)** - Animal species listed as state-designated threatened or of special concern by the Florida Fish and Wildlife Conservation Commission (FWC) in **Chapter 68A-27, F.A.C.**; plant species listed by the state as Endangered, Threatened, or Commercially Exploited on the **Regulated Plant Index (5B-40.0055, F.A.C.)**.

**Major Construction Activity** - A construction project (or other undertaking having similar physical impacts) which is a major federal action significantly affecting the quality of the human environment as referred to in the **NEPA, [42 U.S.C. § 4332(2)(C), 50 CFR § 402.02]**. Under **NEPA** major construction activities require Environmental Impact Statements.

**May affect** - The appropriate conclusion when a proposed action may pose **any** effects, detrimental or beneficial on listed species or designated critical habitat. May affect includes both "may affect not likely to adversely affect" and "may affect, likely to adversely affect" determinations. A determination of "may affect" without a "not likely to adversely affect" or "likely to adversely affect" determination should not be submitted to the Service(s) as a finding (**USFWS and NMFS, 1998**).

**May affect, not likely to adversely affect** - The appropriate conclusion when effects on listed species are expected to be discountable, insignificant, or completely beneficial. "Beneficial effects" are contemporaneous positive effects without any adverse effects to the species. "Insignificant effects" relate to the size of the impact and should never reach the scale where a take occurs. "Discountable effects" are those extremely unlikely to occur. Based on best judgment, a person would not: (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur (*USFWS and NMFS, 1998*).

**May affect, likely to adversely affect** - The appropriate finding in a **BA** (or conclusion during informal consultation) if any adverse effect to listed species may occur as a direct or indirect result of the proposed action or its interrelated actions or interdependent actions, and the effect is not: discountable, insignificant, or beneficial (see definition of "may affect, not likely to adversely affect"). In the event the overall effect of the proposed action is beneficial to the listed species, but is also likely to cause some adverse effects, then the proposed action "is likely to adversely affect" the listed species. If an incidental take is anticipated to occur as a result of the proposed action, a "may affect, is likely to adversely affect" determination should be made. A "may affect, is likely to adversely affect" determination requires the initiation of formal **Section 7** consultation (*USFWS and NMFS, 1998*).

**Natural Resources Evaluation (NRE)** - An FDOT technical report that provides documentation of protected species and habitat, wetland, and EFH issues to supplement the Environmental Document. The **NRE** may be sent to USFWS or NMFS to serve as a **BA** when necessary, but also includes information on state listed species and other protected species and habitat.

**No effect** - The appropriate conclusion when the action agency determines its proposed action will not affect a listed species or designated critical habitat (e.g., no effect whatsoever, neither detrimental nor beneficial). Concurrence from USFWS or NMFS is not required (*USFWS and NMFS, 1998*).

**Primary constituent element** – see Constituent Element definition.

**Proposed critical habitat** - Habitat proposed in the **FR** to be designated as critical habitat, or habitat proposed to be added to an existing critical habitat designation, under **Section 4** of the **ESA** for any listed or proposed species (**50 CFR § 402.02**).

**Proposed species** - Any species of fish, wildlife or plant that is proposed in the **FR** to be listed under **Section 4** of the **ESA** (**50 CFR § 402.02**).

**Protected species** - In this chapter this term is used for species that are protected by federal or state regulations such as the **ESA**, **Migratory Bird Treaty Act of 1918**, **Marine Mammal Protection Act of 1972**, **F.S.**, **F.A.C.**, etc.

**Reasonable and prudent alternatives** - Alternative actions identified during formal consultation that can be implemented in a manner consistent with the intended purpose



of the action, that can be implemented consistent with the scope of the federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that USFWS or NMFS believe would avoid the likelihood of jeopardizing the continued existence of listed species or the destruction or adverse modification of designated critical habitat. These are applicable only when the Service determines an action is likely to result in jeopardy or adverse modification (**50 CFR § 402.02**).

**Reasonable and prudent measures** - Actions the Service(s)'s Director believes necessary or appropriate to minimize the impacts, i.e., amount or extent, of incidental take (**50 CFR § 402.02**). These measures are considered nondiscretionary (mandatory) if a jeopardy or adverse modification opinion is to be avoided.

**Service(s)** - USFWS or NMFS (or both).

**Take (federal)** - To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct [**16 U.S.C. § 1532(19)**]. "Harm" is further defined by USFWS to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering. "Harass" is defined by USFWS as actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering (**50 CFR § 17.3**).

**Take (State)** - To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct (**Chapter 68A-27, F.A.C.**). The term "harm" in the definition of take means an act which actually kills or injures fish or wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. The term "harass" in the definition of take means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering.

**Technical Assistance** – any coordination between FDOT and the Service(s) outside of defined Section 7 consultation procedures, primarily when FDOT is not the action agency.

**Technical memo** - A brief memorandum documenting the species evaluation for projects with little to no impacts to protected species and habitat and do not require consultation with the Service(s) or coordination with FWC.

### 16.1.3 Legislative Authority

**Section 7(a)(2)** of the **ESA (16 U.S.C. § 1536)** requires federal agencies to consult with USFWS or the NMFS, as appropriate, to ensure that federally funded or authorized actions are not likely to jeopardize the continued existence of federally endangered or threatened species, or result in the destruction or adverse modification of designated critical habitat. The term "critical habitat" has a specific legal meaning and is a term

defined and used in the **ESA (16 U.S.C. § 1532)**. It pertains to specific geographic areas that contain features essential to the conservation of threatened or endangered species and may require special management and protection (**USFWS, 2013**). Generalized maps and detailed legal descriptions of critical habitat can be obtained through USFWS and/or **Federal Register (FR)** notices.

The Secretary of the U.S. Department of Interior (DOI), acting through USFWS, and the Secretary of the U.S. Department of Commerce, acting through NMFS, hereinafter referred to as the Services, are mandated to protect and conserve all forms of wildlife, plants, and marine life they find in serious jeopardy. In general, USFWS coordinates **ESA** activities for terrestrial and freshwater species and NMFS coordinates **ESA** activities for marine and anadromous species. Consultation responsibilities are shared for some species, (e.g., marine sea turtles and the anadromous Gulf sturgeon) which may be present in different habitats depending on the season or their life cycle stage.

Amendments to the **ESA** in 1978, 1979 and 1982 changed the consultation requirements of **Section 7** and established the implementing regulations (**50 CFR Part 402**). These procedures allow federal agencies to consolidate **Section 7** requirements with interagency cooperation procedures required by other statutes, such as **NEPA (42 U.S.C. 4321 et seq.)**. **Section 7** requirements are met through the environmental review process, **NEPA** and environmental permitting.

**Section 404** of the **Clean Water Act of 1972 (CWA)** regulates the discharge of dredged or fill material into waters of the United States. The Environmental Protection Agency (EPA) provides oversight of the **Section 404** program and policies, while the U.S. Army Corps of Engineers (USACE) administers the day-to-day program and is responsible for federal wetland determinations and wetland permitting. Impacts to wetlands and other surface waters provide a “nexus” for involvement of the Services as cooperating federal agencies, where the Services advise the USACE or other Lead Federal Agency on the potential for permitted actions to affect federally listed species and their habitat. See [Section 16.3.3.3](#) for more information on permitting.

**Section 9** of the **Rivers and Harbors Act of 1899** and the **General Bridge Act of 1946** gives the U.S. Coast Guard (USCG) the regulatory authority to prevent interference of navigable waters by bridges or other obstructions. The USCG approves the location, plans, and navigable clearances of bridges through the issuance of bridge permits or bridge permit amendments. Bridge permits issued by the USCG also provide a “nexus” for involvement of the Services as cooperating federal agencies, where the Services advise the USCG on the potential for permitted actions to affect federally listed species and their habitat.

The USACE and/or USCG may be required to prepare **NEPA** documents for permit issuance and may participate as a cooperating agency on a transportation project. As cooperating agencies, USACE and USCG routinely adopt FDOT’s **NEPA** document for projects for which they provide federal permits under **Section 404** of the **CWA** or **Section 9** of the **Rivers and Harbors Act of 1899**.

When two or more federal agencies are involved in an activity affecting listed species or critical habitat, one agency is designated as the lead (**50 CFR § 402**), often based on which agency has the principal responsibility for the project (**USFWS and NMFS, 1998**). For transportation projects where FDOT is preparing the **NEPA** document during Project Development and Environment (PD&E), FDOT serves as the Lead Federal Agency and is responsible for consulting with the Service(s) for potential impacts to listed species and critical habitat. For transportation projects where FDOT is not preparing a **NEPA** document, **Section 7** consultation will not be conducted until permitting and the USACE or USCG is the lead agency; however, FDOT can coordinate with the Service(s) for Technical Assistance during PD&E or prior to permitting.

Just as the federal agencies oversee the protection of certain species and resources, the Florida Constitution establishes the FWC, **Article IV, Section 9, Fla. Const.**, entrusted to “exercise the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, and . . . marine life.” These powers and duties are further carried out through the legislative directives enacted in **Chapter 379, F.S.**, and embodied in the implementing regulations adopted in **Chapter 68, F.A.C.** Similarly, the Florida Department of Agriculture and Consumer Services (FDACS) oversees the protection of native plants through **Chapter 5B-40, F.A.C.**

#### 16.1.4 Protected Species and Habitat Evaluation Process Summary

[Figure 16-1](#) provides a flow chart of the protected species and habitat evaluation process. Involvement with protected species and wildlife habitat is evaluated for transportation projects regardless of whether the project is required to meet **NEPA** or state requirements. Similarly, this evaluation should take place regardless of Class of Action (COA) or whether the project qualifies for screening through the Efficient Transportation Decision Making (ETDM) process. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#), for project types qualifying for ETDM screening. [Section 16.3.1.1](#) provides guidance for documenting protected species and habitat evaluation for projects not qualifying for ETDM screening.

For projects that qualify for screening, species and habitat evaluation begins during the Planning or Programming Screen as explained in [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#). As part of the screening event, the District requests an official species list from the Service(s) Environmental Technical Advisory Team (ETAT) members and a list from the FWC ETAT members for state listed, or other protected species.

The District first reviews information from the **Programming Screen Summary Report**, then gathers information from various sources to aid in the determination of potential involvement with a federally listed threatened or endangered species, proposed threatened or endangered species, or designated or proposed critical habitat ([Section 16.3.1.2.1](#)) within the action area. Information should also be collected on state listed species, habitat connectivity, areas that are ecologically important, and species that are otherwise protected by regulation. This information is field verified during project development and then evaluated to determine the effects of the proposed action to each

species and habitat. This evaluation on protected species and habitats is compiled into an **NRE**, or technical memo when appropriate, and submitted to federal and state agencies for concurrence and/or review (see [Natural Resources Evaluation Outline and Guidance](#)).

If federally listed species or critical habitat have the potential to be within the action area, then consultation with the Service(s) may be necessary. Consultation may be as simple as a brief informal consultation or may require a more in depth formal consultation ([Section 16.2.2.1](#)). In addition, if state listed species have the potential to be present within the action area, then coordination with FWC is recommended.

A project requires an official federal document, called a **Biological Assessment (BA)**, if federally listed species or critical habitat may be present in the action area that requires an Environmental Impact Statement (EIS) (**50 CFR § 402.12**) or if a project's proposed action results in a determination of "may affect, is likely to adversely affect" (see [Section 16.1.2](#) for definitions of the different effect determinations). In these cases, the District will request that OEM initiate formal consultation under **Section 7** of the **ESA** ([Section 16.2.2.1](#)) for federal projects. For projects where **Section 7** consultation will be conducted by USACE or USCG during permitting, FDOT can request Technical Assistance from the Service(s) during PD&E. An **NRE** can be submitted to the Services for use as a **BA**. Formal consultation results in a **Biological Opinion (BO)** from the Services that determines whether a proposed action is likely to jeopardize the continued existence of a listed species (jeopardy), or destroy or adversely modify critical habitat (adverse modification).

Information on state listed species and valuable natural habitats should also be collected for the project. FDOT must evaluate projects for compliance with the **Florida Endangered and Threatened Species Act of 1977 (Chapter 379, F.S., Chapter 68A-27, F.A.C., Chapter 5B-40, F.A.C.)**. Involvement with state listed or otherwise protected species and natural areas (e.g., Strategic Habitat Conservation Areas (SHCAs), Florida Natural Areas Inventory (FNAI) rare natural communities) should be discussed. Impacts to these species and habitats should be discussed in the Environmental Document and associated technical reports (i.e., **NRE**, technical memo).

For off-project activities associated with construction of the project the District follows the same procedures for identifying possible involvement with protected species or habitat ([Section 16.3.3.5](#)).

### **16.1.5 Key Points for Protected Species and Habitat Coordination Process**

1. Engage in early, continual, and strategic coordination with resource and regulatory agencies (i.e., USFWS, NMFS, FWC, USACE).
2. For projects qualifying for ETDM screening, information from the screening should be used to prepare the scope of services for the PD&E Study and focus the protected species and habitat analysis/impact assessment.

3. Projects with protected species and habitat involvement need to be evaluated and addressed regardless of the type of Environmental Document. This evaluation should be appropriate to the scope of the project. The level of detail should be weighed according to the ecological importance and distribution of affected species and intensity of potential impacts of the project.
4. Coordinate internally with FDOT PD&E, Design, and Construction staff (as applicable) throughout the process (e.g., ETDM screening, analysis, impact assessment, making commitments). Since PD&E Studies may result in commitments developed to address the specific protected species and habitat issues of a project, it is critical that appropriate internal coordination efforts within the District occur before commitments are made.
5. Consultation may be needed with the applicable Service when federally listed species and/or critical habitat may exist within the action area. This may be informal consultation or may require the initiation of formal consultation by the Lead Federal Agency.
6. Request concurrence from the Services. Concurrence is not required for determinations of “no effect” or when use of a programmatic key indicates that a “may affect, not likely to adversely affect” determination does not require further consultation. A species key can only be used when the scope of the key is applicable to the project and all appropriate conservation measures are carried out, as required.
7. If an issue is identified during consultation that could affect completion of the consultation process, the District must inform OEM to determine the appropriate course of action.
8. The contents of the **NRE** are summarized in the Environmental Document, including effect determinations, dates of concurrence, and/or outcomes of consultation.

## 16.2 REGULATORY AGENCY PROCESS

### 16.2.1 Coordination/Consultation/Engagement with Agencies

Effectively addressing protected species and habitat for transportation projects depends on engaging the various federal and state resource and regulatory agencies by adhering to the three generalized coordination principles outlined below. The key elements of successful agency coordination can be summarized as follows: “**Early, continual, and strategic coordination**”.

**Early coordination** - Engagement with federal and state agencies should occur as early in the project as appropriate. For projects screened through the ETDM process, official agency engagement may occur during the Planning Screen, or more commonly during the Programming Screen (see [Section 16.3.1.2.1](#)). The overall goal of early engagement during the PD&E phase is to be **proactive** in identifying potentially protected species and habitat, and then **actively coordinating** with wildlife and other agencies to formulate

strategies and responses that address those resources. Early coordination with agencies provides an important opportunity for the agencies to review data and analyses that have been developed, and to discuss the steps for advancing protected species/habitat coordination for the PD&E Study. It also aids in the development of alternatives and informs permitting and future phases.

**Continual coordination** - Continual engagement with agencies involves communication to determine the level of assessment and documentation required; confirm which species and/or habitats may be affected by the project; decide whether informal or formal **Section 7** consultation is required; and obtain agency confirmation for effect determinations, as appropriate. Continual coordination promotes an **ongoing dialog** between FDOT and the resource and regulatory agencies, minimizing the chances of miscommunication or misunderstandings that could delay, complicate, or compromise a project.

**Strategic coordination** - Each project possesses unique circumstances and “facts on the ground.” Strategic coordination involves thoughtful consideration of an **overall strategy** for handling protected species and habitat throughout Planning, PD&E, Design, Construction and Maintenance.

The advantages of developing a strategic approach include:

1. Early awareness of potential protected species/habitat;
2. Avoidance/minimization of potential impacts;
3. Aids in the development of alternatives;
4. A decrease in timeframes for resource and regulatory agency approvals;
5. Supports short or long term surveys, research, species studies, which may be required;
6. Complete documentation for the administrative record; and
7. Seamless transfer of information and commitments into the Design and Construction phases.

## 16.2.2 Endangered Species Act Process

For federally funded, authorized, or implemented projects, **Section 7** of the **ESA** requires consultation with the Service(s) to ensure that actions are not likely to jeopardize the continued existence of federally endangered or threatened species, or result in the destruction or adverse modification of critical habitat. Data collected on federally listed species and critical habitats should be included in an **NRE** or technical memo per the [Natural Resources Evaluation Outline and Guidance](#) document. The **NRE**, coordination meetings, commitments, and consultation with the Services should be summarized in the Environmental Document ([Section 16.3.2.6.2](#)).

It is highly recommended that the District reference the **Endangered Species Consultation Handbook (USFWS and NMFS, 1998)**, if involvement with a federally listed species is possible.

For non-federal projects, such as State Environmental Impact Reports (SEIRs), the Districts **must** coordinate with the Service(s) if the project has the potential to affect federally listed species or critical habitat. It is highly recommended that the data collection process be the same as or similar to what is compiled for federal projects. This can be important in the event that a federal nexus (e.g., federal funding or federal permit) is identified later on in project development.

If no federal nexus exists and listed species may be present, consultation with the Service(s) may determine that **Section 10** of the **ESA**, which authorizes incidental take permit(s) and requires submittal of a Habitat Conservation Plan(s), may apply to the project. District staff should coordinate closely with OEM if no apparent federal nexus exists to determine if **Section 10** consultation may be necessary, as these consultations are usually lengthy and more complex than the **Section 7** process. OEM will coordinate with the Service(s) to determine the process.

### 16.2.2.1 Consultation With Federal Agencies

Interagency consultation with the Service(s) is an administrative review that operates in parallel with the science-based review process used for effects determinations. Overall, the information used for consultation should focus on conducting a thorough review of the effects of the alternative(s) for each listed species and/or critical habitat(s) potentially affected by the action.

Under federal law, each agency shall use the best scientific and commercial data available to complete an interagency consultation (**16 U.S.C. § 1536**). The consultation documentation should lead the reviewer (i.e., the Service) through a discussion of effects to a logical, well-supported conclusion. It is essential that FDOT, as an **action agency** (through **NEPA** Assignment), evaluate and summarize project effects in a logical, objective and scientific manner that clearly supports the ultimate effect determinations and consultation conclusions. For example, **NREs** should not only include appropriate effect determinations, but need to include sufficient supporting evidence and rationale to adequately justify these determinations.

Coordination with the Service(s) involves more than simply submitting documentation and obtaining review comments. **Early** coordination should identify listed species and/or critical habitat present in the action area, and which species and habitats have the potential to be affected by the project. **Continual** coordination requires ongoing communication with the Service(s) to document consensus, to identify areas of disagreement, and to resolve outstanding issues. **Strategic** coordination requires an evaluation of project-related listed species and habitat issues, thoughtful consideration of how to minimize project impacts to listed species and habitats, and an overall approach for conducting an efficient federal coordination/consultation process. Coordination could also include discussion on other protected species.

The coordination/consultation process must be performed for **each** listed species and/or **each** type of critical habitat within the action area that may be affected by the project. The level of federal coordination required (no consultation, informal consultation, or formal consultation) will be determined by each effect determination. [Table 16-1](#) provides a step by step process to follow for each effect determination.

The starting point for an effect determination is the environmental baseline (see [Section 16.1.2](#) for definition). The term “environmental baseline” is not synonymous with “existing conditions.” The environmental baseline “is an analysis of the effects of past and ongoing human and natural factors leading to the current status of the species, its habitat (including designated critical habitat), and ecosystem, within the **action area**” (**USFWS and NMFS, 1998**). It therefore considers not only “existing conditions,” but past activities that have already affected listed species and designated critical habitat, and any other existing/proposed private, local, state, or federal actions that are contemporaneous with FDOT’s proposed action.

The possible effect determinations are “no effect,” “may affect, not likely to adversely affect,” or “may affect, likely to adversely affect” for species or designated critical habitat listed under the **ESA**. For proposed or candidate species or proposed critical habitat, a determination of “is likely to jeopardize proposed/candidate species” or “adversely modify proposed critical habitat” is possible.

Species and/or critical habitat receiving a “no effect” determination are not subject to consultation, but are required to have the appropriate documentation as described in [Section 16.2.2.1.1](#). Species and/or critical habitat(s) subject to a “may affect, not likely to adversely affect” determination are handled via informal consultation unless otherwise agreed upon through a programmatic approach or effect determination key ([Section 16.2.2.1.3](#)). Formal consultation occurs when a “may affect, likely to adversely affect” determination is made for listed species and/or critical habitat ([Section 16.2.2.1.4](#)), and must be initiated through OEM. If one species has a “may affect, likely to adversely affect” determination, then the Service will likely include all potentially involved species in the formal consultation process, regardless of effect determination.

[Figure 16-2](#) provides a flow chart for the federal coordination/consultation process. The flow chart serves as a useful aid for each listed species and/or critical habitat that may be



subject to federal coordination, as an effect determination and subsequent coordination will be required for each one.

The NMFS Southeast Regional Office has procedures for action agencies to submit **Section 7** consultation requests electronically (*NMFS, 2013*). See [Figure 16-3](#). These requests must include all of the relevant project information necessary for the NMFS consulting biologist to clearly understand the project and its potential impacts to listed species. For projects that do not require a **BA**, NMFS has prepared a **Section 7 Checklist** and accompanying guidance to aid in document preparation and submittal (*NMFS, 2013*). The District should copy the NMFS ETAT representative on the electronic submittal, or notify them of the submittal via letter ([Figure 16-4](#)).

Re-initiation of consultation with the Service(s) is required to occur when the **BO** terms and conditions are exceeded. Re-initiation may also be required after initial consultation has been completed due to changes in scope or design of the project, discovery of the presence of listed species, or the listing of new species or designation of critical habitat.

#### 16.2.2.1.1 “No Effect” Determinations

Where FDOT determines that an action will have “no effect” on a listed species or critical habitat (see [Section 16.1.2](#)), consultation with the Service(s) is not required. A “no effect” determination means no effect whatsoever (neither detrimental or beneficial) to a species or critical habitat, in the short term or long term. Although consultation is not required for a “no effect” determination, the analysis supporting it should be documented in the project file, technical memo, or **NRE** as appropriate and in the final Environmental Document.

#### 16.2.2.1.2 Section 7 Consultation

When federally listed species and/or designated critical habitat have the potential to be within the action area and one of the “may affect” determinations apply, consultation with the Service(s) is necessary. There are two types of **Section 7** consultation processes: informal and formal. Informal consultation is a process designed to help determine whether formal consultation is needed. In contrast, formal consultation is a required process when the effect of a proposed action is “may affect, is likely to adversely affect”.

As stated in the *Endangered Species Consultation Handbook (USFWS and NMFS, 1998, E-21)*, “The ‘may affect’ evaluation looks not only at effects on the entire species or local management unit, but also considers the effect on individual members of the species. If even one individual may be affected, the biologist must conclude that there is a ‘may affect’ situation.” A “may affect” determination includes those actions that are “not likely to adversely affect” as well as “likely to adversely affect” federally listed species.

The interaction between effect determinations and consultation procedures are primarily determined by existing conditions (e.g., ecological importance and distribution of listed species, potential listed species presence), combined with the project scope and intensity of potential impacts. In some cases, formal consultation may be unavoidable, as in cases where major construction unavoidably impacts listed species that have a restricted range,

or impacts designated critical habitat for a relatively long distance. However, in other cases, avoidance and minimization efforts can limit impacts to listed species and/or designated critical habitat to a degree that may change an initial “may affect, likely to adversely affect” determination (formal consultation) to a “may affect, not likely to adversely affect” determination that triggers informal consultation.

An effect determination must be reached for each listed species and/or each designated critical habitat within the action area. It takes only one “may affect, likely to adversely affect” determination to trigger formal consultation. If a project impacts only one listed species to a degree where formal consultation is required, it may be advisable to avoid or minimize the impact of a project (if possible) to an extent that justifies a “may affect, not likely to adversely affect” determination.

### 16.2.2.1.3 Informal Consultation

Informal consultation is initiated when federally listed species or designated critical habitat are potentially present within the project’s action area and may be affected by the action. This consultation can provide FDOT the opportunity to implement project scope revisions or conservation activities prior to project implementation. If informal consultation is needed with the Service(s), documentation in the form of an **NRE** is developed by the District.

After OEM review of the **NRE**, the District initiates informal consultation by submitting an **NRE** to the Service(s) for review along with a request for concurrence on the effect determination(s). This information should include reasons supporting the determination, any modifications to the project and/or implementation measures or commitments to reduce impacts, and, if applicable, compensatory mitigation. Upon receipt of a written request for concurrence, the Service must provide written concurrence or non-concurrence within 60 days. This timeframe may be extended upon mutual consent of all parties, but cannot exceed 120 days. Typically, the Service(s) responds to requests for informal consultation in 30 days.

For USFWS, contact the local office in [Figure 16-4](#). Informal consultation with the NMFS is initiated by following the guidance provided in [Figure 16-3](#).

During informal consultation, the District(s) and the Service(s) work together to evaluate potential impacts on listed species and eliminate or reduce potential impacts where possible. In many cases, the ultimate effect determinations may be influenced by project modifications. FDOT and the Service(s) may engage in continual coordination to reach agreement on effect determinations and project modifications necessary to accommodate federally listed species. During informal consultation, coordination with OEM may occur as necessary.

If the Service agrees with the effect determination, it will document that agreement in a concurrence letter. If the Service does not concur with the “may affect, not likely to adversely affect” determination, the Service will send a non-concurrence letter to FDOT and FDOT must either 1) initiate formal consultation through OEM, or 2) modify the project

to avoid adverse impacts. Either option will require continued coordination with the Service(s). It is also possible that the Service may not have enough information to complete consultation (see [Section 16.2.2.1.5](#)).

#### 16.2.2.1.4 Formal Consultation

Formal consultation may be required for any project regardless of the COA. FDOT and the Service(s) work together to determine if options exist that could allow the action to advance without jeopardizing the species' existence or adversely modifying or destroying critical habitat. Although OEM must initiate formal consultation, the Districts work closely with OEM and the Services throughout the formal consultation process.

The differences between informal consultation and formal consultation are that formal consultation:

1. Occurs when there is a “may affect, likely to adversely affect” determination;
2. Must be initiated by OEM;
3. Results in a **BO** which may determine whether the proposed activity will jeopardize the continued existence of a listed species (jeopardy) or destroy or adversely modify critical habitat (adverse modification).

In short, formal consultation is a manageable process that involves a higher level of scrutiny and analysis.

Formal consultation cannot be initiated until the **NRE** is completed by the District and approved by OEM. If the District determines that the action “**may affect, is likely to adversely affect**” listed species or designated critical habitat, then OEM as the action agency initiates formal consultation. OEM, with assistance from the District, sends a written request to the Service(s) which includes an initiation package (**NRE** for FDOT projects) describing the project and its relevance to federally listed species and habitats (see **USFWS and NMFS, 1998, 4-4**). Once the initiation package is received, the Service has 30 working days to review the package for completeness and should provide a written acknowledgement of the consultation request to the action agency. Within the 30-day period, the Service must advise the action agency of any data deficiencies and request additional information to complete the initiation package (see **USFWS and NMFS, 1998, 4-1**).

The formal consultation period officially begins when the Service determines that the initiation package is complete. The **ESA** and **Section 7** regulations require that formal consultation be completed within 90 calendar days [**50 CFR § 402.14(c)**]. The Service strives to issue the **BO** during the formal consultation period, but must deliver the **BO** to the action agency no later than 45 calendar days after the conclusion of formal consultation [**50 CFR § 402.14(e)**]. This 45-day period is often used by the action agency and the Service to review and refine the **BO**. The entire process can take up to 135 days

to complete after the initiation of formal consultation, underscoring the need for “early, continual, and strategic coordination”.

In response to a request for formal consultation and submittal of a **BA** (usually in the form of the **NRE**), the Service issues a **BO**, which is the document with the Service’s opinion as to whether the project “action” is likely to jeopardize the continued existence of a federally listed species or destroy or adversely modify designated critical habitat.

In contrast to “**may affect**” determinations, where individual members of federally listed species are the focus, jeopardy is determined by the Service at the listed species population level. “The determination of jeopardy or adverse modification is based on the effects of the action on the continued existence of the entire population of the listed species or on a listed population, and/or the effect on critical habitat as designated in a final rulemaking” (**USFWS and NMFS, 1998, 4-36**).

For non-jeopardy opinions from the Service(s), the **BO** will contain an **Incidental Take Statement**, which provides exemption from the **ESA Section 9** prohibitions to address actions that may cause an unintentional taking of non-plant species. The **ESA** does not prohibit incidental take of listed plants; however, cautions may be provided in the **BO** on prohibitions against deliberate removal or destruction of plants. Any terms and conditions provided in the **Incidental Take Statement** are “non-discretionary measures that are necessary and appropriate to minimize the impact of incidental take,” in order for the exemption in **Section 7(o)(2)** of the **ESA** to apply (**USFWS and NMFS, 1998, 4-49 and 4-53**). During formal consultations, the key to reaching non-jeopardy opinions is to focus on the avoidance and minimization of project impacts.

If the **BO** reaches a jeopardy or adverse modification conclusion, it will also include reasonable and prudent alternatives and associated reasonable and prudent measures for implementing the project to avoid jeopardy or adverse modification. Note that the Services should include the action agency and applicant in developing reasonable and prudent alternatives and measures. Depending upon project-specific circumstances, several reasonable and prudent alternatives may exist, only one alternative may exist, or no alternatives may exist. Reasonable and prudent measures are the nondiscretionary (mandatory) actions developed for each alternative, which are necessary for a given alternative to avoid a jeopardy or adverse modification opinion. The reasonable and prudent measures developed for each of several alternatives may be the same or different, depending upon the specific alternative. In response to the Services proposed reasonable and prudent alternatives/measures, FDOT may:

1. Adopt the reasonable and prudent alternatives/measures;
2. Not advance the project;
3. Request an exemption from **Section 7(a)(2)**;
4. Modify the action or offer reasonable and prudent alternatives/measures not yet considered, and reinstate consultation; or

5. Proceed with the action if upon review of the **BO**, FDOT believes that such action satisfies **Section 7(a)(2)**.

FDOT must notify the Service(s) of its final decision on any proposed action that receives a jeopardy or adverse modification biological opinion. If FDOT adopts the reasonable and prudent measures, then these nondiscretionary actions must be incorporated into the Environmental Document as commitments.

#### **16.2.2.1.5 Consultation Completion**

For federal projects with a PD&E Study, **ESA** consultation is expected to be completed during the PD&E phase, and summarized in the Environmental Document as required in [Section 16.3.2.6.2](#). In some instances, consultation cannot be completed at this project phase, especially if one of the Services does not have enough information (i.e., project details may not yet be available) to concur with (or not concur with) an FDOT effect determination. In these situations, the Districts should coordinate with OEM. Together OEM and the District will determine the appropriate course of action to advance the project. When consultation cannot be completed during the PD&E phase, the Environmental Document should include a summary of the consultation to date, the reasons why it cannot be completed, documentation that the Service(s) agree to complete consultation prior to construction and that the Service(s) does not anticipate a jeopardy opinion, and any other information that may provide reasonable assurance the requirements will be fulfilled consistent with **23 CFR § 771.133**. Commitments made during this coordination should be included in the Commitments section of the Environmental Document. An update to the commitment(s) must be provided in subsequent project Re-evaluations and **Project Commitment Record (PCR)**.

#### **16.2.2.1.6 Proposed and Candidate Species**

Proposed species are those that are proposed in the **FR** to be listed under **Section 4** of the **ESA**. Species and critical habitat proposed for listing may require a **conference** with the Service(s), according to **ESA Section 7(a)(4)** and **50 CFR § 402.10**, if agency action is likely to jeopardize the continued existence of such proposed species or result in the destruction or adverse modification of proposed critical habitat. Informal conference is an early interagency coordination, similar to informal consultation, where the Service(s) assist in determining effects and may advise on ways to avoid and minimize adverse effects to proposed species or proposed critical habitat. Following informal conference, the Service(s) issue a conference report containing recommendations for reducing adverse effects. These recommendations are advisory until a listing becomes effective – but following the report's recommendations helps avoid future conflicts and the need to reinitiate a consultation once the species is listed or critical habitat is designated.

Formal conference must be initiated by OEM and is required when a project is likely to jeopardize the continued existence of a proposed species, or is likely to adversely modify proposed critical habitat. Formal conference procedures are the same as formal

consultation. The opinion at the end of formal conference is a conference opinion and follows the contents and format of a **BO**. When the species is listed or critical habitat is designated, the Services have the option of adopting the conference opinion as the **BO** for the project. OEM must request the Services to adopt the conference opinion as the **BO** after the species is listed or critical habitat designation is made. An **Incidental Take Statement** issued with a conference opinion does not become effective unless the Services adopt the conference opinion as the **BO** once the species is listed and/or critical habitat is designated (**50 CFR § 402.10; FHWA, 2002**).

**Candidate species** are not proposed for listing, but are species for which the development and publication of proposed rules for listing are anticipated. Effective candidate species conservation may reverse the species decline, ultimately eliminating the need for **ESA** protection. **Section 7** consultation is not required for candidate species though consideration of conservation measures may help to minimize project delays if a candidate species becomes federally listed before construction of a project has been completed (**FHWA, 2002**).

### 16.2.3 Other Federal Protections

Several species that are not federally listed and therefore not subject to **ESA** review may be protected by other federal regulations such as the **Migratory Bird Treaty Act (MBTA)** and/or the **Bald and Golden Eagle Protection Act**. During the PD&E Study, the District should evaluate the projects potential effects on these species.

Pursuant to the **MBTA**, it is unlawful to take, possess, buy, sell, purchase, or barter any migratory bird including feathers or other parts, nests, eggs, or products, except as allowed by implementing regulations. It should be noted that all non-exotic birds in the state of Florida are protected by the **MBTA**. Rules promulgated under the **MBTA (50 CFR Part 21)** prohibit the destruction of active nests (i.e., nests which contain eggs or flightless young) without a federal permit.

The federal **Bald and Golden Eagle Protection Act [(16 U.S.C. § 668-668(d))]** prohibits anyone from taking, possessing, or transporting a bald eagle or golden eagle, or the parts, nests, or eggs of such birds without prior authorization. This includes inactive nests as well as active nests. The USFWS has Bald Eagle Monitoring Guidelines (**USFWS, September 2007**) that provides information for applicants proposing construction activities occurring within 660 feet of an active bald eagle nest during the nesting season. See [Part 1, Chapter 12, Environmental Permits](#), for guidance on permits for the bald eagle, Florida burrowing owl, and osprey.

### 16.2.4 Coordination with State Agencies

The procedures for coordination with the FWC are not as rigidly prescribed as those for the federal process, but the general process, overall goals, and documentation requirements are similar. FDOT places the same emphasis on “early, continual, and strategic coordination” with FWC, to ensure that state-protected species and habitat issues are considered from the earliest planning phase and carried through the PD&E,

Design, and Construction phases of the project. [Figure 16-5](#) provides a flow chart for the state protected species process.

Coordination with FWC focuses on state listed wildlife species and habitats as well as other protected species (e.g., bears, bats). In order to avoid regulatory duplication for threatened and endangered species, the following state rule applies: “Activities that result in take or incidental take of federally-designated Endangered and Threatened Species do not require a permit from the Commission when authorized by the U.S. Fish and Wildlife Service or the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service...” (**Rule 68A-27.007, F.A.C.**). Some species that are federally protected may also require coordination with FWC, such as Florida manatees and sea turtles.

For projects that qualify for ETDM screening, the ETDM process initiates the project-level coordination with FWC, as FWC is represented on the ETAT that participates in the Planning and/or Programming Screens ([Section 16.3.1.2](#)). The FWC ETAT should provide focused comments and a list of state listed species, or otherwise protected species that should be considered/analyzed during the PD&E Study ([Section 16.3.1.2.1](#)).

As the coordination with FWC progresses, through the PD&E Study, issues related to particular state listed species, other protected species, and habitats are addressed, and FWC comments are documented via correspondence and/or memos. The FWC typically requests that effect determinations, similar to those made for federally listed species ([Section 16.2.2.1](#), see also the [Natural Resources Evaluation Outline and Guidance](#)), be made for state listed species. The coordination process continues throughout the PD&E process, and commitments to FWC (e.g., wildlife crossing, species-specific survey) are recorded in the Environmental Document. Species-specific surveys or permitting may be necessary after conclusion of the PD&E phase.

### 16.2.5 Listed Plant Species

Under federal law, activities that may impact federally-listed plant species are subject to regulation under the **ESA**. Destruction, damage or relocation of protected plants is not prohibited unless these activities take place on federal lands or are otherwise in violation of state law on other lands.

In cases where projects may impact lands under federal jurisdiction (commonly National Forests, National Park Service lands, National Wildlife Refuges, military bases, and areas designated as critical habitat), USFWS can determine through **Section 7** consultation that there are no other options available and that the action will not jeopardize the continued existence of the species. In those cases, USFWS may authorize destruction of plants on federal lands.

Input from the ETAT representatives during ETDM screening should identify federally listed plant species that may occur within the action area. Coordination with the appropriate agencies for federally listed plant species is always included as part of the federal consultation process, if any listed plant species are potentially present. Should

federally listed plant species be identified within the action area, they need to be considered together with listed wildlife species during consultation to avoid and minimize overall project impacts. Based on consultation with USFWS, listed plants may be transplanted to suitable habitats or removed for propagation (typically in coordination with conservation agencies) in order to avoid direct impacts.

The only federally listed marine plant species, Johnson's seagrass (*Halophila johnsonii*), requires coordination with NMFS when a project may cause direct or indirect impacts. Johnson's seagrass occurs only in coastal environments of southeast Florida, between Sebastian Inlet and central Biscayne Bay. Critical habitat for this species has been designated in 10 distinct locations within its range (**50 CFR § 226.213**).

State listed plant species are regulated by the FDACS, but state regulation only addresses the harvesting, transport, and/or sale of listed plant species. Plant species listed by the state as Endangered, Threatened, or Commercially Exploited are included on the Regulated Plant Index (**Rule 5B-40.0055, F.A.C.**). State rules do not specifically regulate or prohibit the incidental taking of state listed plants in the course of project activities, but general principles of avoidance and minimization (such as transplanting) also apply to projects impacting these plant species. The District should notify FDACS and the Endangered Plant Advisory Council when bids for construction projects are first advertised.

## 16.3 PROCEDURE

### 16.3.1 Level of Assessment

The level of assessment and documentation during the PD&E phase depends on the potential for protected species and habitat impacts, the scope of the project, ecological importance and distribution of the affected species, and intensity of potential impacts of the project.

Detailed evaluations are generally not warranted for transportation projects not qualifying for screening in the ETDM Environmental Screening Tool (EST) [typically Type 1 Categorical Exclusions (CEs) and Non-Major State Actions (NMSAs)]. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for clarification on projects that qualify for screening. Projects that do not require screening, based on analysis, have no significant effects. The evaluation for these types of projects can usually be streamlined.

A higher potential for protected species and habitat involvement usually exists with transportation projects qualifying for screening [typically Type 2 Categorical Exclusion (Type 2 CE), Environmental Assessment (EA), EIS, or SEIR]. These project classifications may warrant a more detailed level of analysis and documentation. Most PD&E projects will have received prior consideration of protected species and habitat issues during the ETDM process. The results of the Programming Screen are available in a **Final Programming Screen Summary Report**. The protected species and habitat evaluation in the PD&E Study builds on issues identified during the Programming Screen.



### 16.3.1.1 Projects Not Qualifying for Screening

Protected species and habitat involvement must be identified for projects regardless of the type of Environmental Document, including those that do not require EST screening and advance straight to the Design phase. For projects not qualifying for EST screening, the protected species and habitat evaluation should be in sufficient detail to ensure that the project considers protected species and habitat. If consultation is not needed with the Service(s), documentation can be in the form of a technical memo ([Section 16.3.2.4](#)). If informal consultation is needed with the Service(s), additional documentation in the form of an **NRE** is developed ([Section 16.3.2.5](#)). If during this coordination it is determined that formal consultation may be needed, the District must coordinate with OEM. Decisions and conditions should be documented in the project file, summarized in the Environmental Document, and addressed through incorporation into the final design plans. Documentation in the Environmental Document is as follows:

1. **Type 1 Categorical Exclusions (CEs)** - Type 1 CEs may involve listed species and critical habitat as long as the documentation demonstrates the proposed project has no significant effects on them and supports the effect determinations made. For these projects, include a summary of the evaluation of listed species and habitat impacts, agency coordination and compensation for impacts (as appropriate) in the **Type 1 Categorical Exclusion Checklist** ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)). If species keys or programmatic agreements were used to determine an effect determination for a species, then they must be referenced in the checklist. Outline the steps used in the key in the supporting documentation. If a technical memo or **NRE** was prepared, reference it in the checklist and include it in the project file. Agency coordination letters are also included in the project file, while concurrence letters are attached to the checklist.
2. **Non-Major State Actions (NMSAs)** - For a NMSA mark “No” on the **Non-Major State Action Checklist** to document that there are no listed species or critical habitat affected by the project ([Part 1, Chapter 10, State, Local or Privately Funded Project Delivery](#)). For these projects include a summary of the evaluation of listed species and habitat impacts, agency coordination and compensatory mitigation for impacts (as appropriate) in the project file as supporting information to the NMSA. If a technical memo or **NRE** was prepared reference it and include it in the project file.
3. **Type 2 Categorical Exclusions** - Some Type 2 CEs may not require screening through the EST. For these projects listed species and habitat impacts are documented as if the project was screened. See [Section 16.3.2.6.2](#) for guidance on documenting Type 2 CEs.

### 16.3.1.2 Projects Qualifying for Screening

Transportation projects qualifying for EST screening are generally more complex. In accordance with [Part 1, Chapter 2, Class of Action Determination for Federal](#)

**Projects**, qualifying projects must complete the ETDM Programming Screen and may also have completed the Planning Screen. As projects advance, protected species and habitat issues should be considered as follows:

1. **Planning Screen Evaluation** - Identify potential listed species and/or critical habitat within the project area that could affect the advancing of the project in a timely manner, assist with the elimination of fatally flawed alternatives, or require consideration of avoidance, minimization, or mitigation measures at this early planning stage. Protected species may also be identified during this evaluation.
2. **Programming Screen Evaluation** - Provide commentary about effects and summarize scoping recommendations to further understand the level of potential listed species and habitat impacts. Begin to prepare existing conditions for the Environmental Document. Protected species may also be identified during this evaluation.
3. **PD&E Evaluation** - Build upon previous evaluations by filling information gaps, coordinate with the Services and FWC on issues of concern identified in planning and programming screens, perform an impact assessment, and compare alternatives. Complete the appropriate level of protected species and habitat documentation based on the project and associated impacts to listed species. Document necessary commitments.
4. **Design** - Incorporate any commitments made. If there are changes or updates identified during a review of the final plans, document them in a Re-evaluation ([Part 1, Chapter 13, Re-evaluations](#)). Additional coordination with the Service(s) and FWC may be necessary if impacts have changed or if commitments require it (e.g., survey results will be shared prior to construction). Consultation may need to be re-initiated prior to permitting. Ensure the project meets federal and state regulations.
5. **Construction** - Verify implementation of any protected species and habitat commitments (e.g., avoidance, inclusion, installation). Verify compliance with federal and state regulations.

#### 16.3.1.2.1 ETDM Process Contribution to PD&E

For projects qualifying for EST screening, the proposed project is entered into the EST (see the [ETDM Manual, Topic No. 650-000-002](#)). The Advance Notification (AN) package may be distributed as part of the Programming Screen in the EST and includes a Preliminary Environmental Discussion (PED) ([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)). Protected species and habitat information is included in the PED, reflecting the District's initial understanding of the project's potential involvement with protected species and habitat resources. The PED should also identify the location of federally designated critical habitat and provide a description of how protected species and habitat are to be evaluated in the PD&E Study.

The AN may also include a list of permits and a list of technical studies that may be needed.

The District uses the EST to electronically send the AN to the Services and FWC along with other ETATs, state and federal agencies, and other organizations. If sent during the Programming Screen it initiates the project-level coordination with the Services and FWC. As ETAT members, the Services and FWC review the proposed project, respond with comments, provide a species list, and identify any critical habitat(s) within the action area. The ETAT should provide focused comments and actionable recommendations to avoid or minimize potential effects to protected species and their habitat. They should also identify potential permits, compensatory mitigation opportunities, technical studies, and other items within their jurisdiction/responsibility.

The EST reports and stores the ETAT review in the **Programming Screen Summary Report**, which includes comments related to protected species and habitat issues as well as wildlife connectivity issues. This report provides a foundation for the District to coordinate directly with the Services and FWC. For example, the ETAT should provide a list of potential listed species and/or critical habitats that warrant further review with the Services and/or FWC, as well as information on otherwise protected species. The Districts should use this list of species as a starting point for preparing the existing conditions for the **NRE** (see [Section 16.3.2.1.2](#)).

Information from the ETDM screening process should be used to prepare the PD&E scope of services and focus the protected species and habitat analysis/impact assessment. During PD&E, FDOT determines the project's involvement with federally listed threatened or endangered species, proposed (under review) threatened or endangered species, or designated or proposed critical habitat from resource agency comments and information included in the **Programming Screen Summary Report**. The Districts should review ETAT comments and Degree of Effect (DOE) determinations for the "Wildlife and Habitat" issue in the **Programming Screen Summary Report** as well as ETAT comments on other issues such as "Coastal and Marine," "Wetlands and Surface Waters," and "Water Quality and Quantity." However, the associated DOE from the agencies is not a finding.

FDOT should focus on comments from the Services and FWC as resource experts. The **Programming Screen Summary Report** may identify an **NRE** as being needed in the "Anticipated Technical Studies" section of the report. Other sections of the report may be useful such as the "General Project Recommendations" and "Anticipated Permits" sections. Information from the screening should be used in preparing the existing conditions for the Environmental Document.

The ETDM Coordinator and Project Manager should coordinate internally with Permit Coordinators, District Environmental Offices [District Environmental Management Offices (DEMOs), Planning and Environmental Management Offices (PLEMOs)], and others who may be involved in the project following the screening.

## **16.3.2 PD&E Phase**

### **16.3.2.1 Describe Existing Conditions**

Upon initiating the PD&E Study, the District should coordinate with the Services and/or FWC to discuss comments from the **Programming Screen Summary Report** and ensure that potential protected species and habitat have not changed since the screening. The District should collect data and conduct field surveys to identify the initial existing conditions in the action area, such as the protected species and federally designated critical habitat that may occur there, as well as habitat types. Often the District can begin preparing existing conditions text before PD&E is initiated based on ETAT commentary. However, presence or absence of some species can change over time and initial screenings or surveys may be considered out of date by the Services or FWC at the time a project is scheduled to begin, if they are done too far ahead of time.

#### **16.3.2.1.1 Identify Action Area**

The action area is defined as “all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action” (**50 CFR § 402.02 (USFWS and NMFS 1998)**). The action area boundaries for the project are established in coordination with the Services. This coordination is important, as any disagreement regarding the action area boundaries can affect subsequent listed species and habitat analyses. Coordination with other FDOT offices is suggested to determine any additional areas (e.g., maintenance of traffic) that may need to be included in the action area.

#### **16.3.2.1.2 Identify Protected Species and Critical Habitat that May Occur in the Action Area**

The species of concern identified by the Services and/or FWC during the ETDM process should form the basis of a list of species to be analyzed in the PD&E Study. During the Programming Screen, the Service(s) should provide the official species list. Coordination with the Service(s) and/or FWC in PD&E may identify additional species to be included on the list.

The Service(s) online species lists, available data sources, current literature, and species specialists may also be consulted to help identify what federally listed species may be in the action area. Include species and critical habitats “proposed” for federal listing, as well as federal “candidate” species, on the list. Federally designated critical habitat within the action area also needs to be identified.

The District should also review official lists of state listed animals regulated by the FWC and plants regulated by the FDACS using online species lists and data, as well as other data sources ([Figure 16-6](#)).

### **16.3.2.1.3 Collect Data and Map Habitat**

The best and most current scientific and commercial data available should be gathered from various sources to help determine the possibility for species occurrence within the action area. Sources include the Service(s)' websites, Geographic Information System (GIS) species occurrence data, existing studies or surveys, information from past **BOs**, and **NREs**, status reports and listing rules, critical habitat designations, recovery plans, habitat management guidelines, and species specific studies. Information on wide ranging or migratory species that may not be listed by state or federal regulations should be collected since migratory bird species are protected by the **MBTA of 1918**, as amended.

Habitat maps provide a baseline for analysis of species presence/absence and potential impacts. Land covers/land uses, the presence/absence and quality of suitable habitats, and rare natural communities in the project site should be mapped and described. The presence of critical habitat, and/or SHCAs, consultation areas, and focal areas should also be identified and mapped. The habitat mapping effort should include the evaluation of various existing digital data sets and historical and recent aerial photography.

A field survey conducted by a biologist is needed to compare existing site conditions with digital data and to map the presence, extent, and configuration of existing land uses/land covers, potential habitats, and rare natural communities. Photo-interpretation and extrapolation may also prove valuable in mapping large projects, and should be based on observations during field surveys.

### **16.3.2.1.4 Conduct Field Surveys**

Appropriate field surveys should be conducted to determine and record the presence of protected species individuals, evidence of listed species utilization, and document the presence and quality of existing habitats. Areas in which listed species (federal and state) or species' habitat is known or suspected to occur within the action area should be surveyed for individuals or signs of individuals of the listed species. The field survey may result in observations of additional, previously unidentified listed species or habitats. All observations of listed species, signs of listed species, and species' habitat should be recorded, Global Positioning System (GPS) coordinates taken, and the quality of habitats should be assessed and recorded.

It is recommended that field surveys for federally and state listed species and habitats, as well as otherwise protected species, be conducted concurrently. This survey is often conducted concurrently with field verification of habitat mapping. During this survey, plant species should be identified and recorded for each vegetative community and dominant species noted for each stratum present (e.g., canopy, subcanopy, shrub/understory, and ground cover).

Field surveys for specific species may be required and should be designed to account for life histories and behaviors (e.g., breeding, foraging, resting, migration, flowering, seeding) of the listed species that are expected to be, or could potentially be, present on a given site. Survey design should consider appropriate time of day and season of the year for species identification, as well as species' habitat quality and current site conditions including, but not limited to, recent and long-term fire and hydrologic history; recent and current climatic events (e.g., drought, flooding) and weather conditions; soil, topographic, and vegetative health or disturbances; noise levels; and typical human usage. Some listed species have agency developed or approved survey methodologies, including season-specific timeframes, which should be followed.

Consultation/coordination with the Services or FWC may identify the need to obtain quantitative data for a specific species; in those instances, a more intensive survey than is usually required may be warranted. Examples of quantitative data are percent cover for plants and population size for wildlife such as gopher tortoises. Methods for collecting quantitative data should be provided by the Services or FWC during consultation/coordination. Copies of survey results and associated field notes should be provided to the Services or FWC soon after surveys are completed. Note that some survey information, such as nest sites, may become outdated after one season. Through consultation with the Service(s) and OEM, species-specific surveys for federally listed species may be delayed until permitting to support permit issuance ([Section 16.3.3.3](#)). During the PD&E Study, a commitment to conduct a species-specific survey later in the process may need to be included as a commitment in the Environmental Document ([Part 2, Chapter 22, Commitments](#)).

### **16.3.2.2 On-going Agency Coordination**

When federally listed species and/or critical habitat may occur within the action area, informal consultation or formal consultation may be needed with the applicable Service ([Section 16.2.2.1](#)). Any coordination activities with the Service(s) or ETAT members during the informal consultation process should be clearly documented in the project file.

When there is potential for involvement with state listed species, or valuable natural areas, coordination with the FWC ETAT is recommended ([Section 16.2.3](#)). Early coordination with FWC is advantageous to assess potential impacts to these natural resources. Coordination may save time later in the design phase when state or federal permits may be required prior to commencement of work.

When wildlife crossing features are being considered, follow the [FDOT Wildlife Crossing Guidelines](#), which were developed in coordination with USFWS and FWC. Wildlife crossing feature locations should be identified as early as possible in the project planning and development processes, and prior to project design. The guidelines note that "wildlife crossing feature(s)" may include, but are not limited to new or modified structures, such as bridges, bridges with shelves, specially designed culverts, enlarged culverts or drainage culverts and/or exclusionary devices such as fencing, walls or other barriers, or some combination of these features. The guidelines were developed for use by FDOT to

evaluate the appropriateness of including wildlife crossings (upland or wetland) and associated features for proposed projects on the SHS and establish criteria to be considered during design. In cases where a FDOT District has an off-SHS project, the District will coordinate with the OEM regarding possible inclusion of any wildlife crossing features.

When making commitments to the Services or FWC to address specific protected species and habitat issues of a project, it is critical that appropriate internal coordination efforts within the District (e.g., Design, Permitting, Structures, Construction and Maintenance Offices) are completed before such commitments are made. See [Part 2, Chapter 22, Commitments](#) for more information on commitments.

### **16.3.2.3 Conduct Protected Species and Habitat Analysis/Impact Assessment**

Protected species and habitat analysis begins with determining the potential for species occurrence in the action area, and identifying any designated or proposed critical habitat(s). The potential for species occurrence is derived by comparing the habitat mapping of the project site with known species ranges, habitat preferences, and the locations and proximity of known occurrences. This information is then used to evaluate the type and degree of potential impacts, if any, associated with the project.

The impact assessment includes comparing the species and habitat mapping data and field survey results ([Section 16.3.2.1](#)) (per each viable alternative as applicable), with the proposed project footprint from the plan sheets (if available) to evaluate direct, indirect, and in some instances cumulative effects to listed species and habitats (see [Section 16.1.2](#) for definitions). It is also important to consider potential project impacts related to habitat connectivity for wildlife, not just protected species, as habitat fragmentation can directly or indirectly impact multiple species. Although there are no federal or state requirements to avoid habitat fragmentation for unlisted species, this can be considered in coordination with the Services and/or FWC. If wildlife crossings are considered they must follow the [FDOT Wildlife Crossing Guidelines](#).

Since CEs are generally minor in nature and do not have significant impacts, indirect and cumulative effects assessments will generally not be warranted. There may be exceptions, which can be evaluated on a case-by-case basis. It is recommended that the District Environmental Office staff coordinate with the District Design and Permitting staff when conducting the impact assessment.

The detailed results of the protected species and habitat analysis and impact assessment are documented in an *NRE* or technical memo (per the [Natural Resources Evaluation Outline and Guidance](#) document) and summarized in the Environmental Document. If more than one alternative is proposed, each alternative is then compared based on impacts to protected species and habitat using the analysis performed and documented in the Environmental Document.

If designated or proposed critical habitat is identified within the action area during the ETDM process, the identified habitat(s) must be evaluated for potential impacts. The steps outlined below are taken directly from the **ESA Consultation Handbook (USFWS and NMFS 1998)**, for determining whether a proposed action is likely to destroy or adversely modify critical habitat.

Review the status of the critical habitat as designated and the environmental baseline within the action area. The status and environmental baseline for any constituent elements or primary constituent elements may have been modified by actions considered in earlier **BOs**.

1. Those **BOs** should be reviewed to determine the current baseline.
2. Evaluate the effects of the proposed action on the constituent elements of critical habitat.
3. Evaluate the cumulative effects in the action area on the critical habitat and its constituent elements.
4. Assess whether the aggregate effects of these analyses will appreciably diminish the value of the critical habitat in sustaining its role in both the survival and recovery of the species.

#### 16.3.2.4 Technical Memo

For projects that do not require **ESA** consultation and have minimal involvement with state or other protected species and habitat, an abbreviated report in the form of a brief technical memo rather than an **NRE** is completed and may be provided to the Service(s) and/or FWC for informational purposes. Technical memos should briefly discuss potential involvement with protected species or habitat and how this involvement is not significant. The effect determinations made must be supported in the documentation.

Any technical memo prepared for a project in which OEM serves as the Lead Federal Agency must include the following 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 December 14, 2016 and executed by FHWA and FDOT.*

#### 16.3.2.5 Biological Assessment and Natural Resources Evaluation

A **BA** is a technical report required by the Services if federally listed or proposed species or critical habitat “may be present” in the action area of a major construction activity. A major construction activity is defined as major federal projects significantly affecting the environment; therefore, all EISs require the preparation of a **BA**. This interpretation is consistent with that of **FHWA Memo, Management of the ESA Analysis and**



**Consultation Process (FHWA, 2002).** A **BA** is also required for EAs or CEs that have “may affect, likely to adversely affect” determinations requiring formal consultation. If a **BA** is required, the District should prepare a protected species and habitat section of an **NRE** to be submitted to the Service(s) as a **BA**. The **NRE** includes information on listed, proposed, and candidate species, and associated critical or proposed critical habitat.

An **NRE** documents the protected species and habitat, wetlands, and Essential Fish Habitat (EFH) analysis/impact assessment. The “Protected Species and Habitat” section of the **NRE** is prepared to help make the determination of whether the proposed action is likely to: (1) adversely affect federally listed species or designated critical habitat; (2) jeopardize the continued existence of species that are proposed for listing; or (3) adversely modify proposed critical habitat. During informal consultation, the conclusions contained in the **NRE** determine the need for formal consultation or conference.

The District should consider commentary from the Services and FWC ETAT members and consult with them as necessary when preparing the **NRE**. The contents are discretionary, and coordination with the Services and FWC is recommended to determine the depth of detail needed for the **NRE**.

#### **16.3.2.5.1 Content of the Natural Resources Evaluation**

The **NRE** should include the assessment of impacts to protected species and habitat, wetlands, and EFH as separate sections and as applicable to the project. If it is determined that there is no involvement with one of these resource groups, an explanation must be provided (e.g., through field reconnaissance, desktop analysis). Additional guidance can also be found in the [Natural Resources Evaluation Outline and Guidance](#) document.

The “Protected Species and Habitat” section of the **NRE** includes all state listed, federally listed threatened, endangered, proposed and candidate species and critical habitats, as well as other protected species that may be present within the action area. Information gathered from sources identified in the **Programming Screen Summary Report** can be used to support the preparation of the **NRE**.

An **NRE** prepared for a project in which OEM serves as the Lead Federal Agency must use the **Technical Report Cover Page, Form No. 650-050-38**. See example shown in in [Figure 16-7](#).

The content of a **BA** is described in **50 CFR § 402.12(f)**. For examples of **BA** templates and instructions see links in [Figure 16-6](#). Any of these templates may be used for the Protected Species and Habitat section of the **NRE**.

When the Protected Species and Habitat section of the **NRE** is submitted to the Services as a **BA** the following information is included:

1. Describe the proposed project, project location, and the purpose of the action. Define the action area, which is all areas to be affected directly or indirectly by the

action and not merely the immediate area involved. The description of the proposed project should include all activities related to construction and emphasize both long-term and short-term anticipated impacts on federally listed species and suitable habitat in the action area. Project and design alternatives (including construction methods) should also be addressed. This description should be brief, and not include large amounts of information copied from the Environmental Document. Discussion of existing conditions (e.g., current typical sections, land use, soils, natural features) should be included.

2. Summarize any prior coordination with the Service(s) or FWC.
3. Identify the federally listed species, proposed species, candidate species, critical habitat, and proposed critical habitat that occur, or could potentially occur within the action area ([Section 16.3.2.1](#)). Provide brief background information on these species in terms of overall range, population status, habitat needs, and life history requirements. Include only relevant information on the species. Details such as the species description (e.g., size, coloring) and general species information are not needed. Information (such as species lists) should be summarized in tables when appropriate. Include a summary of any prior coordination with the Service(s) or FWC.
4. Describe the methods used to determine involvement of federally listed species and critical habitat within the action area. It may be useful to rank potential involvement of each species based on probability of occurrence (e.g., low, moderate, high) and define the basis for these probabilities.
5. Discuss the results of the comprehensive field survey of the project area ([Section 16.3.2.1.4](#)). Include discussion of survey methodology, and provide details on: the qualifications of persons doing surveys; what types of surveys were conducted and on what species; when they were done [for how long, what dates, what seasons (breeding, spawning, nesting, fall, spring) and what times of day]; weather conditions; and how often. Describe the specific area(s) that may be affected by the project. Identify any information pertinent to the comprehensive evaluation of federally listed species and/or critical habitat impacts. Also discuss the reliability and validity of the survey and assessment and whether future studies may be required to validate and/or update the survey results.
6. Identify any data gaps and discuss any difficulties in obtaining data pertinent to the comprehensive survey. Any data gaps or lack of information should be explained and their effects addressed.
7. Describe the methods and results of studies that contribute information relevant to determining actual and potential impacts of the proposed project or associated activities on a federally listed species or critical habitat. Types of studies include studies of mating, nesting, reproduction, feeding, and migration of those species that may be found in the action area.

8. Evaluate the effects of the action and any cumulative effects.

a. The **NRE** should describe:

1. Effects of the action, which are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside of the immediate area involved in the action (**50 CFR § 402.02 and 402.17**).
  2. Cumulative effects of the project on a federally listed species or critical habitat. Cumulative effects are defined as “those effects of future state or private activities, not involving federal activities, that are reasonably certain to occur within the action area of the federal action subject to consultation” (**50 CFR § 402.02**). Note: this definition of cumulative effects is different than the Council on Environmental Quality (CEQ) definition. Guidance on evaluation of cumulative impacts to satisfy **NEPA** is provided in FDOT’s [\*\*Cumulative Effects Evaluation Handbook\*\*](#).
9. Discuss efforts that will be taken to avoid, minimize, or offset the effects of the action on federally listed species or critical habitat. This should include precautionary measures, design modifications, conservation measures, and special construction methods that will eliminate or reduce adverse impacts. Special conservation measures and strategies may be appropriate and necessary for the avoidance of impacts. Any planned conservation measures for candidate species should also be described (**FHWA, 2002**).
10. Draw conclusions on the significance of impacts to federally listed species and critical habitat within the action area.
11. Any other relevant information.

The above information is used by the District to come to an “effect” determination for each federally listed species and designated critical habitat to be included in the **NRE** (see [\*\*Section 16.2.2.1\*\*](#)).

The **NRE** should also discuss potential impacts to state listed species and include effect determinations (similar to the federal determinations) for those species. The report should include information on other protected species likely to occur in the action area. The presence of natural communities, such as FWC designated SHCAs and FNAI rare natural communities, should also be identified. Any species-specific surveys or permits that may be needed later in the process should also be discussed. This analysis and any coordination with the FWC should be included in the **NRE**.

The District should conduct a quality control review of the document and must submit the draft **NRE** to OEM for review prior to submitting to the appropriate agencies for coordination/consultation.

### **16.3.2.5.2 Review by Resource Agencies**

After OEM review and comment resolution, the final **NRE** can be distributed to the Services, Cooperating Agencies, and FWC. Informal consultation may be initiated by the District via e-mail or letter to the Service(s), requesting concurrence on the federal species effect determinations. Formal consultation will be initiated by OEM via e-mail or letter to the Service(s).

Typically, the **NRE** is submitted to the resource agencies prior to the submittal of the EA or Draft Environmental Impact Statement (DEIS) for public availability. Consultation should be completed prior to the public hearing when possible, or otherwise prior to Location and Design Concept Acceptance (LDCA). If consultation cannot be completed prior to LDCA, see [Section 16.2.2.1.5](#).

If the District receives comments from the Service(s) or FWC, an **NRE** addendum or other correspondence (i.e., e-mail or letter) addressing the comments is prepared. An **NRE** should only be revised if comments from agencies are so substantial that an addendum would not suffice to address the comments. **NRE** addendums or revised **NREs** are submitted to the appropriate agency for continued consultation or coordination.

### **16.3.2.6 PD&E Documentation**

Project documentation consists of maintaining the project file in the StateWide Environmental Project Tracker (SWEPT), completing the appropriate protected species and habitat section of the Environmental Document, and documenting project commitments.

#### **16.3.2.6.1 Project File**

The District Project Manager is responsible for collecting and maintaining the information gathered during the protected species and habitat evaluation as part of the project file. Information in the project file documents any formal or informal coordination or consultation with the agencies, the determination of effects on listed species and critical habitat, agency concurrence as well as commitments made during the PD&E Study. All assessment materials (e.g., maps, analyses, survey reports) are contained in the project file which resides in SWEPT. All technical reports (**NRE**, technical memo), agreements, and agency coordination should also be included.

#### **16.3.2.6.2 Environmental Document**

The results of the protected species and habitat evaluation are documented in the Environmental Document as described below:

1. **Type 2 Categorical Exclusions (CEs)** - Evaluation material should be briefly summarized and included in the Protected Species and Habitat section of the **Type 2 Categorical Exclusion Determination Form**. Documentation includes a concise summary of protected species and habitat impacts and agency coordination, supported effect determinations for each species and critical habitat, and dates of agency concurrence. Any protected species and habitat related commitments should be included in the Commitments section of the form. The **NRE** or technical memo needs to be referenced and placed in the SWEPT project file. If a concurrence letter or **BO** was needed from the Services, it must be attached to the **Type 2 Categorical Exclusion Determination Form** and included in the project file.
2. **Environmental Assessments (EA) and Environmental Impact Statements (EIS)** - The results of the protected species and habitat analysis/listed species impact assessment detailed in the **NRE** or technical memo are summarized in the Environmental Document.
  - a. EIS Executive Summary – Federally listed species and habitat information should be included in the Executive Summary of an EIS according to [Part 1, Chapter 8, Draft Environmental Impact Statement](#) and [Part 1, Chapter 9, Final Environmental Impact Statement](#). The following standard statement must be used in the Executive Summary for EISs when a “no effect” determination is applicable:

*It has been determined by FDOT, that the project, as proposed, will have “no effect” on any federally threatened or endangered species or designated critical habitat.*

For a Final Environmental Impact Statement/Record of Decision (FEIS/ROD) this finding is included in the ROD.

If disagreements exist they should be identified in the Unresolved Issues and Areas of Controversy section of the FEIS Executive Summary ([Part 1, Chapter 9, Final Environmental Impact Statement](#)).

- b. Environmental Analysis Section - The discussion of protected species and habitat in the Environmental Analysis section should include a description of protected species that may occur in the project area as well as habitat types that may be impacted by the proposed project alternatives. Documentation should also include maps showing the relationship of the project to the protected species identified and the relationship of the project to the habitat types.

This section of an EIS or EA also includes a summary of the Protected Species and Habitat section of the **NRE** and presents the results of the impact assessment, effect determinations, and recommended avoidance,

minimization, compensation for impacts, and enhancement measures. This section should provide sufficient information on the impact assessment such that a reviewer can determine the validity of the methodology.

This section must describe the protected species and habitat impacts of the proposed project for each alternative. The information should have sufficient scientific and analytical substance to provide a comparison of alternatives, as well as provide enough information for the decision-maker to determine the alternatives that would have the least and most impact to listed species and habitat resources. This includes impacts to listed species, critical habitat, and may include wildlife habitat connectivity and other protected species. The use of charts, tables, maps, and other graphics to illustrate comparisons between the alternatives and their respective impacts should be used. The results of this section should be used in the Alternatives matrix ([Part 2, Chapter 3, Engineering Analysis](#)).

The following standard statement (findings) must be included in the Environmental Analysis section of an EIS or EA if federally endangered or threatened species or critical habitat are not present in the action area:

*This project has been evaluated for impacts on federally threatened and endangered species and designated critical habitat. A review was conducted to determine those possible threatened or endangered species which may inhabit the project area. This search resulted in findings that no federally listed species are likely to be present in the action area and no critical habitat was identified. This was determined after undertaking a listed species and habitat evaluation and a field survey of the project area by a biologist.*

*The determination was made that the project will not impact any proposed threatened or endangered species, any threatened or endangered species, or affect or modify any critical habitat. A determination of "no effect" has been made, and the project is consistent with the Endangered Species Act, as amended.*

The **NRE** (or technical memo if applicable) should be, referenced, and placed in the SWEPT project file.

- c. Comments and Coordination - Correspondence with USFWS, NMFS, FWC, or other resource or regulatory agencies regarding protected species and habitat information (e.g., coordination letters, emails, meeting minutes, comments on technical reports, concurrence letters) should be included in the Comments and Coordination section of an EA or EIS, referenced in the Environmental Analysis section, and added to the SWEPT project file.
- d. Commitments - Protected species and habitat commitments are

documented in the Commitments section of an EA or EIS (see [Section 16.3.2.6.3](#)). See [Part 2, Chapter 22, Commitments](#) for more detail on how to prepare this section of the EIS or EA.

- e. Final Documents - Protected species and habitat information must be updated in the EA with FONSI, FEIS, or FEIS/ROD after the public hearing and the findings documented according to [Part 1, Chapter 7, Finding of No Significant Impact](#) or [Part 1, Chapter 9, Final Environmental Impact Statement](#).
3. **SEIR** - The results of the protected species and habitat evaluation are included in the Environmental Analysis Section (Section 2.C.7) of the **State Environmental Impact Report Form, Form No. 650-050-43**. Documentation includes a concise summary of protected species and habitat impacts and agency coordination. The **NRE** or technical memo needs to be referenced and placed in the SWEPT project file. Any protected species and habitat related commitments should be included in the Commitments section. See [Part 1, Chapter 10, State, Local or Privately Funded Project Delivery](#) for more detail on how to prepare a SEIR.
4. **Consultation Completion** - There may be some instances when one of the Services does not have enough information to concur with, or not concur with an FDOT effect determination. In these cases, the Protected Species and Habitat section of the Environmental Document will include information as described in [Section 16.2.2.1.5](#). Associated commitments must also be provided in the Commitments section of the **Type 2 Categorical Exclusion Determination Form**, EA or EIS. In these instances, a statement similar to the following is used:

*Based on coordination with (insert U.S. Fish and Wildlife Service and/or National Marine Fisheries Service) to comply with Section 7 of the Endangered Species Act, FDOT commits to reinstate consultation and provide information necessary to complete consultation on the [insert name of specie(s)] prior to advancing the project to construction. The letter from (insert U.S. Fish and Wildlife Service and/or National Marine Fisheries Service) is intended to provide reasonable assurance, per 23 CFR § 771.133, that requirements of the ESA are able to and will be met prior to construction. The status of this commitment will be updated in any subsequent project re-evaluations.*

### 16.3.2.6.3 Commitments

Protected species and habitat commitments may be **Incidental Take Statement** commitments, or actions/activities required to advance the project and require action in a later project phase to implement. Commitments may include incorporating special construction provisions into the contract documents, retrofitting of structures to serve as wildlife passages, building of wildlife crossings, wildlife signage, crossing structure monitoring, protected species surveys during later phases, and continued coordination

with federal and state resource agencies when consultation cannot be completed during the PD&E phase. Commitments must be coordinated with other FDOT offices to ensure each commitment is feasible.

Commitments related to protected species and habitat made by FDOT over the course of the project study are documented according to FDOT [Procedure No. 650-000-003, Project Commitment Tracking](#). See [Part 2, Chapter 22, Commitments](#) for more information. These commitments are also included in the Commitments section of the Environmental Document. Commitments may be initially identified in the **NRE** submitted to the resource agencies for their review. When a concurrence letter, **BO** or other agency correspondence modifies initial commitments, the language in the resource agency response should be the commitment listed in the Environmental Document.

At the conclusion of consultation, the Services may include conservation recommendations, which are non-binding (discretionary) suggestions provided separately from a **BO** or **Incidental Take Statement (USFWS and NMFS, 1998, 4-62)**. The District should consult with District management and OEM prior to making conservation recommendations a commitment.

### 16.3.3 Design and Construction Phases

#### 16.3.3.1 Re-evaluation

The following information must be documented in a Re-evaluation per [Part 1, Chapter 13, Re-evaluations](#):

1. Changes in impacts to protected species or habitats;
2. Changes in mitigation strategies;
3. Changes in listing status;
4. Results of surveys, continued coordination, or other commitments needed to be fulfilled prior to advancing the project to the next phase.

#### 16.3.3.2 Design Considerations

Project commitments may include construction conditions for protected species, specific design requirements (e.g., the construction of wildlife crossings, or wildlife crossing features that can minimize take) or other project specific treatments (e.g., exclusionary fencing, curb heights, etc.). In some cases, special provisions or modified special provisions may need to be considered. Plan notes are only used when absolutely necessary and must be project-specific and cannot repeat specifications, permit conditions and/or design standards.



### 16.3.3.3 Permitting

The federal and state permitting processes, as related to protected species and habitat issues, are relatively straightforward if the project team has engaged in “**early, continual, and strategic coordination**” throughout Planning, PD&E, and Design. During PD&E these issues should have been addressed with resource agencies and project commitments made, therefore it is important that the Project Manager and Permit Coordinator coordinate during permitting. Prior to permitting, ongoing coordination and thorough documentation of resource agency decisions and commitments (if any) should have produced a well-developed basis for successful permitting.

Federal permitting authority for FDOT projects typically originates from proposed impacts to jurisdictional wetlands and/or other surface waters, or from bridge or causeway construction over navigable waters of the United States. The USACE regulates the discharge of dredged and fill material into waters of the United States, including wetlands, under **Section 404** of the **CWA**. The USCG administers the permitting program for bridge and causeway construction under a variety of statutes, including **Rivers and Harbors Act of 1899**, the **General Bridge Act of 1946**, and other authorities. Refer to [Part 1, Chapter 12, Environmental Permits](#), [Part 1, Chapter 16, United States Coast Guard Projects and Navigation](#), and the FDOT [Permit Handbook](#).

The issuance of federal permits requires coordination with USFWS and/or NMFS to determine if actions associated with the permitted activity will impact federally listed species, following the **ESA Section 7** consultation process outlined previously in [Section 16.2.2.1](#).

For federal projects where FDOT is the lead agency, FDOT will complete consultation with USFWS and/or NMFS and provide the completed consultation information (i.e., concurrence letters) to USACE and/or USCG as part of the permit application(s) to be incorporated in the regulatory agency action.

For state funded projects requiring **ESA Section 7** consultation as a result of federal permitting, FDOT will obtain Technical Assistance from the USFWS as part of the PD&E Study and include the results with the federal permit application(s). At the time of permitting, USACE and/or USCG will coordinate with FDOT to determine which permitting agency should act as the “lead agency” to initiate **ESA** consultation. As part of the permitting process, the Service(s) may request additional data, including recent species-specific field surveys, confirmation of habitat mapping and characterization, and data on any observed listed species occurrences. This information provides the “facts on the ground” that complement the PD&E Study results.

Issuance of federal permits from USACE and/or USCG is contingent upon approval from the Service(s) that the project has “no effect,” or “may affect, is not likely to adversely affect” federally listed species or critical habitat, or that the action “may affect, is likely to adversely affect” one or more listed species and incidental take is authorized by an **Incidental Take Statement** in a **BO**.

To ensure that **ESA Section 7** consultations do not delay the issuance of federal permits for transportation projects, the Districts are encouraged to conduct “early, continual, and strategic coordination” with the permitting agency, USFWS, and/or NMFS.

Issuance of a state general, individual, or conceptual Environmental Resource Permit (ERP) from the Florida Department of Environmental Protection (FDEP) or a Water Management District (WMD) requires that the activity “will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters” (e.g., **Rule 62-330.301(d), F.A.C.**). As part of the state permitting procedure for the ERPs, the WMD sends the permit application to other agencies (e.g., FWC and the Department of State, Division of Historical Resources). The Project Manager and Permit Coordinator should facilitate the communication of relevant resource agency decisions documented during the PD&E Study and commitments to FDEP or the WMD as part of the state permit application process.

#### **16.3.3.3.1 Federal and State Protected Species Permits**

Federal and state permits may be required for unavoidable impacts to or for take of protected species. Species protected by the federal **ESA** may require an Incidental Take permit from USFWS or NMFS. The FWC also requires Incidental Take permits for activities that may result in take of state listed species.

Species such as the American Bald Eagle, Florida burrowing owl and gopher tortoise are not subject to **ESA** review, yet may require species specific permits during project permitting. Detailed guidance on the most common protected species permit types required for transportation projects is provided in the FDOT [Permit Handbook](#) and [Part 1, Chapter 12, Environmental Permits](#).

#### **16.3.3.3.4 Contractor Requirements**

FDOT developed **FDOT Contractor Requirements for Unanticipated Interaction with Protected Species** for use by contractors when interaction with protected species is not anticipated and the following conditions exist: A “no effect” determination has been made, no commitments have been made (as described in FDOT [Procedure No. 650-000-003, Project Commitment Tracking](#)), and/or no permit conditions exist. These requirements address common protected species that may be encountered on FDOT projects and provides guidance in the event that a protected species is encountered during construction activities. The Construction Project Administrator (CPA), Consultant Construction Engineering and Inspection (CCEI), Contractor, Project Manager, and Field Superintendents should be reminded of these requirements during the pre-construction meeting or at the pre-proposal meeting for Design-Build projects. A link to these requirements is provided in **Section 7-1.4** of the [Florida Department of Transportation Standard Specifications for Road and Bridge Construction](#).

### 16.3.3.5 Off-project Activities

Off-project activities performed by FDOT or Contractor could have the potential to impact protected species or critical habitat. Examples of such activities are borrow pits, disposal sites, concrete plants, asphalt plants, and material or equipment storage sites also known as staging areas. Stormwater management facilities identified in project plans should be surveyed like the rest of the project during permitting. Off-project activities are not exempt from the requirements of **Section 7** of the **ESA** or state regulations.

A field survey is required for all Contractor activities which might involve federally listed species consideration in accordance with **Section 7-1.4** of the [Florida Department of Transportation Standard Specifications for Road and Bridge Construction](#). Survey methods in [Section 16.3.2.1.4](#) also apply to off-project locations and are to be performed by District environmental personnel. An **NRE** should be completed and **Section 7** consultation may be requested by the Services for any activity which, through reduction of habitat or physical presence, would impact a federally listed species or critical habitat. The presence of state listed species, or otherwise protected species must also be determined in off-project impact areas. The procedures for this determination are the same as described in this chapter for the project area. Coordination may be necessary with both the Services and FWC.

#### 16.3.3.5.1 Procedure

At the pre-construction conference, District staff must notify the CPA that it is the Contractor's responsibility to submit a written request for the District to conduct a biological evaluation of any site where off-project activities are proposed. The District Environmental Office must notify the CPA that the Contractor request necessary biological evaluations with sufficient lead time so they may be completed without delaying the related off-project activity.

The written request should include the location of the activity (Section, Township, Range, County, City) with a map identifying haul or access roads. The project description should be identified by Financial Management Number and Contract Number. This will provide District environmental personnel the opportunity to research if any protected species are reported for the specified area. The District environmental personnel will notify the Resident Engineer and CPA of their scheduled arrival (date, time) for the evaluation of the site.

Upon completion of the field evaluation, if no species issues are identified, the District will send a written notice to the CPA stating that the contractor may proceed with the project. The District Materials Engineer and Resident Engineer should be copied. A sample letter is provided in [Figure 16-8](#). The District should notify the CPA if a potential listed species is identified in the off-project area and if **ESA Section 7** consultation is required. If **ESA Section 7** consultation is required, the District Environmental Office and CPA should coordinate with the Contractor on how to proceed.

### 16.3.3.6 Maintenance Activities

Maintenance activities such as roadside mowing, culvert repair/replacement, herbicide/fertilizer application, tree/shrub trimming, guardrail repair, bridge maintenance and repair typically are undertaken without impacting protected species or wildlife habitat. District Environmental Office staff should assist the Office of Maintenance when protected species issues arise ([Section 16.3.3.4](#)) or maintenance activities that may affect protected species or wildlife habitats are planned. Examples include:

1. Culvert repair/replacement in areas known to be inhabited by the Panama City Crawfish;
2. Mowing and or herbicide/fertilizer application on roadsides inhabited by listed plant species;
3. Bridge repair/maintenance in bridges that may be roosting sites for protected bat species;
4. Bridge repair/maintenance requiring in water work; and,
5. Tree/shrub trimming in mangrove areas

A field survey is required for maintenance activities which might involve federally listed species consideration in accordance with **Section 7** of the [Florida Department of Transportation Standard Specifications for Road and Bridge Construction](#). Survey methods in [Section 16.3.2.1.4](#) apply to off-project locations as well as the project area and are to be performed by District environmental personnel. An **NRE** or technical memo should be completed and **Section 7** consultation may be requested by the Services for any activity which, through reduction of habitat or physical presence, would impact a federally listed species or critical habitat. Coordination may be necessary with both the Services and FWC.

## 16.4 EMERGENCY CONSULTATION

In cases where emergency actions may affect federally listed species and/or critical habitats, emergency consultation with the Services is required by **Section 7** of the **ESA**, as amended (**50 CFR § 402.05**). USFWS defines an emergency to include an act of God, disasters, casualties, national defense or security emergencies, and includes response activities that must be taken to prevent imminent loss of human life or property. Consultation may be conducted informally through alternative procedures that the Service(s)'s Director determines to be consistent with the requirements of the **ESA**. Emergency consultation procedures allow federal agencies to incorporate endangered species concerns into their response actions - they are **not** intended to interfere with emergency response efforts.

**The key step in emergency consultation is early contact with the appropriate USFWS Ecological Services office.** See [Figure 16-4](#). Initial emergency consultation procedures are as follows:

1. The District initiates consultation by contacting the Service(s). Written documentation of the proposed action is preferred by the Service(s) as circumstances allow.
2. The Services should respond as soon as possible (within 48 hours) by written correspondence, with recommendations to minimize the effects of the emergency response action on federally listed species or their critical habitat.

The guidelines for emergency consultation may depend upon whether the actions take place within a Presidentially-declared disaster area. A good example is provided by a USFWS Region 4 letter ([Figure 16-9](#)) addressed to federal agencies following Hurricane Katrina (*USFWS, 2005*):

Within the declared disaster areas, **Section 7(p)** of the **ESA** should be interpreted to mean that restoring any infrastructure damaged or lost due to the hurricane back into the original footprint does not require **ESA** consultation with the Service.

For storm related activities outside of the declared disaster areas, Federal agencies should use the emergency consultation procedures covered in **50 CFR Part 402** and in Chapter 8 of the Service's **Section 7** Handbook. These guidelines indicate that agencies should contact the Service by phone, the Service should offer recommendations verbally to minimize the effects of the emergency response action on listed species or their critical habitat, and the Service should follow up with written correspondence to the action agency documenting the conversation. The guidelines indicate clearly that the Service should not stand in the way of response efforts. After the emergency is under control, the action agency initiates formal consultation if listed species were adversely affected.

Recommendations from the Services may include strategies to avoid and/or minimize incidental take, and conservation recommendations to help protect federally listed species and their habitats within the emergency action area. In their recommendations, the Services should indicate if the emergency actions may result in "jeopardy" or "adverse modification" to federally listed species or critical habitat, and if any means for reducing or avoiding this effect are apparent. [Figure 16-10](#) is an example of recommendations from USFWS concerning an emergency consultation. The District must implement and maintain the on-site protective measures that the Service(s) identified during the emergency **Section 7** consultation.

As soon as possible after the emergency is under control, formal consultation with the Services **must** be initiated if federally listed species or critical habitat have been adversely affected. Procedurally, the emergency formal consultation is treated like any other formal consultation by the Services, which means consultation must be initiated by OEM.

If OEM must initiate formal consultation after an emergency, the District should request OEM send the following information to the Services:

1. A description of the emergency;
2. A justification for the expedited consultation; and
3. An evaluation of the response to, and the impacts of, the emergency on affected species and their habitats. This includes documentation demonstrating how the Services' recommendations were implemented, and the results of implementation in minimizing take.

After concluding formal consultation, the Service(s) will then issue an emergency **BO** which documents its recommendations and the results of agency implementation of the recommendations on federally listed species. This **BO** also may document the actual or estimated take occurring from the emergency response actions.

The Services' emergency consultation procedures are found in the **USFWS/NMFS Endangered Species Consultation Handbook, Sections 8.1 and 8.2**. For additional information on current emergency coordination procedures, current contact information, executive orders, and best management practices, view the OEM website or the Service(s)' websites.

Coordination with FWC in cases where emergency actions may affect state listed and/or protected species is recommended.

## 16.5 REFERENCES

Chapter 5B-40, F.A.C., Preservation of Native Flora of Florida

Chapter 68A-27, F.A.C., Rules Relating to Endangered or Threatened Species

CWA of 1972, as amended. <http://www.fws.gov/laws/lawsdigest/fwatrpo.html>

ESA of 1973, as amended 1978, 1979 and 1982. <http://www.fws.gov/endangered/esa-library/pdf/ESAall.pdf>

Fish and Wildlife Coordination Act of 1934, as amended.  
[https://www.law.cornell.edu/topn/fish\\_and\\_wildlife\\_coordination\\_act](https://www.law.cornell.edu/topn/fish_and_wildlife_coordination_act)

FHWA, 1987. Guidance for Preparing and Processing Environmental and Section 4(f) Documents. <http://environment.fhwa.dot.gov/projdev/impta6640.asp>

FHWA, 2002. Management of the ESA Environmental Analysis and Consultation Process. February 20, 2002 Memorandum to Division Administrators from the Director of Office of Natural Environment, FHWA.  
[http://environment.fhwa.dot.gov/ecosystems/laws\\_esaguide.asp](http://environment.fhwa.dot.gov/ecosystems/laws_esaguide.asp)

FHWA, 2003. Designation of a Non-Federal Representative to conduct Informal Consultation Under Section 7 of the ESA. March 3, 2003 letter to Sam D. Hamilton, Regional Director of the SE Region USFWS from George

Hadley/James E. St. John, Division Administrator of USDOT Federal Highway Administration

FHWA, 2003. Designation of a Non-Federal Representative to conduct Informal Consultation Under Section 7 of the ESA. February 28, 2003 letter to Roy E. Crabtree, Regional Administrator of the NMFS from George Hadley/James E. St. John, Division Administrator of USDOT Federal Highway Administration

FHWA, 2005. Endangered Species Act Legal Analysis. February 18, 2005 Memorandum to Division Administrators from the Associate Administrator for Planning, Environment, and Realty, FHWA

FDOT, 2005. Sociocultural Effects Evaluation Handbook.  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/environment/pubs/sce/sce-handbook-2005.pdf?sfvrsn=7b5d1b86\\_0%20](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/environment/pubs/sce/sce-handbook-2005.pdf?sfvrsn=7b5d1b86_0%20)

FDOT, 2019. Clarification of No Effect Determinations and Species Keys for Endangered Species.  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/fdot-use-of-programmatic-effect-determination-keys.pdf?sfvrsn=d4274c2f\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/fdot-use-of-programmatic-effect-determination-keys.pdf?sfvrsn=d4274c2f_2)

FDOT, 2019. FDOT Lead Agency Role for Endangered Species Act Consultation.  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/esa-lead-agency-consultation.pdf?sfvrsn=a3102dd6\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/esa-lead-agency-consultation.pdf?sfvrsn=a3102dd6_2)

FDOT, Environmental Policy, Topic No. 000-625-001.  
<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=000-625-001>

FDOT, Florida Department of Transportation Wildlife Crossing Guidelines.  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/wildlifecrossingguidelines\\_2018revisions.pdf?sfvrsn=e84b7844\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/wildlifecrossingguidelines_2018revisions.pdf?sfvrsn=e84b7844_0)

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

FDOT, Standard Specifications for Road and Bridge Construction, Florida Department of Transportation, Section 7-1.4.  
<https://www.fdot.gov/programmanagement/Specs.shtm>

Marine Mammal Protection Act of 1972, as amended.  
<https://www.fws.gov/International/pdf/legislation-marine-mammal-protection-act.pdf>

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>

MBTA of 1918, as amended. <http://www.fws.gov/laws/lawsdigest/migtrea.html>

NEPA of 1969, as amended (42 USC § 4321 et seq.).

[http://energy.gov/sites/prod/files/nepapub/nepa\\_documents/RedDont/Req-NEPA.pdf](http://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/Req-NEPA.pdf)

NMFS, 2013. How to Submit an Endangered Species Act (ESA) Section 7 Consultation Request to National Marine Fisheries Service (NMFS) Southeast Regional Office.

[http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/consultation\\_submittal/index.html](http://sero.nmfs.noaa.gov/protected_resources/section_7/consultation_submittal/index.html)

Section 163 (2), F.S., Growth policy; County and Municipal Planning; Land Development Regulation Section 379, F.S., Fish and Wildlife Conservation

Title 23 CFR Part 771, Environmental Impact and Related Procedures.

<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=3f0e8ae65ee76fc13c0bc7a240e9fc59&mc=true&r=PART&n=pt23.1.771>

Title 40 CFR §§ 1500-1508, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act.

<http://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=2844df1cb4a3af5ebaa699f42d98a60f&mc=true&tpl=/ecfrbrowse/TITLE40/40chapterV.tpl>

Title 50 CFR § 402, Interagency Cooperation – Endangered Species Act of 1973.

<http://www.ecfr.gov/cgi-bin/text-idx?SID=01a705dc1f55bb4fa8236bf90e86822f&mc=true&node=pt50.11.402&rgn=div5>

USFWS, 2013. Critical Habitat: Frequently Asked Questions.

<https://www.fws.gov/endangered/what-we-do/critical-habitats-faq.html>

USFWS, 2018. Endangered Species Glossary.

<https://www.fws.gov/endangered/about/glossary.html>

USFWS and NMFS, 1998. Endangered Species Consultation Handbook. Procedures for Conducting Consultation and Conference Activities Under Section 7 of the Endangered Species Act, March 1998 Final.

[http://www.fws.gov/endangered/esa-library/pdf/esa\\_section7\\_handbook.pdf](http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf)



## **16.6 FORMS**

[State Environmental Impact Report Form, Form No. 650-050-43](#)

[Technical Report Cover Page, Form No. 650-050-38](#)

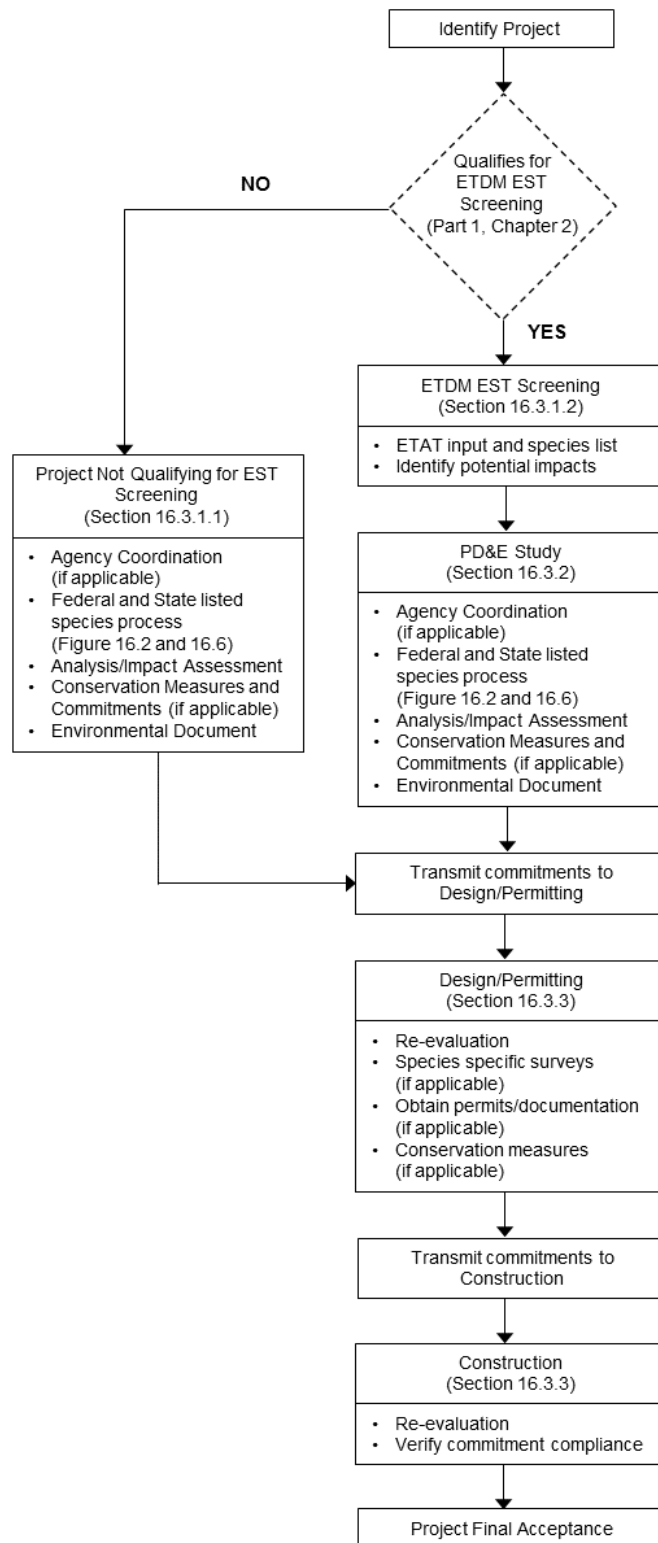
## **16.7 HISTORY**

10/1/1991, 8/26/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 27, 1/14/2019

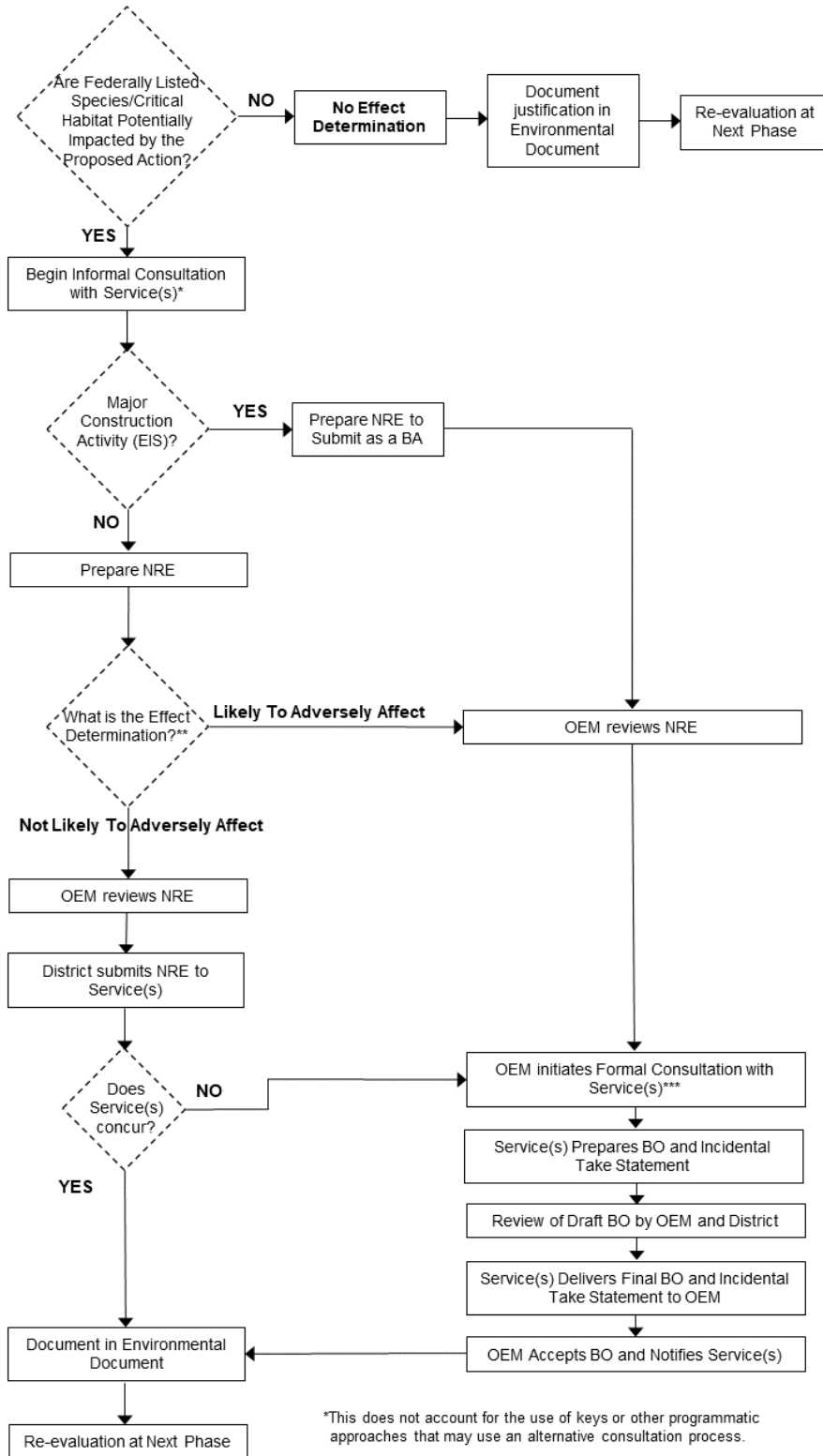
**Table 16-1 Effect Determinations**

STEP	EFFECT DETERMINATIONS		
	No Effect	May Affect, Not Likely to Adversely Affect	May Affect, Likely to Adversely Affect
1.	No consultation with Services required.	District initiates informal consultation.	NRE is completed. At least one listed species receives a “may affect, likely to adversely affect” determination.
2.	Document the “No Effect” determination and justification in the Environmental Document.	District works with Service(s) to evaluate and reduce potential impacts to species and/or critical habitat.	District sends a written request to OEM, requesting initiation of formal consultation. The request includes an “initiation package” that describes the project and potential impacts.
3.	<b>Process complete.</b>	District reaches determination of “May Affect, Not Likely to Adversely Affect.”	OEM initiates formal consultation with the Service(s).
4.		District sends package to Service(s) for review and concurrence, with the reasons supporting determination, and project modifications and/or commitments to reduce potential impacts.	The Service has 30 working days to review the initiation package for completeness. If incomplete, a request for additional information is issued.
5.		If Service sends a concurrence letter, District documents the concurrence and any associated commitments in the Environmental Document. <b>Process complete.</b>	OEM, District, and Service(s) work together to avoid a listed species jeopardy opinion, and/or avoid destruction or adverse modification of critical habitat, while maintaining the project purpose and viability (if feasible).
6.		If Service sends a non-concurrence letter, District must either a) request that OEM initiate formal consultation; or b) modify the project to obtain concurrence.	Formal consultation must be concluded within 90 days of receiving a complete initiation package. The BO must be delivered to the action agency (OEM) within 45 days after conclusion of formal consultation.
			If a non-jeopardy BO is issued (no jeopardy to listed species and/or no destruction or adverse modification of critical habitat exists), the Service issues an Incidental Take Statement in association with the BO. The Incidental Take Statement conditions are non-discretionary and must be included by FDOT in the Commitments documentation. <b>Process complete.</b>
			If BO reaches a jeopardy or adverse modification conclusion, it will include reasonable and prudent alternatives to avoid jeopardy and/or adverse habitat modification. OEM must notify the Service of its final decision for proceeding with the project.

**Note: Please see sections 16.2.2.1.5 and 16.3.2.6.2 if the Service(s) do not have enough information to concur or not concur.**



**Figure 16-1 Protected Species and Habitat Evaluation Process**



\*This does not account for the use of keys or other programmatic approaches that may use an alternative consultation process.

\*\*The effect determination is performed for each federally listed species and the process is dictated by the "highest" effect determination.

\*\*\*For guidance on jeopardy determinations, see Section 16.2.2.1.4

**Figure 16-2 Federally Listed Species Process**



**UNITED STATES DEPARTMENT OF COMMERCE**  
National Oceanic and Atmospheric Administration  
**NATIONAL MARINE FISHERIES SERVICE**  
Southeast Regional Office  
263 13th Avenue South  
St. Petersburg, Florida 33701-5505  
<http://sero.nmfs.noaa.gov>

7/16/2013

MEMORANDUM FOR DISTRIBUTION

Ref.: How to Submit an Endangered Species Act (ESA) Section 7 Consultation Request to  
National Marine Fisheries Service (NMFS) Southeast Regional Office

Dear Action Agency:

NMFS Southeast Regional Office Protected Resource Division (PRD) is updating the procedures for action agencies to submit ESA Section 7 consultation requests. We are receiving a very high volume of consultation requests. To deal with this volume of requests we are trying to take advantage of more electronic processing including a new method of consultation request submittal. We also want to provide additional guidance on how you can make sure your consultation contains complete information so you don't experience further delays during our review. This letter will detail (1) where to submit a consultation request, (2) what to submit, and (3) how to track your submission.

1. Where do I submit my Section 7 consultation request?

We request that all ESA Section 7 consultation requests/packages be submitted electronically to [nmfs.ser.esa.consultations@noaa.gov](mailto:nmfs.ser.esa.consultations@noaa.gov). Electronic submittal to this dedicated e-mail address allows us to quickly log consultation requests received into NMFS's Public Consultation Tracking System (PCTS), to assign and forward them to the appropriate PRD consultation biologist, and to keep an electronic backup of requests received. This e-mail account is capable of receiving messages with attachments up to 25MB. Send the request and all supporting documentation to [nmfs.ser.esa.consultations@noaa.gov](mailto:nmfs.ser.esa.consultations@noaa.gov).

If there are extenuating circumstances that require information be mailed, please send to:

National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
Southeast Regional Office  
Protected Resources Division  
263 13th Avenue South  
St. Petersburg, Florida 33701-5505

2. What do I need to submit?

All Section 7 consultation requests must include relevant information for the consulting biologist to clearly understand the project: its location; listed species and/or critical habitat found in the action area; a determination of the project's effects to listed species and/or critical habitat (e.g., no effect; may affect, but not likely to adversely affect; likely to adversely affect); and a clear



**Figure 16-3 National Marine Fisheries Service Memorandum  
for Distribution**

discussion of the potential routes of effects to listed species and/or their critical habitat. These “biological assessments” should be appropriate to the scope of the proposed project. By regulation, biological assessments are required under Section 7(c) of the ESA of 1973, if listed species or critical habitat may be present in the area affected by any “major construction activity” as defined in 50 CFR § 404.02: “a construction project (or other undertaking having similar physical effects) which is a major federal action significantly affecting the quality of the human environment.”

For projects that are minor (i.e., do not meet the definition of “major federal actions”, as defined in 50 CFR § 404.02), we have created a [Section 7 Checklist](#) and accompanying [Section 7 Checklist Procedures](#) document that lists the essential information needed by our consultation biologists to respond timely to the consultation request. This information allows us to determine the level of direct and indirect impacts a project will have on ESA-listed species and their critical habitats. Examples of direct impacts include those effects directly related to the construction of the project, including loss of foraging or refuge habitat, death of species from construction equipment interactions, impacts from turbidity, and impacts from noise generated during construction. Examples of indirect impacts are things that may happen later in time as a result of the completion of the project, including more vessel traffic that could strike listed species, more fishing that could capture listed species, and more pollution. Any additional information you provide related to the project (including submerged aquatic vegetation surveys, site photographs, engineering project design drawings, historically permitted actions, etc.) will help speed the consultation process.

Please visit our Web site ([http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/](http://sero.nmfs.noaa.gov/protected_resources/section_7/)) to find useful resources to assist you in your consultation request submission. Here you will find the Action Agency Consultation Package links which contain the guidance for submitting an ESA Section 7 consultation request, effects determination guidance, species and critical habitat lists, consultation tracking in PCTS, observer lists, emergency consultations, frequently requested biological opinions, and ESA policies, guidance, and regulations.

### 3. How do I check the status of my project in PCTS?

All projects that undergo Section 7 consultation with NMFS are entered into PCTS at <https://pcts.nmfs.noaa.gov/> within a few days of receipt by PRD. For U.S. Army Corps of Engineers (USACE) projects, the easiest and quickest way to look up a project’s status, or review completed ESA/EFH consultations, is to click on either the “Corps Permit Query” link (top left); or, below it, click the “Find the status of a consultation based on the Corps Permit number” link in the golden “I Want To...” window. Then, from the “Corps District Office” list pick the appropriate USACE district. In the “Corps Permit #” box, type in the 9-digit USACE permit number identifier, with no hyphens or letters. Simply enter the year and the permit number, joined together, using preceding zeros if necessary after the year to obtain the necessary 9-digit (no more, no less) number. For example, the USACE Jacksonville District’s issued permit number SAJ-2013-0235 (LP-CMW) must be typed in as 201300235 for PCTS to run a proper search and provide complete and accurate results. For querying permit applications submitted for ESA/EFH consultation by other USACE districts, the procedure is the same. For example, an inquiry on Mobile District’s permit SAM201301412 is entered as 201301412 after

## **Figure 16-3 National Marine Fisheries Service Memorandum for Distribution (Page 2 of 3)**

selecting the Mobile District from the “Corps District Office” list. PCTS questions should be directed to Eric Hawk at [Eric.Hawk@noaa.gov](mailto:Eric.Hawk@noaa.gov) or (727) 551-5773.

If you have any questions regarding the Section 7 process or our new consultation submittal process, please contact our office at (727) 824-5312 or by e-mail at [nmfs.ser.esa.consultations@noaa.gov](mailto:nmfs.ser.esa.consultations@noaa.gov). Thank you for your continued cooperation in the conservation of listed species.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Bernhart".

David M. Bernhart  
Assistant Regional Administrator  
for Protected Resources

File: 1514.22.A

**Figure 16-3 National Marine Fisheries Service Memorandum  
for Distribution (Page 3 of 3)**

## ***United States Fish and Wildlife Service (USFWS)***

### **Vero Beach**

**[FDOT Districts 6, 4, 1, 5 (Osceola Co. only)]**

Field Supervisor  
South Florida Ecological Services Field Office  
1339 20th Street  
Vero Beach, FL 32960  
Phone: (772) 562-3909  
Fax: (772) 562-4288  
<http://verobeach.fws.gov/>

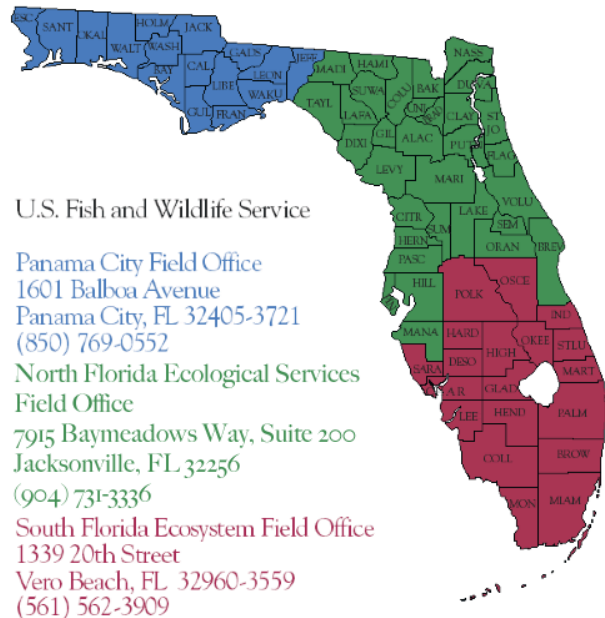
### **Panama City (FDOT District 3)**

Field Supervisor  
Panama City Ecological Services Field Office  
1601 Balboa Avenue  
Panama City, FL 32405  
Phone: (850) 769-0552  
Fax: (850) 763-2177  
<http://panamacity.fws.gov>

### **Jacksonville**

**[FDOT Districts 2, 5, 7, 1 (Manatee Co. only)]**

Field Supervisor  
North Florida Ecological Services Field Office  
7915 Baymeadows Way, Suite 200  
Jacksonville, FL 32256  
Phone: (904) 731-3336  
Fax: (904) 731-3045  
<http://northflorida.fws.gov/>



## ***National Marine Fisheries Service (NMFS)***

Please notify your NMFS Environmental Technical Advisory Team (ETAT) member of electronic submittal of Section 7 consultation request/packages:

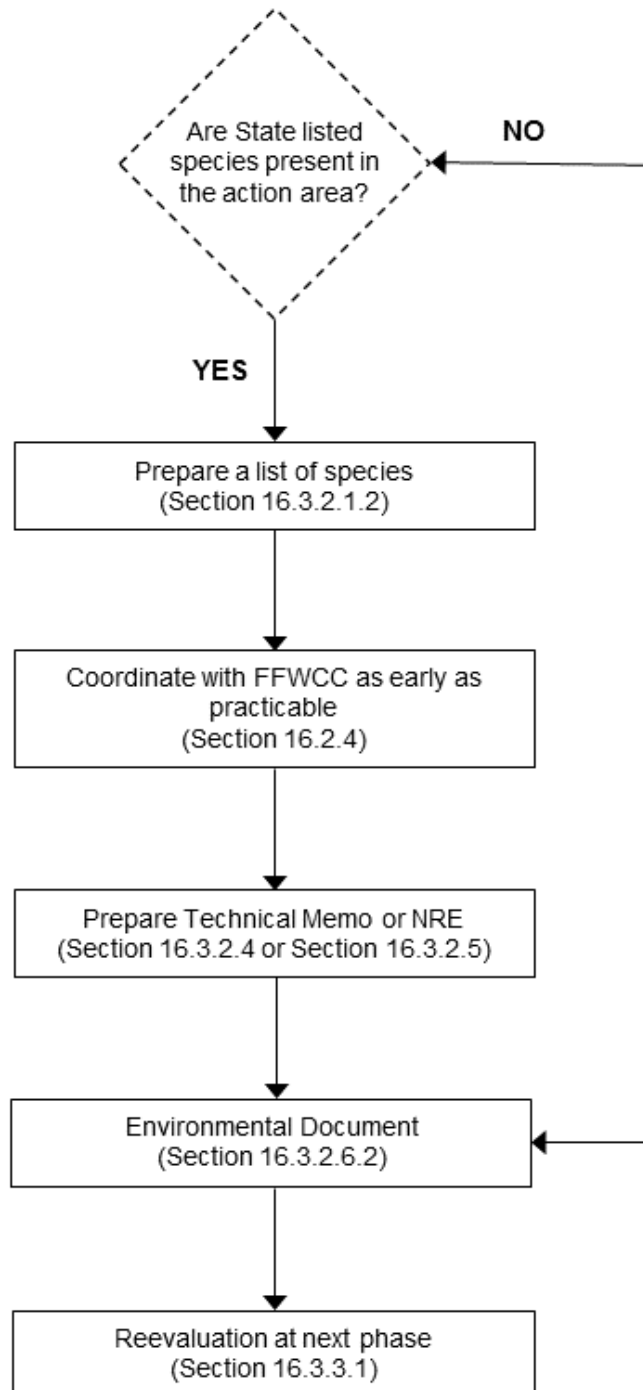
**Gulf Coast:** (813) 727-5379

**Atlantic Coast:** (561) 249-1652

Habitat Conservation Division  
National Marine Fisheries Service  
263 13th Ave. South  
St. Petersburg, FL 33701  
Phone: (727) 824-5317 Fax: (727) 824-5300

**Figure 16-4 Offices Responsible for “Section 7” Consultation**





**Figure 16-5 State Listed Species Process**

## **Federally listed species information can be obtained from the following sources:**

### **1) Terrestrial and freshwater species and critical habitat regulated by the United States Fish and Wildlife Service (USFWS)**

- Species Lists and Recovery Plans available online at <http://www.fws.gov/endangered/species/recovery-plans.html>
- Federal lists by county:
  - USFWS Ecological Services Field Offices
    - Vero Beach - <http://verobeach.fws.gov/>
    - Panama City - <http://panamacity.fws.gov/>
    - Jacksonville - <http://northflorida.fws.gov/>
  - Contact the applicable USFWS Field Office directly (Figure 27.4) Also available online at: <http://www.fws.gov/endangered/index.html>
- Information, planning, and conservation (IPaC) decision support system at <http://ecos.fws.gov/ipac/>

### **2) Information on listed marine and anadromous species regulated by the National Oceanographic and Atmospheric Administration, National Marine Fisheries Service (NOAA/NMFS)**

- Florida specific list at [http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/threatened\\_endangered/index.html](http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/index.html)
- Contact NMFS directly (Figure 16-4)
- NMFS Section 7 checklist and accompanying Section 7 checklist procedure at [http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/consultation\\_submittal/index.html](http://sero.nmfs.noaa.gov/protected_resources/section_7/consultation_submittal/index.html)
- The following NMFS website provides Action Agency Consultation Package links which contain the guidance for submitting an ESA Section 7 consultation request, effects determination guidance, species and critical habitat lists, consultation tracking in the Public Consultation Tracking System (PCTS), observer lists, emergency consultations, frequently requested biological opinions, and ESA policies, guidance, and regulations: [http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/](http://sero.nmfs.noaa.gov/protected_resources/section_7/)

**Figure 16-6 Listed Species Information Sources**

## State listed species lists and additional information can be obtained from the following sources:

### 1) Animal species regulated by **Florida Fish and Wildlife Conservation Commission (FWC)**

- Contact the FWC for most up to date species lists and species action plans. Regional office contact information available at: <http://myfwc.com/about/inside-fwc#DOs>
- Published lists- see **Florida's Endangered and Threatened Species**, Available online at: <https://myfwc.com/media/1945/threatend-endangered-species.pdf>
- View an overview of the FWC's conservation model at: <http://myfwc.com/wildlifehabitats/imperiled>
- Check current listed species profile information on FWC's website: <https://myfwc.com/wildlifehabitats/profiles/>

### 2) Plant species regulated by the **Florida Department of Agriculture & Consumer Services (FDACS)**

- **Regulated Plant Index FAC Ch5B-40.0055** is available online at: [https://www.flrules.org/gateway/notice\\_Files.asp?ID=987089](https://www.flrules.org/gateway/notice_Files.asp?ID=987089)
- The **Florida Statewide Endangered and Threatened Plant Conservation Program**, administered via the Florida Forest Service, has information at: [http://www.floridaforestservice.com/forest\\_management/plant\\_conservation\\_index.html](http://www.floridaforestservice.com/forest_management/plant_conservation_index.html)
- University of South Florida Herbarium website has distribution maps of rare plants in their Atlas of Florida Vascular Plants at: <http://www.plantatlas.usf.edu>

### 3) Species lists by County are available from **Florida Natural Areas Inventory (FNAI)**

- County Lists (**County Occurrence Summaries**) online at <http://www.fnai.org/trackinglist.cfm>
- Species and Natural Community Summaries

## The following are links to BA templates that may be used to prepare the Listed Species and Habitat section of the NRE:

**FHWA:** <http://www.environment.fhwa.dot.gov/esawebtool/Site/Template.aspx>

**USFWS:** [www.fws.gov/endangered/esa-library/pdf/attachment-4.pdf](http://www.fws.gov/endangered/esa-library/pdf/attachment-4.pdf)

**USFWS Pacific Islands:** [www.fws.gov/pacificislands/publications/templateforba-be.doc](http://www.fws.gov/pacificislands/publications/templateforba-be.doc)

**Figure 16-6 Listed Species Information Sources (Page 2 of 5)**

**NMFS:**

<http://www.fpir.noaa.gov/Library/PRD/ESA%20Consultation/Final%20Action%20Agency%20Consultation%20Package%20Files%20for%20website%201-12-09/Template%20for%20BA-BE%20-%201-12-09.pdf>

**The following organizations/agencies can be contacted for further species specific information, expert interviews, habitat or GIS data:**

**Florida Department of Transportation (FDOT)**

- Ecological staff at both the District and Central Office levels are experts with specific ecological and transportation experience. Often it is possible to find someone who has dealt with similar projects. Similarly, other states have expert environmental staff which may have similar experience.
- The publication, ***Florida Land Use, Cover and Forms Classification System (FLUCFCS) Handbook. 1999. Dept. of Transportation Surveying and Mapping. Thematic Mapping Section*** can be used to determine land use and existing habitat. It is downloadable at [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content/geospatial/documentsandpubs/fluccmanual1999.pdf?sfvrsn=9881b4d0\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content/geospatial/documentsandpubs/fluccmanual1999.pdf?sfvrsn=9881b4d0_0)

**Florida Fish and Wildlife Conservation Commission (FWC)**

620 South Meridian Street  
Tallahassee, FL 32399  
(850) 488-4676

- Profiles and data for imperiled species available at: <http://myfwc.com/wildlifehabitats/imperiled/>
- General information for FWC GIS resources available at: <http://myfwc.com/research/gis/>
- GIS data for terrestrial resources and listed species: <http://ocean.floridamarine.org/CSA/Ancillary/Terrestrial.htm>
- GIS data available for marine listed species and resources: [http://ocean.floridamarine.org/mrgis/Description\\_Layers\\_Marine.htm](http://ocean.floridamarine.org/mrgis/Description_Layers_Marine.htm)
- GIS data available for freshwater and tidal stream habitats: <http://ocean.floridamarine.org/CSA/Ancillary/Freshwater.htm>

**Figure 16-6 Listed Species Information Sources (Page 3 of 5)**

FWC's Wildlife Research Laboratory  
1105 S.W. Williston Road  
Gainesville, FL 32601  
Phone: 386-758-0525

<https://myfwc.com/research/wildlife/>

- A staff of wildlife biologists specializing in wildlife ecology, some with specific transportation-related experience, conduct wildlife research from this facility. Contact individuals for wildlife expertise.

### Florida Natural Areas Inventory (FNAI)

1018 Thomasville Road, Suite 200-C  
Tallahassee, FL 32303  
(850) 224-8207

<http://www.fnai.org/>

- A diverse group of experts that are inventorying Florida's remaining natural areas and wildlife that can be contacted for ecological expertise
- Information available from FNAI includes species lists by county (**County Occurrence Summaries**), descriptions of natural community types (**Natural Communities Inventory**), GIS shapefiles of rare plants, animals, and habitat locations (**Element occurrences**), and information on Florida Managed Areas
- Many of these data can be downloaded from their website at <http://www.fnai.org/gisdata.cfm>
- Available Publications

### Florida Water Management Districts

<http://www.dep.state.fl.us/secretary/watman/>

- Regional Florida Water Management Districts or Counties may have **Florida Land Use Cover and Forms Classification System (FLUCFCS)** data layers available in GIS shapefiles

### United States Department of Agriculture (USDA)

Natural Resources Conservation Service (NRCS)  
State Conservationist  
2614 NW 43rd Street P.O. Box 141510  
Gainesville, FL 32614  
(352) 338-9500

- Online soil maps and data available via the NRCS Web Soil Survey website at: <http://websoilsurvey.sc.egov.usda.gov/app/HomePage.htm>
- Hard copies of **NRCS county soil surveys** are listed at : <http://www.nrcs.usda.gov/wps/portal/nrcs/surveylist/soils/survey/state/?stateId=FL>

## Figure 16-6 Listed Species Information Sources (Page 4 of 5)

## United States Fish and Wildlife Service (USFWS)

Southeast Region  
Division of Endangered Species  
1875 Century Blvd., Suite 200  
Atlanta, GA 30345  
<http://www.fws.gov/endangered/>  
<http://endangered.fws.gov/>

- Jacksonville ES Office contacts: <http://www.fws.gov/northflorida/Staff3.htm>
- Vero Beach ES office contacts: <http://www.fws.gov/verobeach/StaffDirectory.html>
- Panama City ES Office contacts: <http://www.fws.gov/panamacity/stafflist.html>

### USFWS's National Wetlands Inventory

- GIS data layers for **National Wetlands Inventory (NWI)** are available at:  
<http://www.fws.gov/wetlands/>

### Universities

- Several State Universities have faculty specializing in different areas of biological and ecological sciences: Florida State University (FSU) Biological Sciences and Marine Sciences departments
- The University of Florida (UF) - Wildlife Ecology program:  
[http://edis.ifas.ufl.edu/TOPIC\\_Threatened\\_and\\_Endangered\\_Species](http://edis.ifas.ufl.edu/TOPIC_Threatened_and_Endangered_Species)

### Other Online Data and Information Sources

- Nature Serve: <http://www.natureserve.org/>
- Linking Florida's Natural Heritage Database: <http://palmm.fcla.edu/feol/>
- FDOT Gopher Tortoise Guidance Document:  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/fdot-the-gopher-tortoise\\_guidance\\_document\\_10-04-16.pdf?sfvrsn=c088bb97\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/fdot-the-gopher-tortoise_guidance_document_10-04-16.pdf?sfvrsn=c088bb97_0)

**Figure 16-6 Listed Species Information Sources (Page 5 of 5)**

Natural Resource Evaluation

Florida Department of Transportation

District X

Project Title

Limits of Project

County, Florida

Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

Date

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 December 14, 2016 and executed by FHWA and FDOT.

**Figure 16-7 Sample Natural Resources Evaluation Cover Sheet**

(Date)

CPA (Address)

SUBJECT : New Borrow Pit / Mixture Plant /  
Construction Field Office (Name of off-site activity)  
Financial Management Number : XXXXXXX  
Federal-Aid Project Number : XXXXX-XXXX  
Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_  
\_\_\_\_\_ County, Florida

Mr./Ms. \_\_\_\_\_:

A field survey was conducted in accordance with Article 7-1.4 of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction and in compliance with the Endangered Species Act of 1973 (amended 1978) and other Wildlife Regulations. No listed species were observed within close proximity of the proposed activities.

It is the opinion of this office that there will be no adverse impacts to federal or state protected, threatened or endangered species, or critical habitat. The contractor may proceed without further action from this office. However, if any federal or state protected, threatened or endangered species are encountered during the course of the activities, please contact our office.

If you have any questions concerning our comments, please do not hesitate to contact us.

Sincerely,

Name  
District Environmental Office  
Engineer/Manager

cc:  
District Materials Engineer  
Resident Engineer

**Figure 16-8 Sample Letter to Contractor on Species Survey**



In Reply Refer To:  
FWS/R4/ES

Dear Federal Agencies Affected by Hurricane Katrina Response and Cleanup:

Until further notice, the Fish and Wildlife Service will consider all hurricane related Federal activities in counties and parishes in Presidentially-declared disaster areas to be disaster related (see attached maps). Section 7(p) of the Endangered Species Act (ESA) and the emergency consultation provisions of the regulations that implement the ESA (50 CFR Section 402) will be used.

#### **Section 7 Consultation Under the Endangered Species Act**

**Within the declared disaster areas**, section 7(p) of the ESA should be interpreted to mean that restoring any infrastructure damaged or lost due to the hurricane back into the original footprint **does not require ESA consultation** with the Service.

**For storm related activities outside of the declared disaster areas**, Federal agencies should use the emergency consultation procedures covered in 50 CFR section 402 and in Chapter 8 of the Service's section 7 Handbook. These guidelines indicate that agencies should contact the Service by phone, the Service should offer recommendations verbally to minimize the effects of the emergency response action on listed species or their critical habitat, and the Service should follow up with written correspondence to the action agency documenting the conversation. The guidelines indicate clearly that the Service should not stand in the way of response efforts. After the emergency is under control, the action agency initiates formal consultation if listed species were adversely affected.

#### **Compliance with the National Historic Preservation Act**

For your information and convenience, we are also including here some information regarding compliance with the National Historic Preservation Act (NHPA). The regulations to follow for compliance with section 106 of the NHPA in a disaster declaration are found at 36 CFR 800.12. The following points should be considered in working with these regulations in a disaster situation:

Immediate rescue and salvage operations conducted to preserve life or property are exempt from the provision of section 106 (36 CFR 800.12 (b)(2)(d)).

The following emergency procedures apply within 30 days of the declaration of an emergency (36 CFR.800.12 (b)(2)(d)):

**Figure 16-9 Hurricane Katrina Response Letter**

Agency officials and staff should contact their regional office to coordinate with their agency Preservation Officers or cultural resources staff; your agency may have a formal agreement on how to handle emergency situations for compliance with section 106 the NHPA, and can give the specific advice you will need for your agency in this recovery effort.

If your agency does not have a existing agreement or its own cultural resources staff, and has no existing agreement on how to carry out section 106 compliance in a emergency situation, follow the procedures given in 36 CFR 800.12 (b) (1) (2). These regulations require the Federal official to request comment from the State Historic Preservation Officer (SHPO), and with the Indian Tribes that may have an interest in your project area. You may contact the State Historic Preservation Office in each state for questions about specific undertakings, or general advice on compliance in this situation; they are the office that works with Federal agencies on a routine basis to assure compliance with the NHPA, and are charged with assisting the public and Federal agencies in preserving historic and cultural resources.

We suggest that you contact the appropriate SHPO for your state:

**Alabama:** Stacye Hathorn, Section Head, Review and Compliance: 334-230-2649

**Florida:** Laura Kammerer, Review and Compliance: 850-245-6333 or 1-800-847-7278

**Mississippi:** Department of Archives and History, 601-576-6940

**Louisiana:** Division of Historic Preservation, 225-342-8160

If you cannot reach the SHPO in your state, or you have other questions, you may contact us at the number below and we will be happy to assist you in finding answers to your questions.

#### **Single, Regional Point of Contact for Questions**

To facilitate and streamline our service to other agencies during the response to Hurricane Katrina, we have designated a Service regional point of contact for all inquiries related to ESA section 7 consultation, NHPA, and National Environmental Policy Act (NEPA) compliance questions. Joe Johnston and Kenneth Graham of the Ecological Services Division will serve as this point of contact. They can be reached at 1-877-485-2235, or at [Joe\\_Johnston@fws.gov](mailto:Joe_Johnston@fws.gov) or [Kenneth\\_Graham@fws.gov](mailto:Kenneth_Graham@fws.gov).

If you have any questions about these issues, please contact me at 404-679-4000 or Noreen Walsh, Assistant Regional Director, Ecological Services, at 404-679-7085.

Sam D. Hamilton  
Regional Director  
Southeast Region

### **Figure 16-9 Hurricane Katrina Response Letter (Page 2 of 2)**



IN REPLY REFER TO:

## United States Department of the Interior

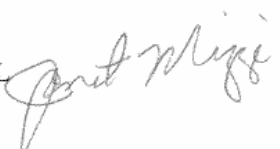
### FISH AND WILDLIFE SERVICE

Field Office  
1601 Balboa Avenue  
Panama City, FL 32405-3721

September 29, 2004

#### Memorandum

To: County and Regional Planning Staff

From: Janet Mizzi, Deputy Project Leader, Panama City, FL 

Subject: Beach Mouse - Post Hurricane Ivan

In the aftermath of Hurricane Ivan, questions have arisen about rebuilding activities in affected areas and compliance with the Endangered Species Act (ESA). Special interest has been directed to possible conflicts between reconstruction projects and endangered beach mice (including Perdido Key, Choctawhatchee, and St. Andrew beach mice) or other imperiled species.

The U.S. Fish and Wildlife Service (Service) has determined that demolition and reconstruction of damaged/destroyed structures should not result in "take" of beach mice if these activities **1) take place within the confines of the pre-storm structure, 2) are completed before dune habitat reclaims the pre-storm structure site, and 3) will not negatively impact dune habitat.** In these situations, it will not be necessary for affected persons to contact the Service or otherwise obtain authorization under section 10 of the ESA before beginning the demolition-reconstruction process.

Attached is guidance for the conservation of beach mice during road repair, debris removal, and reconstruction of damaged property. Please note that these are emergency provisions developed in response to the damage caused by Hurricane Ivan and may be modified as conditions change. Again, these emergency provisions only apply to demolition and reconstruction of damaged/destroyed structures within the confines of the pre-storm structure footprint. Please distribute the attachments to your building permit, road maintenance, and planning departments.

Affected persons should be aware that they are still responsible for obtaining required Federal and State permits if a "take" will occur. People desiring to build new structures, reconstructing damaged/destroyed structures that will include impacting areas outside the confines of the pre-storm structure, or in situations other than those described above, should continue to contact the Service to determine if a section 10 Incidental Take Permit would be necessary. If you are not certain if a permit would be necessary for your demolition and/or reconstruction activities, please contact this office for assistance.

The Service has coordinated this information with the Florida Fish and Wildlife Conservation Commission. The above determination is consistent with the permitting regulations for State Endangered Species. If you have questions regarding state permitting regulations, please contact Karen Lamonte at 850/265-3676.

We are providing similar notifications to Federal agencies. If you have any questions concerning our position on these issues, please contact us at 850/769-0552. For beach related assistance, please contact Janet Mizzi at extension 247. For other areas, please contact Gail Carmody at extension 225.

Attachments

### Figure 16-10 Example of Emergency Consultation

## **Interim Guidance for Post-Ivan Property Stabilization and Reconstruction of Damaged/Destroyed Structures In Areas with Endangered Beach Mice & Other Imperiled Species**

**U.S. Fish and Wildlife Service**

**Effective Sept.-Oct. 2004**

These guidelines are intended to facilitate emergency structure repair and clean-up post Hurricane Ivan. They do not apply to the construction of new facilities or the expansion of existing structures.

Demolition and reconstruction of damaged/destroyed structures should not result in "take" of beach mice if these activities (1) take place within the confines of the pre-storm structure, (2) are completed before dune habitat reclaims the pre-storm structure site, and (3) will not negatively impact dune habitat.

Persons desiring to build new structures, reconstruct damaged/destroyed structures that will include impacting areas outside the confines of the pre-storm structure, or in situations other than those described above should contact the U.S. Fish & Wildlife Service to determine if Section 10 Incidental Take Permits would be necessary.

All activities should follow the guidance provided in the following document: Florida Department of Environmental Protection Emergency Authorization for Repairs, Replacement, Restoration, and Certain Other Measures Made Necessary by Hurricane Ivan OGC No, 04-1625.

### **Emergency Cleanup, Debris Removal, and Property Stabilization Activities**

- No debris should be buried in place, but should be removed from beaches and dune areas.
- Equipment access to beaches should be limited to pre-Ivan designated beach access ' points. All measures should be taken to avoid impacts, to dune habitats. Avoid driving or operating heavy equipment in dune habitat. Any necessary use of pre-existing pathways or heavily degraded areas for access should be clearly marked. The U.S. Fish and Wildlife Service (USFWS) or Florida Fish and Wildlife Conservation Commission (FWC) should be contacted immediately if there are questions regarding identification of, appropriate beach access points.
- Staging/storage areas should be identified for cleanup and debris removal activities and should be located outside of existing/remaining beach mouse habitat or public park properties. The USFWS or FWC should be contacted immediately if there are questions regarding identification of appropriate staging areas.
- Parking areas should be identified for cleanup crews and should be located outside of existing/remaining beach mouse habitat or public park properties. The USFWS or FWC should be contacted immediately if there are questions regarding identification of appropriate parking areas.

9/29/04

### **Figure 16-10 Example of Emergency Consultation (Page 2 of 4)**

- No fill material (i.e., sand) should be deposited on or removed from existing/remaining beach mouse habitat. Fill material must be free of debris, rocks, clay, or other foreign matter and should be similar in color and grain size to pre-storm beach sand.
- No sand should be bulldozed, dredged, or removed from seaward of the mean high water line (MHW) or Coastal Construction Control Line (CCCL) without authorization.

### **Reconstruction of Damaged/Destroyed Structures within Pre-storm Structure Footprint Activities**

\*\*\*The following guidelines are in addition to those listed above for Emergency Clean-up, Debris Removal, and Property Stabilization. Both sets of guidelines apply to Reconstruction Activities.\*\*\*

- Keep reconstruction footprints (i.e., building, parking, ancillary structures, and other amenities) to pre-Ivan footprints.
- Use silt fencing to designate construction areas and keep all equipment and activities inside these areas.
- All trash should be disposed of properly in covered trash receptacles.
- Maintain all non-developed areas within the development in their natural condition. Landscape using only native dune vegetation; turf grass and/or sod should not be used.
- For areas impacted by construction, restore all habitats to their natural configuration and vegetation.
- Install "sea turtle friendly" lighting, glass, and window fixtures that reduce the direct and ambient lighting of dune habitats within and adjacent to the project site.
- Beach access over dunes should be limited to as few access points as possible and should consist of boardwalks, which should be built with top down construction where possible.

### **Contact Information**

U.S. Fish & Wildlife Service (USFWS) - Ms. Janet Mizzi (850) 769-0552  
FL Fish & Wildlife Conservation Commission - Ms. Karen Lamonte (850) 265-3676

9/29/04

## **Figure 16-10 Example of Emergency Consultation (Page 3 of 4)**

## **Interim Guidance for Post-Ivan Road Construction and Maintenance In Areas with Endangered Beach Mice & Other Imperiled Species**

### **U.S. Fish and Wildlife Service**

**Effective Sept.-Oct. 2004**

These guidelines are intended to facilitate emergency road repair and clean-up post Hurricane Ivan. They do not apply to the construction of new roads or the expansion of existing roads.

#### **Emergency Clean-up and Road Repair Activities**

All construction should occur within or as close as possible to the footprint of the original road.

- Staging/storage areas should be identified for construction activities and should be located outside of existing/remaining beach mouse habitat or public park properties. The U.S. Fish and Wildlife Service (USFWS) or Florida Fish and Wildlife Conservation Commission (FWC) should be contacted immediately if there are questions regarding identification of appropriate staging areas.
- Parking areas should be identified for construction crews and should be located outside of existing/remaining beach mouse habitat or public park properties. The USFWS or FWC should be contacted immediately if there are questions regarding identification of appropriate parking areas.
- No clay materials should be used in construction, unless approved by the USFWS or FWC.
- No fill material should be deposited on or removed from existing/remaining beach mouse habitat. Fill material and hay bales must be clean of noxious weeds. No fertilizer or lime will be applied.
- Road shoulders should be stabilized only with native vegetation; turf grass and/or sod should not be used.
- All trash should be disposed of properly in covered trash receptacles.
- If aggregate material is needed for shoulder stabilization along the pavement edge, crushed oyster shell is the preferred material. If crushed shell is unavailable, White Bahama Rock is an acceptable material.
- Aggregate material should be placed no further than 3 feet from the pavement.

#### **Contact Information**

U.S. Fish & Wildlife Service (USFWS) - Ms. Janet Mizzi (850) 769-0552  
FL Fish & Wildlife Conservation Commission (FWC) - Ms. Karen Lamonte (850) 265-3676

9/29/04

### **Figure 16-10 Example of Emergency Consultation (Page 4 of 4)**

## **PART 2, CHAPTER 17**

# **ESSENTIAL FISH HABITAT**

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## PART 2, CHAPTER 17

### ESSENTIAL FISH HABITAT

#### 17.1 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).

This chapter provides guidelines for Essential Fish Habitat (EFH) consultations with the National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NMFS), also referred to as NOAA Fisheries. According to the **Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA)**, areas designated as EFH are "...those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." [**16 U.S.C. § 1802(10)**]. The **MSFCMA (16 U.S.C. § 1801 et. seq.)** created regional Fishery Management Councils (FMCs) "responsible for the fisheries that require conservation and management in their region" and are required to "develop and amend Fishery Management Plans" (FMP). FMPs also provide information on Habitat Areas of Particular Concern (HAPC) within EFH areas.

In 1996 the **MSFCMA** was amended and set forth a mandate for NMFS and regional FMCs to identify and protect important marine and anadromous (species born in fresh water that migrate to the ocean to mature, and then return to fresh water to spawn) fish habitat, and to establish means for designating EFH. Rules to implement the EFH provisions of this Act, [**50 Code of Federal Regulations (CFR) §§ 600.805 - 600.930**], specify that FMP amendments be prepared to describe and identify EFH. The rules also establish procedures to promote the protection of EFH through interagency coordination. **Section 305 (b)(2)** of the **MSFCMA [16 U.S.C. § 1855(b)(2)]** states that federal agencies are required to consult with NMFS regarding projects that fund, permit or carry out activities that may adversely affect EFH. An adverse effect "means any impact that reduces quality and/or quantity of EFH" (**Preparing Essential Fish Habitat Assessments: A Guide for Federal Action Agencies. V1, 2004**). EFH consultations are required for federal projects as well as projects requiring a federal action (i.e., a federal permit).

NMFS made a finding pursuant to **50 CFR § 600.920(e)** that EFH consultation requirements can be incorporated into the existing **NEPA** document, in this case the

Project Development and Environment (PD&E) process. This chapter integrates the EFH coordination and consultation process with the PD&E process for both federal and state Environmental Documents. NMFS has designated FDOT to conduct EFH consultations in Florida pursuant to **50 CFR § 600.920(c)** in a **July 19, 2000 letter to FHWA and FDOT**.

To satisfy the **MSFCMA** FDOT determines potential involvement with designated EFH and HAPCs for the project. If EFH may be adversely affected by the project an **EFH Assessment** will be prepared (see [Section 17.2.3.1.1](#)) and summarized in the Environmental Document.

## 17.2 PROCEDURE

### 17.2.1 Determination of Level of Assessment

#### 17.2.1.1 Projects Qualifying for ETDM Screening

Projects that qualify for screening are evaluated through the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) (see [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for a list of qualifying projects). Initial EFH information can be found in the **Programming Screen Summary Report**, within the Environmental Technical Advisory Team (ETAT) comments for the “Coastal and Marine” and “Wetlands and Surface Waters” issues. It may also be helpful to review ETAT comments on “Wildlife and Habitat” and “Water Quality and Quantity” as well as “General Project Recommendations” and “Anticipated Permits”.

Comments provided by NMFS are especially important. The “Technical Studies Anticipated” section of the **Programming Screen Summary Report** should state if an **EFH Assessment** is needed. NMFS should provide a list of the federally-managed species that the assessment should address. Generally, NMFS will assign a “no involvement” degree of effect for projects that do not have a direct or indirect effect. Projects that only have indirect effects will generally be assigned a “minimal” degree of effect in the EST. These two scenarios would not normally require an **EFH Assessment**. If EFH may be adversely affected by a project, the NMFS will request an **EFH Assessment** which will be prepared following the procedure in [Section 17.2.3](#).

Information from FMPs, FMCs, and from literature review and contacts described in [Figure 17-2](#) and [Figure 17-3](#) also serve as reference material for involvement determinations.

As a project advances into PD&E, it is important to address ETAT comments received during the EST screening event. FDOT may contact NMFS to discuss ETAT comments and FDOT course of action to address their comments (See [ETDM Manual, Topic No. 650-000-002](#)).

### 17.2.1.2 Projects Not Qualifying for ETDM Screening

For projects that do not qualify for screening through the EST (see [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for a list of qualifying projects) coordination with NMFS is still required for federal projects or projects requiring a federal action (i.e. a federal permit) that may involve EFH. To determine the level of evaluation for these projects, perform a review of FMPs, FMCs and literature to develop an Abbreviated Managed Species List and coordinate with NMFS as noted in [Section 17.2.1.1](#). If NMFS indicates that an **EFH Assessment** is not required, follow the procedure in [Section 17.2.2](#). If NMFS indicates that an **EFH Assessment** is required, follow the procedure in [Section 17.2.3](#). The **EFH Assessment** review and resulting project evaluation and Conservation Recommendations (when provided) would be handled during the permitting process.

### 17.2.1.3 Request for Abbreviated Managed Species List

Generally, NMFS responds during the ETDM process with adequate information about the species involved in the project such that an **EFH Assessment** can begin. In this case the species identified in the **Programming Screen Summary Report** response can be used to begin the **EFH Assessment**, and an abbreviated list may not need to be requested.

For instances where NMFS has not provided adequate information to begin the **EFH Assessment** or for projects that did not go through EST, it is recommended that Districts create their own abbreviated lists using the Managed Species Lists available from the regional FMC and NMFS, as well as identify EFH for those species (see [Section 17.2.1.2](#)). NMFS also has an interactive EFH Mapper to assist in identifying EFH (see [Figure 17-3](#) for the link). Once an abbreviated list is compiled, it is recommended that the District send a letter (which may be sent via e-mail) to NMFS requesting confirmation. Requests should be sent to the appropriate Habitat Conservation Division Florida Office listed in [Figure 17-4](#). A sample request letter is included in [Figure 17-5](#). The confirmed abbreviated list can then be used to begin the **EFH Assessment** ([Section 17.2.3.1.1](#)). NMFS confirmation of the abbreviated list will help expedite the **EFH Assessment**.

The request of an abbreviated list is not an official procedure for EFH consultation and NMFS is not required to respond. If NMFS does not respond to the request within 10 days, the District may use the abbreviated list compiled using the Managed Species Lists to begin the **EFH Assessment**.

### 17.2.1.4 Fishery Management Plans

Information on EFH within the project area can be gathered from regional FMCs and NMFS. Two councils cover areas within the State of Florida: the Gulf of Mexico FMC and the South Atlantic FMC. See [Figure 17-2](#) for contact information. Each council has lists of Managed Species and EFH identified within their jurisdictional area and specific FMPs for the species they manage. NMFS' Southeast Regional Office also has FMPs and Managed Species Lists for highly migratory species, which they manage. The NMFS

Southeast Regional Office can be contacted for more site-specific information ([Figure 17-2](#)). EFH information from these organizations is also available online ([Figure 17-3](#)).

FMPs explain the physical, biological, and chemical characteristics of EFH and include information on species life history stages, species range maps as well as information on potential threats and recommended conservation and enhancement measures. The amount of information available for EFH determinations will vary depending on the species that may be affected.

FMPs also provide information on HAPC which are habitats or habitat associations identified within EFH that are rare, particularly susceptible to human-induced degradation, especially ecologically important, or located in an environmentally stressed area. The HAPCs are identified by the FMCs in their respective FMPs and will be discussed and addressed during the EFH consultation process (see [Section 17.2.3.1](#)).

### 17.2.2 Actions Taken if no EFH Assessment Needed

If the project is located outside of areas where **MSFCMA** applies, an **EFH Assessment** is not required and consultation with NMFS is not required.

For projects located in areas where the **MSFCMA** could apply, but the project will have no involvement with EFH or no adverse effect on EFH, it should be addressed in the Environmental Document as follows:

1. For Type 1 Categorical Exclusions (CE) or Non-Major State Actions (NMSA) include supporting information in the project file (i.e., GIS data analysis, technical memo, site visit, knowledge of the area).
2. For Type 2 CEs mark the appropriate selections on the **Type 2 Categorical Exclusion Determination Form** and add supporting documentation to the form and project file.
3. For Environmental Assessments (EAs), Environmental Impact Statements (EISs) or State Environmental Impact Reports (SEIRs) add the following statement to the Environmental Analysis section as appropriate:

*This project has been coordinated with NMFS and there is no involvement with, or adverse effect on Essential Fish Habitat; therefore, Essential Fish Habitat consultation is not required.*

### 17.2.3 Actions Taken if EFH Assessment is Required or NMFS Comments Need to be Addressed

NMFS will provide comments during the ETDM process for projects with potential direct effects on EFH and may comment regarding indirect effects (e.g., stormwater from a bridge over a river that would flow into a nearby estuary). These comments should be addressed during the PD&E process, but an **EFH Assessment** is only required when

specifically requested by NMFS or when FDOT determines that a project may adversely affect EFH.

If the District determines that a project may adversely affect EFH and/or an assessment was requested by NMFS in the **Programming Screen Summary Report**, then:

1. Prepare an **EFH Assessment** as described in [Section 17.2.3.1.1](#).
2. Request consultation with NMFS and provide the **EFH Assessment**.
3. NMFS will provide a written project evaluation which may include EFH Conservation Recommendations.
4. Respond to NMFS Conservation Recommendations, if provided, within the required timeline ([Section 17.2.3.1.2](#)).
5. Summarize the results in the final Environmental Document.

If NMFS receives information regarding an FDOT project that may adversely affect EFH and FDOT has not initiated EFH consultation, then NMFS may inform FDOT of the **MSFCMA** requirement to consult and ask FDOT to initiate EFH consultation. FDOT is not required to agree to NMFS's request; however, NMFS is required by the **MSFCMA** to provide EFH Conservation Recommendations, and FDOT is required to respond to these recommendations in writing regardless of whether FDOT initiated consultation.

### 17.2.3.1 Essential Fish Habitat Consultation

Consultation is initiated when NMFS receives an **EFH Assessment** and a written request for consultation, which is submitted by the District. The negotiated procedure for conducting EFH consultations is specified in the **July 19, 2000, finding among NMFS, FHWA, and FDOT**. The key components to the consultation process include preparation of an **EFH Assessment** which is provided to NMFS, proposed Conservation Recommendations by NMFS, and agency response to Conservation Recommendations. It is recommended that the Districts refer to the NMFS's document **EFH Consultation Guidance Version 1.1 (April 2004)** for detailed information on consultations.

EFH consultation is expected to be completed during the PD&E phase. In some instances, consultation cannot be completed at this project phase, especially if NMFS does not have enough information (i.e. project details may not yet be available) to concur with (or not concur with) the effect of the project on EFH. In these situations, the Districts should coordinate with OEM. Together OEM and the District will determine the appropriate course of action to advance the project. When consultation cannot be completed during the PD&E phase, the Environmental Document should include a summary of the consultation to date, the reasons why it cannot be completed, documentation NMFS agree to complete consultation prior to construction, and any other information that may provide reasonable assurance the requirements will be fulfilled consistent with **23 CFR § 771.133**. In these instances, a statement similar to the following is used:

*Based on coordination with the National Marine Fisheries Service to comply with Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), FDOT commits to reinitiate consultation and provide information necessary to complete consultation on the [insert name of specie(s)] prior to advancing the project to construction. The letter from National Marine Fisheries Service is intended to provide reasonable assurance, per 23 CFR § 771.133, that requirements of the MSFCMA are able to and will be met prior to construction. The status of this commitment will be updated in any subsequent project re-evaluations.*

Commitments made during this coordination should be included in the Commitments section of the Environmental Document. An update to the commitment(s) must be provided in subsequent project Re-evaluations and **Project Commitment Record (PCR)**.

### **17.2.3.1.1 Essential Fish Habitat Assessment**

An **EFH Assessment** is an analysis of a project's potential adverse effects on EFH and if necessary, measures to avoid, minimize, or mitigate those effects. An **EFH Assessment** is completed if there are potential adverse effects to EFH on federal projects or for projects that require a federal action (i.e., a federal permit), regardless of Class of Action. Coordination may be needed with NMFS while preparing the **EFH Assessment**.

The **EFH Assessment** should be included as a section of the **Natural Resources Evaluation (NRE)** instead of a stand-alone document. The **NRE** documents protected species and habitat, wetland, and EFH issues and can be provided to NMFS as an **EFH Assessment**.

The **EFH Assessment** section of the **NRE** must contain:

1. Identification of EFH, HAPC(s), and managed species that may be affected. An analysis of the effects, including indirect and cumulative effects, of the project on EFH, HAPC(s), the managed species, and associated species by life history stage,
2. Proposed measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH, and
3. FDOT's determination regarding the effects of the project on EFH.

For projects that do not require an **NRE** per the [Natural Resources Evaluation Outline and Guidance](#), the District will prepare the **EFH Assessment** as a technical memo and should use the **Technical Report Cover Page, Form No. 650-050-38**. See example of cover page shown in [Figure 17-6](#).

The level of detail required for project specific consultations may vary depending on what degree the project may adversely impact EFH. This level of detail is based on project specific conditions such as ecological importance or sensitivity of the area, type and extent of EFH that would be impacted, and the type of activity proposed.

A detailed **EFH Assessment** should be prepared for projects that are expected to have substantial adverse effects. A detailed assessment should include the results of on-site inspections, the views of experts on the affected species or their habitat, literature review, an analysis of alternatives to the proposed project and other relevant information. More detail on suggested contents and examples of **EFH Assessments** are included in NMFS's document, **Preparing Essential Fish Habitat Assessments: A Guide for Federal Action Agencies (February 2004)**. If FDOT determines that a detailed **EFH Assessment** is not necessary, and NMFS does not agree, then NMFS can request additional information from FDOT in writing.

Information for the **EFH Assessment** should be gathered for species included in the **Programming Screen Summary Report** or on the Abbreviated Managed Species List ([Section 17.2.1.3](#)) using FMPs as explained in [Section 17.2.1.2](#). General information is available from contacts listed on [Figure 17-2](#). It may be useful to include a table of species and EFH that may be affected. The best available information must be used to determine the effects of the proposed project on EFH. FDOT's determination of effects should be clearly stated in the assessment. It is recommended that the **EFH Assessment** be concluded with the use of best management practices, avoidance and minimization measures, and mitigation strategies, if needed.

The District must submit the draft **NRE** including the **EFH Assessment** to OEM for review. After comment resolution with OEM, the District submits the final **NRE** to the appropriate agencies for coordination/consultation.

Completed **EFH Assessments** should be sent to the appropriate NMFS Habitat Conservation Division Florida Office ([Figure 17-4](#)) at least 60 days prior to a final decision on the proposed project or at least 90 days prior if substantial adverse impacts are anticipated.

### 17.2.3.1.2 Response to EFH Conservation Recommendations

Once the NMFS receives the **EFH Assessment**, it will prepare a written project evaluation (either letter, memo, or e-mail) with EFH Conservation Recommendations, as appropriate. Conservation Recommendations, which are non-binding (i.e., discretionary), may include measures to avoid, minimize, or mitigate adverse effects on EFH. Unless a shorter timeframe is agreed to, this coordination must comply with the timelines mandated by the **MSFCMA**. FDOT is required to respond to NMFS Conservation Recommendations within 30 days of receipt explaining how FDOT will proceed. If the signed Finding of No Significant Impact (FONSI), Record of Decision (ROD), or other final action that includes FDOT's response to Conservation Recommendations cannot be completed in 30 days and/or FDOT does not yet have a response to the Conservation Recommendations then an interim response should be sent to NMFS before the specified deadline. Sample letters are shown in [Figures 17-7](#) and [17-8](#). Once an interim response is provided, a detailed written response should be submitted to NMFS at least 10 days prior to taking final action (e.g., signing a FONSI or ROD). The response should include a description of measures proposed by FDOT for avoiding or mitigating the impact of the proposed activity on EFH. The response should also include the following 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 December 14, 2016 and executed by FHWA and FDOT.*

If the response is inconsistent with the NMFS EFH Conservation Recommendations, FDOT must explain its rationale for not following the Conservation Recommendations, including the scientific justification for the anticipated effects of the project or measures needed to avoid, minimize, or mitigate such effects. The NOAA Assistant Administrator for Fisheries can request a meeting with the Director of OEM to discuss the proposed project and the opportunity to resolve disagreements per **50 CFR § 600.920(k)(2)**.

The District may update the **NRE** using addenda to reflect agency coordination/consultation.

#### **17.2.4 Documentation**

The documentation required for each type of Environmental Document is outlined below:

**Type 1 CE** - A Type 1 CE may involve EFH as long as the documentation demonstrates the proposed project has no significant effects. For these projects, include a summary of EFH assessment, agency coordination and compensation for impacts (as appropriate) in the **Type 1 Categorical Exclusion Checklist** ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)). If an **EFH Assessment** was prepared it should be included in the project file. Agency coordination letters are also included in the project file, while concurrence letters are attached to the checklist.

**NMSA** - A NMSA may involve EFH as long as the documentation demonstrates the proposed project has no significant effects. For these projects, include a summary of agency coordination and compensation for impacts (as appropriate) in the project file as supporting information to the **Non-Major State Action Checklist** ([Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)). If a technical memo was prepared it should be included in the project file. Agency coordination letters are also included in the project file.

**Type 2 CE, EA, SEIR or EIS** - The Environmental Document will be prepared and processed as described in [Part 1, Chapter 5, Type 2 Categorical Exclusion](#); [Chapter 6, Environmental Assessment](#); [Chapter 8, Draft Environmental Impact Statement](#); or [Chapter 10, State, Local, or Privately Funded Project Delivery](#), and should include the following statement in the Essential Fish Habitat section of the Environmental Document, when an EFH Assessment is required:

*An EFH Assessment has been prepared and consultation has been completed in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). It has been determined that this project [will have] [will not have] adverse effects to Essential Fish Habitat.*



The **EFH Assessment** section of the **NRE** and associated consultation correspondence should be summarized in the Environmental Document and the final **NRE** (with any addenda) should be retained in the project file. See [Part 2, Chapter 16, Protected Species and Habitat](#) for additional guidance on preparing the **NRE**.

When NMFS provides Conservation Recommendations these, as well as FDOT's responses, are included in the Appendix of the EA or EIS and made an addendum to the **EFH Assessment** section of the **NRE**. For Type 2 CEs these are attached to the **Type 2 Categorical Exclusion Determination Form**, if applicable.

### 17.2.5 Commitments

Any Conservation Recommendations considered for inclusion as commitments in the Environmental Document must be coordinated with the appropriate FDOT offices to ensure each commitment is feasible. The District should consult with District management prior to making Conservation Recommendations a commitment. Commitments related to EFH made by FDOT over the course of project development should be documented according to [Procedure No. 650-000-003, Project Commitment Tracking](#) (see [Part 2, Chapter 22, Commitments](#)). These commitments should also be included in the Commitments section of the Environmental Document.

### 17.2.6 Re-evaluation

The following information must be documented in a Re-evaluation per [Part 1, Chapter 13, Re-evaluations](#):

1. Changes in impacts to EFH;
2. Changes in mitigation strategies;
3. Changes in EFH designation; and
4. Results of surveys, continued coordination, or other commitments needed to be fulfilled prior to advancing the project to the next phase.

### 17.2.7 Emergency Consultation

Consultation is required for emergency federal actions that may adversely affect EFH. These actions may include hazardous material clean-up, response to natural disasters, or actions to protect public safety. FDOT should contact NMFS early in emergency response planning, however consultation may occur after-the-fact if not practicable before the emergency action. **NOAA's NMFS Emergency EFH/ESA section 7 Consultation Procedures for FDOT Projects** is provided in [Figure 17-9](#).

## 17.3 REFERENCES

Essential Fish Habitat Findings. July 19, 2000 letter to George Hadley of FHWA and Joshua Boan of FDOT from NMFS' Rickey Ruebsamen.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/efh-finding-among-nmfs-fhwa-fdot-2000-0719.pdf?sfvrsn=cb9f6689\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/efh-finding-among-nmfs-fhwa-fdot-2000-0719.pdf?sfvrsn=cb9f6689_0)

FDOT, Natural Resources Evaluation Outline and Guidance.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/2020/finalnreguidance070120.pdf?sfvrsn=b07c1725\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/2020/finalnreguidance070120.pdf?sfvrsn=b07c1725_2)

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NMFS. September 2003. EFH: New Marine Fish Habitat Conservation Mandate for Federal Agencies. NMFS Habitat Conservation Division, Southeast Regional Office. St. Petersburg, FL

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>

NMFS. February 2004. Preparing Essential Fish Habitat Assessments: A Guide for Federal Action Agencies. V1

NMFS. April 2004. Essential Fish Habitat Consultation Guidance. V1.1 NMFS Office of Habitat Conservation, Silver Spring, MD.

[https://archive.fisheries.noaa.gov/wcr/publications/habitat/essential\\_fish\\_habitat/efh\\_consultation\\_guidance\\_2004.pdf](https://archive.fisheries.noaa.gov/wcr/publications/habitat/essential_fish_habitat/efh_consultation_guidance_2004.pdf)

NMFS web site: [http://sero.nmfs.noaa.gov/habitat\\_conservation/index.html](http://sero.nmfs.noaa.gov/habitat_conservation/index.html)

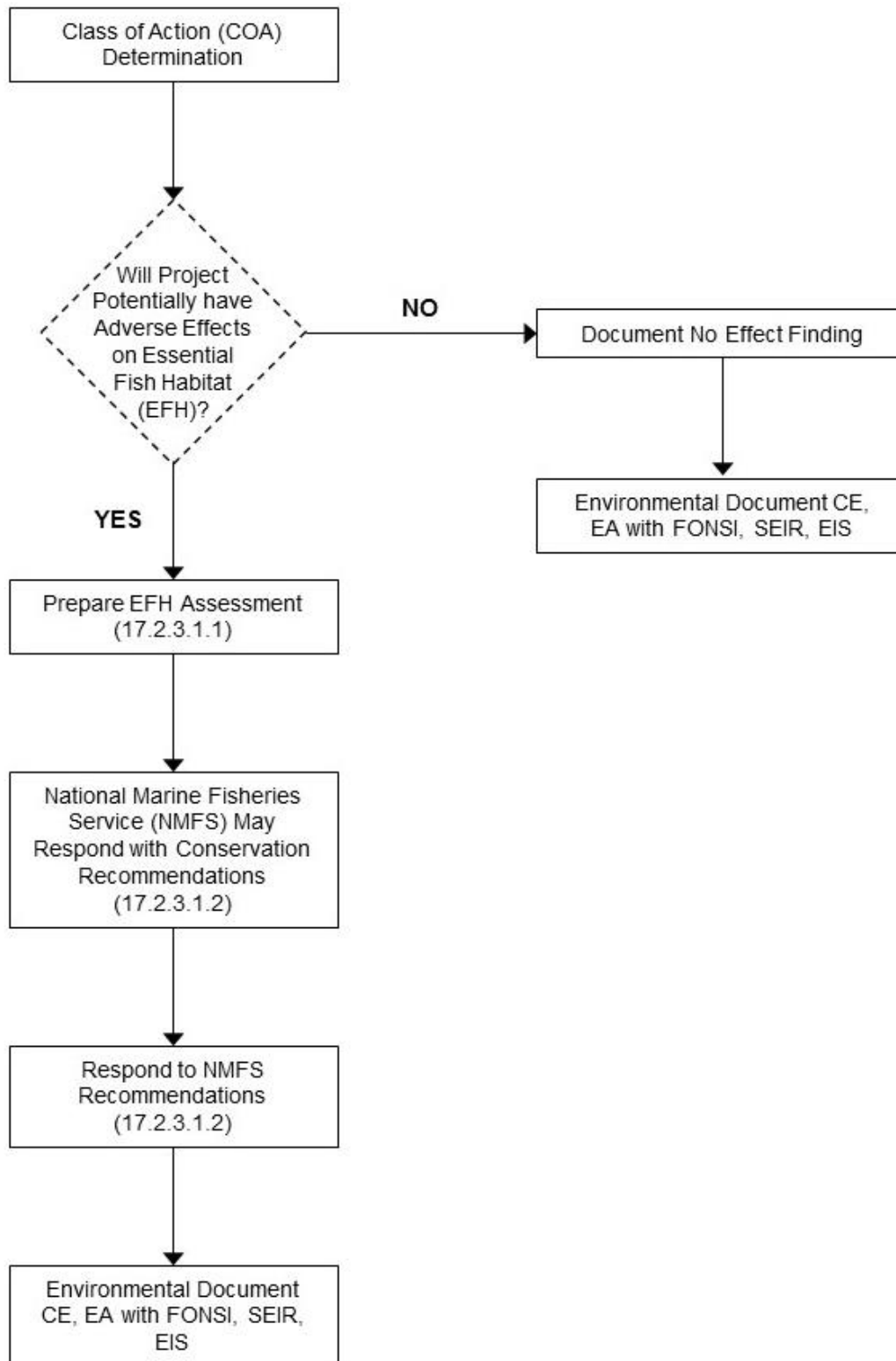
Title 50 CFR §§ 600.805 - 600.930. <https://ecfr.io/Title-50/pt50.12.600>

## **17.4 FORMS**

[Technical Report Cover Page, Form No. 650-050-38](#)

## **17.5 HISTORY**

8/19/2004, 11/26/2007, 8/15/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 11, 1/14/2019



**Figure 17-1 Essential Fish Habitat Process**

***Gulf of Mexico Fishery Management Council***

2203 N. Lois Avenue, Suite 1100  
Tampa, FL 33607  
(813) 348-1630  
(888) 833-1844 – Toll Free  
Fax (813) 348-1711 <http://www.gulfcouncil.org>

***South Atlantic Fishery Management Council***

4055 Faber Place Drive, Suite 201  
North Charleston, SC 29405  
(843) 571-4366  
(866) SAFMC-10 – Toll Free  
Fax. (843) 769-4520  
<http://www.safmc.net>

***NMFS Southeast Region***

NOAA Fisheries Service Southeast Regional Office (SERO)  
263 13<sup>th</sup> Avenue South  
St. Petersburg, FL 33701  
(727) 824-5317  
<http://sero.nmfs.noaa.gov/>

National Marine Fisheries Service (NMFS)  
Southeast Fisheries Science Center (SEFSC)  
75 Virginia Beach Drive  
Miami, FL 33149  
(305) 361-4200

<https://www.sefsc.noaa.gov/>

**Figure 17-2 Fishery Management Councils and NMFS Contact Information**

**EFH information links:**

**General:**

[http://sero.nmfs.noaa.gov/habitat\\_conservation/index.html](http://sero.nmfs.noaa.gov/habitat_conservation/index.html)

NOAA Office of Habitat Conservation

<http://www.habitat.noaa.gov/>

Within this site there are the following helpful links:

<http://www.habitat.noaa.gov/protection/efh/habitatmapper.html>

<https://www.fisheries.noaa.gov/national/habitat-conservation/essential-fish-habitat>

**NOAA Fisheries Southeast Regional Office Habitat Conservation Division**

[http://sero.nmfs.noaa.gov/habitat\\_conservation/index.html](http://sero.nmfs.noaa.gov/habitat_conservation/index.html)

**Gulf of Mexico:**

Gulf States Marine Fishery Commission EFH site

<http://www.gsmfc.org/index.php>

EFH Research and EFH maps

<http://www.galvestonlab.sefsc.noaa.gov/>

**South Atlantic:**

<http://safmc.net/>

***Magnuson-Stevens Fishery Conservation and Management Act. Public Law 94-265 as amended through October 11, 1996***

<https://www.fisheries.noaa.gov/resource/document/magnuson-stevens-fishery-conservation-and-management-act>

**Figure 17-3 Information Sources and Websites**

### **Scientific Literature Review:**

Dobrzynski, Tanya and Korie Johnson. May 2001. Regional Council Approaches to the Identification and Protection of Habitat Areas of Particular Concern. NOAA/NMFS Office of Habitat Conservation. Silver Spring, MD

Gulf of Mexico Fishery Management Council. October 1998. Generic Amendment for addressing EFH requirements in the following fishery management plans of the Gulf of Mexico. Tampa, FL

Gulf of Mexico Fishery Management Council. 1998. Public hearing draft generic amendment for addressing EFH requirements in the following fishery management plans of the Gulf of Mexico: Shrimp Fishery of the Gulf of Mexico, United States Waters; Red Drum Fishery of the Gulf of Mexico; Reef Fish Fishery of the Gulf of Mexico; Coastal Migratory Pelagic Resources (Mackerels) in the Gulf of Mexico and South Atlantic; Stone Crab Fishery of the Gulf of Mexico; Spiny Lobster in the Gulf of Mexico and South Atlantic, Coral and Coral Reef of the Gulf of Mexico (includes environmental assessment). Gulf of Mexico Fishery Management Council. Tampa, FL

\* Stone Crab is no longer federally managed. Management was transferred to the State of Florida.

National Marine Fisheries Service. 1998. Highly migratory species essential fish habitat pre-draft materials for the highly migratory species fishery management plan amendment. National Marine Fisheries Service. Silver Spring, MD

National Marine Fisheries Service. February 2002. Essential Fish Habitat: A Marine Fish Habitat Conservation mandate for Federal Agencies. Gulf of Mexico Region. NMFS Habitat Conservation Division, Southeast Regional Office. St. Petersburg, FL

National Marine Fisheries Service. September 2003. Essential Fish Habitat: New Marine Fish Habitat Conservation Mandate for Federal Agencies. NMFS Habitat Conservation Division, Southeast Regional Office. St. Petersburg, FL

South Atlantic Fishery Management Council. 1998. Final habitat plan for the South Atlantic region: Essential Fish habitat requirements for Fishery Management Plans of the South Atlantic fishery Management Council: The Shrimp Fishery Management Plan, The Red Drum Fishery Management Plan, The Snapper Grouper Fishery Management Plan, The Coastal Migratory Pelagics Fishery Management Plan, The Golden Crab Fishery Management Plan, The Spiny Lobster Fishery Management Plan, The Coral, Coral Reefs, and Live/Hard Bottom Habitat Fishery Management Plan, The Calico Scallop Fishery Management Plan. South Atlantic Fishery Management Council. Charleston, SC

South Atlantic Fishery Management Council. April 2002. Final Essential Habitat Plan. Charleston, SC

### **Figure 17-3 Information Sources and Websites (Page 2 of 2)**

***FDOT Districts 1, 2 (Gulf Coast only), 3, and 7***

David Rydene  
National Marine Fisheries Service  
Habitat Conservation Division  
263 13<sup>th</sup> Avenue South  
St. Petersburg, Florida 33701  
(813) 727-5379  
David.Rydene@noaa.gov

***FDOT Districts 2 (Atlantic Coast only), 4, 5 and 6***

Jen Schull  
National Marine Fisheries Service  
Habitat Conservation Division  
400 N Congress Avenue, Suite 110  
West Palm Beach, Florida 33401  
(561) 249-1652  
Jennifer.Schull@noaa.gov

Turnpike projects should default to project's geographic district location.

**Figure 17-4 Habitat Conservation Division Contacts by FDOT District**

(Date)

Mr./Ms. \_\_\_\_\_  
Title  
National Marine Fisheries Service  
Habitat Conservation Division  
Address

Dear Mr./Ms. \_\_\_\_\_:

**SUBJECT: Request for EFH Assessment Assistance**  
Project title and limits  
Financial Management Number: xxxxxx xx xx  
Federal Project ID: xx-xxx-xxxx-(x)  
County: \_\_\_\_\_

The Florida Department of Transportation (FDOT) is proposing...[Project need and description should be added.]

Attached to this correspondence is an abbreviated list of federally managed species and their EFH, as determined by FDOT as being potentially adversely affected by the proposed project. The list was developed from the \_\_\_\_\_ Fisheries Management Council and NMFS Federally Managed Species Lists, Fishery Management Plans, and associated habitat maps.

The FDOT requests that you indicate which species should be included in an EFH Assessment for this project and add information on any project specific issues that may need to be addressed in the assessment. Please place a "check mark" next to the appropriate species on the attached list(s), and return to the FDOT so that a complete and accurate EFH Assessment can be prepared. We would appreciate the courtesy of a reply within 10 days.

If you have any questions or concerns, please feel free to contact me at \_\_\_\_\_. Thank you in advance for your assistance in this matter.

Sincerely,

Name  
Title

Attachments: Location Map  
Abbreviated species and habitat list

Cc:  
Preparer if different from the signee  
Project File

### Figure 17-5 Sample Letter Request for Abbreviated List



Essential Fish Habitat Assessment

Florida Department of Transportation

District X

Project Title

Limits of Project

County, Florida

Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

Date

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.

**Figure 17-6 Sample Technical Memo Essential Fish Habitat Assessment Cover Sheet**

(Date)

Mr./Ms. \_\_\_\_\_  
Title  
National Marine Fisheries Service  
Address

Dear Mr./Ms. \_\_\_\_\_:

**SUBJECT: Interim Response to Conservation Recommendations**  
Project title and limits  
Financial Management Number: xxxxxx xx xx  
Federal Project ID: xx-xxx-xxxx-(x)  
County: \_\_\_\_\_

The Florida Department of Transportation is in receipt of the NMFS Essential Fish Habitat Conservation Recommendations received from (commenter) in a letter dated (date). Please accept this letter as an interim response within the 30 day time period requested by NMFS for Essential Fish Habitat consultation. At this time FDOT is gathering further responsive information regarding your recommendation of the XXX project. FDOT will respond in detail within the final environmental document (CE, EA, EIS), or via a letter to NMFS, at least 10 days before the final agency action.

Sincerely,

Name  
Title

Cc:

Preparer if different from signee  
Project File

**Figure 17-7 Sample Interim Response Letter**

(Date)

Mr./Ms. \_\_\_\_\_  
Title  
National Marine Fisheries Service  
Address

Dear Mr./Ms. \_\_\_\_\_:

**SUBJECT: Response to Conservation Recommendations**  
Project title and limits  
Financial Management Number: xxxxxx xx xx  
Federal Project ID: xx-xxx-xxxx-(x)  
County: \_\_\_\_\_

The Florida Department of Transportation is in receipt of the NMFS Essential Fish Habitat Conservation Recommendations received from (commenter) in a letter dated (date). Please accept this letter as a response to NMFS Essential Fish Habitat consultation Conservation Recommendations.

Please note 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.

*[Add project specific responses including a description of measures proposed by FDOT for avoiding, mitigating or offsetting the impact of the proposed activity on EFH.]*

If you have any questions please feel free to contact me at \_\_\_\_\_.

Sincerely,

Name  
Title

Cc:

Preparer if different from signee  
Project File

**Figure 17-8 Sample Response to Conservation Recommendations Letter**

**NOAA's National Marine Fisheries Service (NMFS)  
Emergency EFH/ESA section 7 Consultation Procedures for FDOT Projects**

**Criteria:** A bridge or road that has been washed-out and needs to be fixed/built immediately to prevent a life-threatening condition and loss of property.

1. Contact the Gulf or Atlantic NMFS Environmental Technical Advisory Team (ETAT) member representative immediately to get approval. NMFS staff will contact their immediate supervisor in NMFS Habitat Conservation Division (HCD) for approval of an emergency EFH consultation; and either the Protected Species Team Leader (Bob Hoffman) or PRD-Assistant Regional Administrator (David Bernhart) for an emergency section 7 consultation approval.

***Atlantic Coast***<sup>1</sup>  
(District 2, 5, 4, & 6)

Jen Schull  
Habitat Conservation Division  
National Marine Fisheries Service  
400 North Congress Avenue,  
Suite 110  
West Palm Beach, FL 33401  
561-249-1652 (direct)  
561-429-4168 (fax)  
[Jennifer.Schull@noaa.gov](mailto:Jennifer.Schull@noaa.gov)

***Gulf Coast***  
(District 1, 2, 3, & 7)

David Rydene, Ph.D.,  
Habitat Conservation Division  
National Marine Fisheries Service  
263 13<sup>th</sup> Ave South  
St. Petersburg, FL 33701  
727-824-5317 (main)  
727-824-5300 (fax)  
727-824-5379 (direct)  
813-992-5730 (cell)  
[David.Rydene@noaa.gov](mailto:David.Rydene@noaa.gov)

*Please note: An approval for an emergency EFH consultation does not constitute an approval for emergency section 7 consultation on ESA-listed species and vice versa.*

2. If approved, immediately provide the following information via fax or email:
  - Name and phone number of FDOT's Contact person/project manager
  - Complete description of the work
  - Location of the project
  - Pre-construction pictures
  - Date
  - Time

**Figure 17-9 Emergency Consultation Procedures (Page 1 of 3)**

3. If a “take” occurs, immediately contact NMFS Law Enforcement (LE) Hotline: 1-800-853-1964 and provide the following additional information:

- Name and phone number of the contact person
- Date
- Time
- Location
- Brief description of the location
- Brief description of the species
- Water temperature
- Pictures of the species and location

The above information could be documented on NMFS LE Chain of Custody (COC) form in the “Description of Evidence/Property” Box or noted as an attachment to the COC (see attachment).

*Note: If a LE Special agent cannot arrive at the scene immediately, take lots of pictures of the species, place the species and/or plug sample of the species in a freezer unless told otherwise by LE dispatcher.*

4. After the project is finished, a complete, detailed report must be provided within 30 days to NMFS. The report should include the following:

- Detailed construction activities
- List of BMPs implemented
- List of protective and conservation measures for ESA-listed species implemented
- Pre- and post-construction pictures
- Pre-and post-construction conditions
- Final construction design
- Effects analysis of the construction activities to the habitat and listed species
- An account of impacted EFH, and ESA-listed species
- Post-construction monitoring plan that includes habitat, fish, and water quality surveys/report.
- Mitigation plan to offset unavoidable impacts

<b>CHAIN OF CUSTODY RECORD</b> 3/8/05			CASE CONTROL NO.	
DATE/TIME OF SEIZURE:	DUTY STATION:		EVIDENCE/PROPERTY SEIZED BY:	
SOURCE OF EVIDENCE/PROPERTY (Person and/or Location) ( ) TAKEN FROM; ( ) RECEIVED FROM; ( ) FOUND AT:		DEFENDANT/COMPANY NAME:		
REMARKS:				
ITEM NOs:	DESCRIPTION OF EVIDENCE/PROPERTY (include Seizure Tag Numbers and any serial numbers):			
ITEM NOs:	FROM: (PRINT NAME, AGENCY)	RELEASE SIGNATURE:	RELEASE DATE:	DELIVERED VIA: ( ) U.S.MAIL ( ) IN PERSON ( ) OTHER:
	TO: (PRINT NAME, AGENCY)	GAINING SIGNATURE:	DATE :	
ITEM NOs:	FROM: (PRINT NAME, AGENCY)	RELEASE SIGNATURE:	RELEASE DATE:	DELIVERED VIA: ( ) U.S.MAIL ( ) IN PERSON ( ) OTHER:
	TO: (PRINT NAME, AGENCY)	GAINING SIGNATURE:	DATE:	

**Figure 17-9 Emergency Consultation Procedures (Page 3 of 3)**

## **PART 2, CHAPTER 18**

### **HIGHWAY TRAFFIC NOISE**

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## PART 2 CHAPTER 18

### HIGHWAY TRAFFIC NOISE

#### 18.1 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).

##### 18.1.1 Purpose

**This chapter is the official FDOT noise policy and procedure for the purpose of meeting the requirements of Title 23 of the Code of Federal Regulations (CFR) Part 772 and applicable state laws.** FDOT shall apply these policies and procedures uniformly and consistently statewide.

Roadway traffic is one of the more dominant sources of noise in urban and rural areas of Florida. In an effort to encourage the control of noise, Congress passed the **Noise Control Act of 1972**. Congress further directed the FHWA to develop noise standards associated with traffic. However, effective control of traffic noise requires both the control of land use planning next to highways, and reasonable and feasible abatement associated with highway projects.

The control of land use is a local government responsibility. The control of traffic noise associated with specific highway projects is the responsibility of the transportation agency (or agencies) planning, designing, and constructing a project.

The noise impact and abatement analysis policy and procedures provided in this chapter are based on **23 CFR Part 772: Procedures for Abatement of Highway Traffic Noise and Construction Noise** dated July 13, 2010, and the FHWA guidance document **Highway Traffic Noise: Analysis and Abatement Guidance** dated December 2011. These two documents are incorporated into this chapter by reference. In addition, **Section 335.17, Florida Statutes (F.S.)**, requires FDOT to develop a project in conformity with federal standards contained in **23 CFR Part 772** regardless of funding source and include the noise standards mandated by **23 U.S.C. § 109(i)**. Highway projects developed in conformance with this regulation meet FHWA noise standards.

## 18.1.2 Definitions

**Approach Criteria** - Approaching the criteria means within 1 decibel (dB) of the appropriate FHWA Noise Abatement Criteria (NAC) provided in [Figure 18-1](#).

**Benefited Receptor** - The recipient of an abatement measure that receives a noise reduction at or above the minimum threshold of 5 dB(A).

**Common Noise Environment** - A group of receptors within the same activity category found in [Figure 18-1](#) that are exposed to similar noise sources and levels; traffic volumes, traffic mix, speed and topographic features. Generally, common noise environments occur between two secondary noise sources, such as interchanges, intersections and/or cross-roads. A common noise environment involves a group of impacted receptors that would benefit from the same noise barrier or noise barrier system (i.e., overlapping/continuous noise barriers).

**Date of Public Knowledge** - The approval date of the Categorical Exclusion (CE), the Finding of No Significant Impact (FONSI), the Record of Decision (ROD), State Environmental Impact Report (SEIR) or Non-Major State Action (NMSA). For a Type 1 CE and NMSA, this is the approval date of the **Type 1 Categorical Exclusion Checklist Form, Form No. 650-050-12** or **Non-Major State Action Checklist, Form No. 650-050-30**.

**Decibel** - A logarithmic expression of a sound level. For traffic noise analysis purposes and as specified by **23 CFR Part 772** the A-weighted scale, which closely approximates the range of frequencies a human ear can hear, is used. The A-weighted decibel is abbreviated dB(A).

**Design Year** - The future year used to estimate the forecast traffic volume for which a highway is designed.

**Existing Noise Levels** - The noise levels that occur during the worst noise hour resulting from the combination of natural and mechanical sources and human activity usually present in a particular area.

**Feasibility** - A combination of acoustical and engineering factors considered in the evaluation of a noise abatement measure.

**Impacted Receptor** - A receptor with a future design year, build alternative traffic noise level that is predicted to approach, meet, or exceed the Noise Abatement Criterion (NAC) for its respective activity category, or will experience an increase in noise levels of 15 dB(A) or more in the design year over the existing noise levels.

**Insertion Loss** - The reduction in traffic noise levels as a direct result of a specific type of abatement measure.

**Leq** - The equivalent steady-state sound level which in a stated period of time contains the same acoustic energy as the time-varying sound level during the same time period, with  $Leq(h)$  being the hourly value of  $Leq$ .

**Multifamily Dwelling** - A residential structure containing more than one residence.

**Noise Abatement Criterion (NAC)** - The noise level, depending upon activity category, at which FDOT must consider noise abatement for an impacted receptor. The NAC can be found in [Figure 18-1](#).

**Noise Barrier** - A physical obstruction that is constructed between the highway noise source and the noise sensitive receptor(s) for the purpose of lowering the noise level, including stand-alone barrier structures, berms (earth or other materials), and combination berm/barrier structure systems.

**Noise Reduction Design Goal** - The optimum desired dB(A) noise reduction (insertion loss) determined from calculating the difference between future build noise levels with abatement to future build noise levels without abatement. The FDOT has selected 7 dB(A) as the Noise Reduction Design Goal for one (1) or more benefited receptors.

**Permitted** - Development will be deemed to be permitted if the local agency with jurisdiction has granted a building permit for a specific structure associated with a noise sensitive land use such as residential, school, place of worship, medical facility, institutional, prior to the project's Date of Public Knowledge.

For mobile/manufactured homes, individual building permits might not be issued. In this case, the noise analyst should look for evidence of an occupancy permit, new mobile home permit, or something similar in lieu of a building permit. These types of permits should be treated in the same manner as a building permit as stated above. Contact the District Noise Specialist regarding the application of building permit equivalency.

**Predicted Existing Traffic Noise Level** - The traffic noise level that is determined through the use of the Traffic Noise Model for existing roadway conditions.

**Predicted Future Traffic Noise Level** - The traffic noise level that is determined through the use of the Traffic Noise Model for the future design year traffic and roadway geometry, including build and no-build alternatives.

**Property Owner** - An individual or group of individuals that hold a title, deed, or other form of legal documentation showing ownership of a commercial or residential property.

**Reasonableness** - The combination of social, economic, and environmental factors considered in the evaluation of a noise abatement measure.

**Receptor** - A discrete or representative location of a noise sensitive area(s) for any of the land use categories listed in [Figure 18-1](#).

**Residence** - A dwelling unit. Either a single family residence or each individual dwelling unit in a multifamily dwelling.

**Statement of Likelihood** - A statement provided in both the **Noise Study Report (NSR)** and Environmental Document based on the feasibility and reasonableness analysis completed at the time the Environmental Document is being approved.

**Substantial Noise Increase** - For a Type I project, an increase in noise levels of 15 dB(A) or more in the design year over the existing noise level (measured or predicted) as a direct result of the transportation improvement project in question. A substantial increase will normally occur only on new alignment projects.

**Traffic Noise Impacts** - Design year build condition noise levels that approach, meet or exceed the Noise Abatement Criteria listed in [Figure 18-1](#) for the future build condition; or design year build condition noise levels that create a substantial noise increase over existing noise levels.

**Type I Projects** - A highway construction project (new location or physical alteration of existing highway) which substantially changes horizontal and vertical alignment, profile or adds number of through lanes. Specific project definitions according to **23 CFR Part 772** are listed in [Section 18.1.3.1](#).

**Type II Projects** - A federal, federal-aid, or state funded highway project for noise abatement on an existing highway. Type II projects are commonly referred to as retrofit projects and are allowed (but not mandatory) under **23 CFR Part 772**. The development and implementation of Type II projects are not mandatory requirements of **23 U.S.C. § 109(i)**. The FDOT does not have a Type II program.

**Type III Projects** - A project that does not meet the classifications of a Type I or Type II. Type III projects do not require a noise analysis.

### 18.1.3 Applicability

#### 18.1.3.1 Type I Projects

This policy applies to all Type I projects authorized under **Title 23 U.S.C.** and **Section 335.17, F.S.** All FDOT highway projects, regardless of funding source, shall be developed in conformance with federal standards for noise abatement as contained in **23 CFR Part 772**.

The effective date of the revisions to **23 CFR Part 772** is July 13, 2011. The following types of projects are “grandfathered” and will not have to meet the **23 CFR Part 772** final rule (dated July 13, 2010):

1. Federal-aid highway projects for which the CE, FONSI, or ROD has been signed by the effective date of the final rule, which is July 13, 2011.

2. Design phase re-evaluations for which approval has been received prior to July 13, 2011.

If approval of the Environmental Document or the design phase re-evaluation has not been received prior to July 13, 2011, the noise study must follow the requirements of **23 CFR Part 772** dated July 13, 2010. Projects for which the Environmental Document has not been approved after July 13, 2011 shall have their noise studies performed in conformance with **23 CFR Part 772** and this chapter as they exist on that date. The original Date of Public Knowledge remains valid unless a re-evaluation identifying a substantial vertical or horizontal change is completed. State funded highway projects shall be “grandfathered” and will not have to meet the **23 CFR Part 772** final rule if the SEIR document or **Non-Major State Action Checklist, Form No. 650-050-30** has been signed by July 13, 2011.

FDOT shall apply these policies and procedures uniformly and consistently statewide. **Title 23 CFR Part 772** applies to all Type I projects unless the regulation specifically indicates that a section only applies to Type II or Type III projects.

It should be noted that the project type (defined here as “Type I, Type II or Type III”) is independent of the Class of Action (COA) determination for the overall project. **Title 23 CFR Part 772** defines Type I projects as:

1. The construction of a highway on new location;
2. The physical alteration of an existing highway where there is either;
  - i. Substantial Horizontal Alteration – A project that halves the distance between the traffic noise source (edge of the nearest travel lanes) and the closest receptor between the existing condition to the future build condition; or,
  - ii. Substantial Vertical Alteration – A project that removes shielding, [not to include vegetation removal by FDOT within FDOT Right of Way (ROW)] therefore exposing the line-of-sight between the receptor and the traffic noise source. This is done by either altering the vertical alignment of the highway or by altering the topography between the highway traffic noise source and the receptor, such as reducing the back slopes of a cut section so that the line of sight is no longer blocked.
3. The addition of a through-traffic lane(s). This includes the addition of a through-traffic lane that functions as a High-Occupancy Vehicle (HOV) lane, High-Occupancy Toll (HOT) lane, express lane, bus lane, or truck climbing lane;
4. The addition of an auxiliary lane, except for when the auxiliary lane is a turn lane;
5. The addition or relocation of interchange lanes or ramps added to a quadrant to complete an existing partial interchange;

6. Restriping existing pavement for the purpose of adding a through-traffic lane or an auxiliary lane;
7. The addition of a new or substantial alteration of a weigh station, rest stop, ride-share lot, or toll plaza. (Note: Reconstruction of an existing rest stop/service plaza in the median of an existing highway that does not cause substantial alteration and does not affect existing traffic patterns on the roadway along with the conversion of a conventional toll plaza to an all-electronic toll plaza do not qualify as Type I projects).
8. If a project is determined to be a Type I project under this definition, then the entire project area as defined in the Environmental Document is a Type I project and would require a noise analysis.

For more detailed descriptions of Type I projects, please refer to the Type I Project Matrix in [Figure 18-2](#).

### 18.1.3.2 Type II Projects

A Type II Project is a federal, federal-aid, or state funded highway project for noise abatement on an existing highway. Type II projects are commonly referred to as retrofit projects in **23 CFR Part 772**. The development and implementation of Type II projects are not mandatory as described in **23 U.S.C. § 109(i)**. **FDOT does not have a Type II program.**

### 18.1.3.3 Type III Projects

A Type III Project is a federal, federal-aid, or state funded highway project that does not meet the classifications of a Type I or Type II project. Type III projects do not require a noise analysis or consideration abatement measures.

Examples of Type III projects include:

1. Construction of bicycle and pedestrian lanes, paths, and facilities;
2. Activities included in the FDOT highway safety plan under **23 U.S.C § 402**, provided those activities do not contain elements of Type I projects;
3. Landscaping (including the removal of existing vegetation by FDOT within FDOT ROW);
4. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur;
5. Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system, to



improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience;

6. Modernization of a highway by surfacing, restoration, rehabilitation, or reconstruction, provided the project does not contain elements of Type I projects; or
7. Placement of overhead gantries on a highway to collect tolls electronically that do not disrupt existing traffic patterns.

## 18.2 PROCEDURE

During the Efficient Transportation Decision-Making (ETDM) screening and prior to the Project Development and Environment (PD&E) phase, a preliminary review of potential noise impacts associated with a project is conducted. This review should determine if noise sensitive receptors are or may be located within the project area and if there is a possibility that noise sensitive receptors will be impacted because predicted traffic noise levels with a build alternative approach or exceed the NAC. The review will include the assessment of land use plans, aerial photographs, field reviews, modeling, and/or similar efforts. This will allow the District Noise Specialist and the Project Manager to determine whether noise impacts are likely to occur based on the types of land uses present and their proximity to the proposed project.

The procedure for performing a highway traffic noise study during PD&E is described in the following sections.

### 18.2.1 Traffic Noise

#### 18.2.1.1 Noise Abatement Criteria Activity Categories

[Figure 18-1](#) contains seven categories of activity/land use used to assess the impact of noise on these activities. The following is a description of each Activity Category and the traffic noise impact level at which abatement measures must be considered.

##### 18.2.1.1.1 Activity Category A

Activity Category A focuses on the exterior impact criteria for lands on which serenity and quiet are of extraordinary significance and serve an important public need, and where the preservation of those qualities is essential for the area to continue to serve its intended purpose. The approach NAC level for this activity category is 56 dB(A). An example of this activity category would be the Tomb of the Unknown Soldier. A request with supporting justification shall be submitted to OEM for review and approval to apply this activity category to a noise sensitive receptor as early in the project as possible, preferably prior to the initiation of modeling activities. OEM uses the guidance from the **FHWA's Noise Policy FAQs – Frequently Asked Questions** to make a determination for Activity Category A.

### 18.2.1.1.2 Activity Category B

Activity Category B includes the exterior impact criteria for single-family (including mobile home parks) and multifamily residences. This may include units above ground level. The approach NAC level for this activity category is 66 dB(A). No NAC criteria exist for the interior areas of residential land uses.

### 18.2.1.1.3 Activity Category C

Activity Category C includes the exterior impact criteria for a variety of land use facilities. The approach NAC level for this activity category is 66 dB(A). Examples of this activity category include active sports areas, amphitheatres, auditoriums, campgrounds, cemeteries, day care centers, hospitals, libraries, medical facilities, parks, picnic areas, places of worship, playgrounds, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, recreation areas, golf courses, **Section 4(f)** resources, schools, television studios, trails, and trail crossings. Note that these criteria apply only to the exterior areas of Activity Category C. Impact assessments will involve the identification of the land use through a field review and determination of whether exterior areas of frequent or potentially frequent human use occur that might be impacted by future traffic noise levels for the build condition that approach or exceed the NAC. If exterior areas of frequent human use for this NAC category are noted during the field review, detailed modeling of the receptor will occur to determine if an exterior noise level impact will occur in the future with the construction of the project.

Where applicable, the FDOT research publication [\*\*A Method to Determine Reasonableness and Feasibility of Noise Abatement at Special Use Locations \(FL-ER-65-97\*\*](#), updated 2009) shall be used to assess whether noise abatement is feasible and/or reasonable at Activity Category C locations.

### 18.2.1.1.4 Activity Category D

Activity Category D includes the interior impact criteria for a variety of land use facilities listed in Activity Category C that may have interior uses. The approach NAC level for this activity category is 51 dB(A). Examples of this activity category include auditoriums, day care centers, hospitals, libraries, medical facilities, places of worship, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, schools, and television studios. Note that these criteria apply only to the interior areas of this activity category, and will only be analyzed when no exterior activities are impacted by traffic noise or if exterior areas are determined to be impacted but exterior abatement measures are not feasible and reasonable. An interior analysis will only be performed after exhausting all outdoor analysis options. This will involve:

1. The identification of the building envelope for expected noise reduction based on the information found in **Table 6** of the **FHWA Report FHWA-HEP-10-025, Highway Traffic Noise: Analysis and Abatement Guidance, December 2011** and shown in [\*\*Figure 18-3\*\*](#);

2. Determination of the open window/closed window condition; and
3. If the expected reduction cannot be determined as identified in #1 above, or if #2 above cannot be determined, physical measurements of the amount of noise reduction provided by the building envelope will be conducted consistent with methodology found in the FHWA publication ***FHWA-HEP-18-065, Noise Measurement Handbook - Final Report(2018)*** and the associated document ***FHWA-HEP-18-066, Noise Measurement Field Guide - Final Report (2018)***.

Where applicable, the FDOT research publication [\*\*\*A Method to Determine Reasonableness and Feasibility of Noise Abatement at Special Use Locations\*\*\*](#) shall be used to assess whether noise abatement is feasible and/or reasonable at Activity Category D locations.

#### **18.2.1.1.5 Activity Category E**

Activity Category E includes the exterior impact criteria for developed lands that are less sensitive to highway traffic noise. The approach NAC level for this activity category is 71 dB(A) in exterior areas of frequent human use. Examples of this activity category include hotels, motels, offices, restaurants/bars, and other developed lands, properties or activities not included in Activity Category A-D or F. Since these land uses are specifically excluded from Activity Category D, no analysis of interior noise levels is required. Where applicable, the FDOT research publication [\*\*\*A Method to Determine Reasonableness and Feasibility of Noise Abatement at Special Use Locations\*\*\*](#) shall be used to assess whether noise abatement is feasible and/or reasonable at Activity Category E locations.

#### **18.2.1.1.6 Activity Category F**

Activity Category F includes developed lands that are not sensitive to highway traffic noise such as agriculture, airports, bus yards, emergency services, industrial, logging, maintenance facilities, manufacturing, mining, rail yards, retail facilities, shipyards, utilities (water resources, water treatment, electrical), and warehousing. There is no NAC level for this activity category since these land uses are not sensitive to highway traffic noise and therefore no noise analysis is required for these locations.

#### **18.2.1.1.7 Activity Category G**

Activity Category G includes undeveloped lands that are not permitted. There is no NAC level for this activity category. Although consideration of mitigation is not required, FDOT must determine and document highway traffic noise levels and provide this information to local governments. Details on what will be required are found in [\*\*Section 18.2.6.2\*\*](#).

#### **18.2.1.2 Traffic Noise Impacts**

**23 CFR 772 (Table 1 of Part 772 – Noise Abatement Criteria)** establishes the NAC that are used to determine whether a highway traffic noise impact occurs. A traffic noise impact occurs when the modeled future highway traffic noise levels for the worst case

noise condition [usually Level of Service (LOS) “C”] approach or exceed the NAC. A traffic noise impact also occurs when modeled future highway traffic noise levels substantially exceed the existing highway traffic noise level, even though the modeled levels may not exceed the NAC. FDOT has determined that the NAC is approached when it is within 1 dB(A) of the appropriate NAC and that a substantial increase occurs when the increase over existing conditions (measured or predicted) is 15 dB(A) or greater. To assess the highway traffic noise impact of a project, FDOT must evaluate both criteria (approach and substantial increase).

Design year traffic noise impacts are based on the modeled future build noise levels or the difference between the future build and existing measured or predicted traffic noise levels. If one or more noise sensitive receptors are impacted by project related traffic noise levels which approach or exceed the NAC or substantially increase when compared to existing (measured or predicted) noise levels, then abatement measures must be considered. If the abatement criteria are not approached or exceeded or if projected traffic noise levels do not substantially exceed existing noise levels, abatement measures will not be considered.

For example, if, assuming a Category B receptor, the difference between the future build and existing condition predictions shows an increase of 1 dB(A), from 66 dB(A) to 67 dB(A), then the project can be stated to have no substantial increase on highway traffic noise. However, since the predicted level approaches or exceeds the FHWA NAC noise abatement must be considered. If the predicted increase went from 42 dB(A) (existing) to 63 dB(A) (build), the project would be considered to have a substantial increase and would require abatement consideration. For an Activity Category B receptor site with a predicted future noise level of 66 dB(A), the approach criterion would be met and abatement must be considered. However, a level of 65.9 dB(A) would not be considered to have approached or exceeded the abatement criterion and abatement consideration would not be required.

### 18.2.1.3 Traffic Noise Prediction

During a project’s PD&E phase, a traffic noise analysis shall be completed for the alternative(s) under detailed study and for each Activity Category of the NAC shown in [Figure 18-1](#) that is present in the study area. Consistent with **23 CFR § 772.11(c)**, noise level predictions will be required for the following project alternatives and study years:

<u>ALTERNATIVE</u>	<u>YEAR</u>
No-build	Existing and design year
Build	Design year only

### 18.2.1.4 Noise Model Requirements

FDOT will conduct any predictive analysis required by **23 CFR § 772.9** using the FHWA Traffic Noise Model (TNM) as described in FHWA’s ***Traffic Noise Model (FHWA TNM©), User’s Guide (Version 2.5 Addendum)***.

Consistent with **23 CFR § 772.9(b)**, average pavement type shall be used in the FHWA TNM for future noise level predictions. However, in the assessment of existing conditions (including the validation of field measurements); the actual pavement type may be used at the discretion of the District Noise Specialist.

The use of noise contour lines is allowed for project alternative screening or for land use planning to comply with **23 CFR § 772.17**, but noise contours shall not be used for determining highway traffic noise impacts or the determination of the feasibility and reasonableness of providing noise abatement. Additional information on the development and use of noise contours can be found in [Section 18.2.6.2](#).

### **18.2.1.5 Traffic Requirements**

In predicting traffic noise levels and assessing impacts, traffic characteristics that would yield the highest traffic noise impact for the design year shall be used. Experience has shown that the highest traffic volume (also taking into consideration truck percentages) and the highest average speed usually create the noisiest conditions. Maximum peak-hourly traffic representing LOS "C" will be used, unless traffic analysis shows that LOS "C" will not be reached. If LOS "C" will not be reached, demand volumes shall be used. If demand volumes are used in place of LOS "C" volumes, the directional peak traffic should be worst-case for receptors on each side of the roadway.

For ramps, use the following:

1. For interchange ramp traffic, demand traffic volumes shall be used, even if they are higher than the LOS "C" volumes.
2. The vehicle speed to be used in the TNM is the posted speed for existing/no-build alternatives, and the proposed posted speed for the future build alternative. If the proposed posted speed is unknown, then the design speed is to be used. The motor vehicle speed used for ramps will be the posted speed and that speed is applied along the entire ramp unless modified by the flow condition (using TNM flow control if applicable).

Section 1.2 of the [Traffic Noise Modeling and Analysis Practitioners Handbook](#) contains additional guidance on the application of traffic data for noise studies.

### **18.2.1.6 Receptor Data**

In determining traffic noise impacts for properties with Activity Category A, B, C or E, areas of frequent exterior human use should be identified. For those properties with Activity Category D, interior areas of frequent human use should be identified. Interior predictions for Activity Category D (see [Section 18.2.1.1.4](#)) should be coordinated with the District Noise Specialist to ensure proper application. Unless the area of exterior frequent human use is identified elsewhere, residential receptor sites should be placed at the edge of the dwelling unit closest to the major traffic noise source or as dictated by professional judgment.

When more than one unit is clustered together, a single receptor can be analyzed as representative of a group of noise sensitive sites. Each residence in a multifamily dwelling is counted as one receptor when determining impacted and benefited receptors. Noise sensitive receptors may also consist of parks, schools, hospitals, and other sites where quiet is important for normal activities. The location of the receptor in these cases will be dictated by the location of the noise source and the exterior activity that may be impacted, if any.

Receptor heights for first (ground) floor receptors are always assumed to be 5 feet above ground elevation. Analysts shall increase the height above ground by 10 feet for each additional floor above ground level (i.e., 15 feet for a second floor receptor, 25 feet for a third floor receptor, etc.). The maximum horizontal distance from the edge of pavement that a receptor site will be modeled will vary based on topography and traffic conditions and will be determined on a case by case basis. At a minimum, the horizontal distance should be sufficient to identify all potential impacts consistent with the requirements of **23 CFR Part 772**. If there is any question concerning the modeling of a receptor location, contact the District Noise Specialists for guidance.

### **18.2.1.7 Noise Descriptor**

The noise level descriptor used by FDOT will be Level Equivalent (Leq). Leq is the equivalent steady-state sound level which in a stated period of time contains the same acoustic energy as the time-varying sound level during the same time period, with Leq(h) being the hourly value of Leq. **Title 23 CFR Part 772** specifies that either the Leq(h) or L10(h) metric, but not both, may be used on a project. Consistent with this requirement, the FDOT elects to use the Leq(h) metric.

### **18.2.2 Analysis of Traffic Noise Impacts**

**Title 23 CFR § 772.11(a)** requires that FDOT shall determine and analyze expected traffic noise impacts:

1. For projects on new alignments, determine existing noise levels by field measurements.
2. For projects on existing alignments, predict existing and design year traffic noise levels using the latest version of TNM.

Subsection (b) states that in determining traffic noise impacts, a primary consideration should be given to exterior areas where frequent human use occurs.

#### **18.2.2.1 Field Measurements for Establishment of Ambient Noise Conditions**

Field measurements are required along a new alignment to determine the existing noise levels as noted in **23 CFR § 772.11(a)(1)**. This also applies where traffic noise does not

exist or is only a minor element in the overall noise. Noise monitoring is to be conducted following the basic FHWA procedures found in **Measurement of Highway-Related Noise** publication. Measurements should be taken 5 feet above ground level and at locations representative of noise sensitive receptors adjacent to the proposed roadway alignment. If possible, a location along the alignment should be chosen that represents a noise sensitive receptor and that has a noise environment similar to most areas along this section of the alignment. At each measurement location, a minimum of 30 minutes of readings (3 repetitions of 10 minutes each) shall be taken. Use an integrating Sound Level Meter, ANSI Type 1 or 2 as described in **23 CFR § 772.11(d)(3)**, and note the pertinent field conditions. At least two sets of readings (if practical) should be taken at each location. While it may not always be practical, it is recommended that one set of readings be taken during the morning hours and a second set taken during the afternoon hours. If doing so would provide more reliable measurements, it is further recommended that these readings be taken over a period of two or more days. The resultant noise level for each reading shall be noted and an average ambient reading for each site shall be determined. The average ambient reading (from all sources) shall be compared to the predicted future project traffic noise level to determine the increase (if any) in the noise level that can be expected in the area as a result of the proposed project. The entire project corridor should be reviewed under these conditions to determine if any unusual noise sources (e.g., aircraft, industrial, electrical generators, insects or other animals) exist that may influence the ambient readings. If any unusual noise sources are noted during the study, they must be identified in the field documentation. Specific questions regarding ambient noise field measurements should be directed to the District Noise Specialist.

### 18.2.2.2 Field Measurements for Model Validation

The primary purpose of field measuring existing traffic noise levels along an existing roadway alignment is to ensure that:

1. Traffic noise is the primary source of noise; and
2. To validate the TNM input values and verify that the model accurately predicts the existing traffic noise based on the current conditions.

Traffic noise monitoring is conducted in accordance with the FHWA's measurement procedures found in the FHWA document **Measurement of Highway-Related Noise** and supplemented with accepted professional judgment.

Perform monitoring for a minimum of 30 minutes (3 repetitions of 10 minutes each) using an integrating Sound Level Meter, ANSI Type 1 or 2 as described in **23 CFR § 772.11(d)(3)**, noting the following:

1. Average vehicle speed for all classes of vehicles (using a radar unit or equivalent method for measuring speeds, such as electronic portable traffic speed and traffic counters);
2. Vehicle counts and class identification (automobiles, motorcycles, buses, medium trucks, heavy trucks);

3. Unusual noises (e.g., aircraft flyovers, trains, barking dogs, insects or other animals);
4. All input parameters necessary to run the computer model, including:
  - a. Distance from the edge of the nearest travel lane of each roadway to the noise monitoring location;
  - b. Width of roadway lanes and paved shoulders;
  - c. Height of the sound level meter;
  - d. Barrier/buffer information including trees, berms, structures;
  - e. Type of propagation path (hard versus soft);
  - f. Variations in terrain between the sound level meter and the source;
  - g. Grade, if any; and
  - h. The existing pavement type and condition.

If the field data was gathered without background noise that would influence the overall reading (e.g., a dog that barks continuously throughout the measurement period), the field measurements will be considered complete. If not, and a logical explanation for any unusual readings cannot be made, the field measurements at that location(s) should be repeated in accordance with the FHWA's current measurement procedures. Field measurements may also require repetition if the application of the TNM modeling process does not result in an acceptable level of accuracy as required by **23 CFR § 772.11(d)(2)**. As noted in the FHWA guidance document **Highway Traffic Noise: Analysis and Abatement Guidance**, the model is validated if existing field measured highway traffic noise levels and predicted highway traffic noise levels for the existing condition are within +/- 3.0 dB(A). The application of a pavement type other than "average pavement" in the TNM may be used to validate existing traffic noise conditions.

### **18.2.2.3 Computer Prediction of Existing and Future Traffic Noise Levels**

Using the latest version of TNM, traffic noise levels are predicted for the existing and design year using the appropriate traffic data and roadway configurations. This prediction applies to those receptors selected as specified in [Section 18.2.1.6](#). When non-highway transportation noise sources (e.g., airport operations, transit lines, light commuter rail) may impact the feasibility and reasonableness of noise abatement evaluated during the design phase, it is recommended that data from studies conducted in accordance with the respective regulations below be utilized in lieu of separate studies and the outcome should be noted in the **NSR**. Existing aviation noise studies, provided they have been performed consistent with the requirements of **Airport Noise Compatibility Planning**,



**14 CFR Part 150**, can be used in assessing the contribution to overall noise levels from nearby airports. Assessment of the magnitude of noise impacts from rail and transit facilities must comply with **Railroad Noise Emissions Compliance Regulations, 49 CFR Part 210** and Federal Transit Administration (FTA) **Transit Noise and Vibration Impact Assessment Manual**.

### 18.2.3 Noise Abatement Evaluation

When traffic noise impacts are identified as part of the analysis conducted consistent with [Section 18.2.2](#), noise abatement shall be considered and evaluated for feasibility and reasonableness. FDOT shall determine and analyze alternative noise abatement measures to abate identified impacts by giving weight to the benefits and costs of abatement and the overall social, economic, and environmental effects by using feasible and reasonable noise abatement measures for decision-making. In abating traffic noise impacts, FDOT shall give primary consideration to exterior areas where frequent human use occurs.

The abatement measures listed on **23 CFR § 772.15(c)** are eligible for federal funding. Those measures are listed in [Section 18.2.3.1](#).

At a minimum, FDOT shall consider noise abatement in the form of a noise barrier when a traffic noise impact is identified.

It is not a standard practice for the FDOT to use absorptive treatments on noise barriers. Their use will be considered on a case by case basis under the following conditions:

1. Absorptive surface treatments for the roadway side of a noise barrier shall only be considered in parallel noise barrier situations where a width to height ratio of 10:1 or more cannot be achieved. The width is the distance between the two parallel noise barriers and the height is the average height of the barriers above the roadway. For example, if the average height of two parallel noise barriers is 20 feet, they should be at least 200 feet apart to avoid a reduction in their effectiveness due to reflections. The parallel barrier analysis module within TNM shall be used to evaluate the impact of reflections on the performance of parallel noise barriers.
2. Absorptive surface treatments shall only be considered for the roadway side of single (non-parallel) noise barriers when the distance from the face of the noise barrier to the nearest noise sensitive receptor on the opposite side of the roadway (across from the barrier) is less than 10 times the average height of the noise barrier above the roadway.

#### 18.2.3.1 Traffic Noise Abatement Techniques

The most common type of traffic noise abatement measure is the construction of a noise barrier. As noted in **23 CFR § 772.13(c)(1)**, at a minimum, the FDOT shall consider noise abatement in the form of a noise barrier. Therefore, all impacted receptors will require analysis for traffic noise reduction using a noise barrier. The exception to this is for

“isolated impacts” where there is only one impacted receptor that could benefit from a noise barrier, and as such, would not meet minimum feasibility requirements. In these cases, a generalized statement of this nature can be made in the **NSR** stating that noise barriers will not be evaluated for isolated impacted receptors. Traffic management, alteration of horizontal and vertical alignments, acquisition of real property to create a buffer zone, and noise insulation of Activity Category D land use are also acceptable noise abatement measures.

Federal funds may be used for noise abatement on Type I projects when traffic noise impacts have been identified and abatement measures have been determined to be feasible and reasonable pursuant to **23 CFR § 772.13(d)**. The primary noise abatement measure to be considered by FDOT for incorporation into a Type I project to reduce traffic noise impacts will be the construction of a noise barrier. **Landscaping is not a viable noise abatement measure.**

Traffic noise abatement is considered only if the predicted future build traffic noise level approaches or exceeds abatement levels in the NAC, or if build traffic noise levels substantially increase from existing noise levels (either measured or predicted) as determined in [Section 18.2.2](#) above. If no impacts are identified, see [Section 18.2.6](#).

When considering noise barriers for noise abatement, the feasibility and reasonableness factors discussed in [Sections 18.2.3.2](#) and [18.2.3.3](#) must be evaluated for each viable alternative under detailed analysis.

Noise abatement will not be required for Activity Category F or Activity Category G uses (See [Sections 18.2.1.1.6](#) and [18.2.1.1.7](#)).

The document [A Method to Determine Reasonableness and Feasibility of Noise Abatement at Special Use Locations](#) shall be used to ensure the reasonableness of abatement for Activity Category C, D and E land uses.

### **18.2.3.2 Feasibility Factors**

Feasibility factors for noise abatement measures involve both acoustic (noise reduction) and engineering considerations when considering a potential abatement measure.

#### **18.2.3.2.1 Noise Reduction Factor**

The feasibility of providing noise abatement is focused on the ability of the noise barrier to provide a reduction of at least 5 dB(A) to impacted receptors. The more reduction that can be achieved, the better the barrier, as long as the cost, visual impact, and other factors of the barrier are not unreasonable. If a minimum of 5 dB(A) reduction cannot be achieved at a particular receptor, that receptor is not considered benefited. The number of impacted receptors required to achieve a 5 dB(A) reduction or greater in order for a noise barrier to be considered feasible will be two (2) or greater.

### **18.2.3.2.2 Design and Construction Factors**

Consideration should be given to whether a noise barrier can be constructed using standard construction methods and techniques. Factors to be considered include terrain changes, utilities, safety (e.g., lane closures, sight distance), bridges, overpasses, and similar difficulties. The proposed plan should be reviewed by appropriate personnel to determine if alternative construction methods and techniques will increase the construction costs or time, impact roadway safety, or result in other impacts. Additional costs solely to accommodate construction of a noise barrier should be included in the cost reasonableness evaluation of the noise barrier.

If a noise barrier is expected to be placed on an existing structure, such as a bridge or a Mechanically Stabilized Earth (MSE) wall, because of effectiveness or cost reasons, the ability of this structure to support the additional wind and dead loads safely must be established before a final commitment to build the noise barrier is made. If a new bridge is being designed and a noise barrier is contemplated for placement on the bridge, the ability of the bridge to support the load of the noise barrier and crashworthiness of the proposed barrier within the clear zone should be considered as early as practicable.

### **18.2.3.2.3 Safety Factors**

Safety is a critical factor in determining whether a particular abatement measure is feasible. Noise barriers should be designed in accordance with [Part 2, Section 264 of the FDOT Design Manual \(FDM\), Topic No. 625-000-002](#). If a conflict between a noise barrier and safety exists, primary consideration should be given to safety. An example of such a conflict would be the loss of a safe sight distance (line of sight) at an intersection or driveway as a result of the placement of a noise barrier. Conflicts are considered during the feasibility assessment of the noise barrier and may result in a determination that a noise barrier is not feasible. Noise barriers cannot exceed the following heights:

1. For ground mounted noise barriers, the maximum height will be 22 feet.
2. For noise barriers on bridge and retaining wall structures the maximum height will be 8 feet unless a taller noise barrier is specifically approved in writing by the State Structures Design Engineer.
3. For ground mounted Traffic Railing/Noise Barrier combinations, the maximum height will be 14 feet.

Non-crash tested noise barriers within the clear zone require shielding.

### **18.2.3.2.4 Access Factors**

Accessibility to adjacent properties on non-limited access roadways must be given consideration since the placement of a noise barrier may block ingress and egress to these properties. Other access issues to be considered include access to a local sidewalk or normal routes of travel.

### **18.2.3.2.5 Right of Way Factors**

ROW needs, including access rights, easements for construction and/or maintenance, and additional land must be considered as part of the feasibility of noise barrier construction. If necessary, the FDOT can consider the purchase of additional ROW or make a request for the donation of ROW from the adjacent property owners(s) for the purpose of noise barrier construction and/or maintenance. The additional cost to purchase ROW shall be included in the overall cost reasonableness calculations. In the case where purchase of ROW is not possible or if the adjacent property owner(s) do not wish to donate the necessary ROW, the noise barrier or noise barrier system shall be determined not feasible. ROW needs will be determined as early in the process as possible.

### **18.2.3.2.6 Maintenance Factors**

Maintenance of a noise barrier must be considered to ensure that the barrier can be maintained using standard practices. Maintenance crews must have reasonable access on both sides of the barrier for both personnel and equipment. Since graffiti can be a serious problem, consideration should be given as to how it can be reduced.

### **18.2.3.2.7 Drainage Factors**

Drainage is an important element that must be considered in the location and design of a noise barrier. Directing stormwater along, under, or away from a noise barrier can cause construction and maintenance problems and therefore, must be given adequate consideration.

### **18.2.3.2.8 Utility Factors**

Utility issues, including the impact of noise barriers on utilities and the reverse must be assessed early in the process. Both overhead and underground utilities can have a significant impact on design and construction options.

### **18.2.3.3 Reasonableness Factors**

Once a noise abatement measure is determined to be feasible, the reasonableness of noise abatement will then be determined. The following reasonableness factors must collectively be achieved in order for the noise abatement measure to be deemed reasonable:

1. Consideration of the viewpoints of the benefited property owners and residents;
2. Cost effectiveness of the highway traffic noise abatement measure; and
3. Achievement of the FDOT noise reduction design goal.

### 18.2.3.3.1 Viewpoint of the Benefited Receptors

Through the ETDM screening process, the District Noise Specialist will input traffic noise related concerns received from communities adjacent to the project into the Environmental Screening Tool (EST).

During the PD&E phase, the viewpoints of potentially benefited receptors will be gathered during workshops, public hearing or through other public information mediums, such as project websites.

A more detailed process to solicit the viewpoint of the benefited receptors is invoked during the design phase of the project. Each benefited receptor (owner or resident) will be given the opportunity to provide input to FDOT regarding their desire to have the proposed noise abatement measure constructed. They may also be given the opportunity (at the discretion of the District) to provide input regarding their aesthetic preferences from a list of pre-selected options.

During the design phase of the project, FDOT will use either a noise abatement workshop and/or a public survey to determine the wishes of the benefited receptors. The survey effort may include a mailing of information related to the abatement measure along with a survey form to be signed and returned to FDOT. It is the desire of FDOT to obtain a response for or against the noise barrier from a numerical majority (greater than 50%) of the benefited receptors (owners and residents) that provide a response to the survey. Multiple techniques to solicit input may be used, including multiple mailings, door-to-door follow up, and even telephone solicitation (as needed) to provide adequate information to allow FDOT to make an informed decision on whether abatement is desired or not. If, after multiple attempts to gather the input from the benefited receptors, a minimum response rate of 50% is not achieved, the FDOT will determine the abatement measure to be not reasonable. If a numerical majority of the benefited residents and property owners that provide a response to the survey do not favor construction of a noise barrier, FDOT will not provide the noise barrier. It is important to note that the viewpoints of the property owner will be considered as having the greatest weight in the decision as to whether FDOT will provide noise abatement. While the viewpoint of the non-owner resident will be considered, their viewpoint will carry less weight, consistent with the formula shown in the **Table 18-1**.

**Table 18-1 Viewpoint Weighting Factors**

Property Type	Owner Occupies Property	Owner Does not Occupy Property	
		Owner	Renter
Single Family	100%	90%	10%
Multi-family (duplex, apartments, condominiums)*	100%	90%	10%
Mobile Home Park*	100%	80%	20%
Offices, Businesses	100%	80%	20%

\* The weighting factor is for each unit (mobile home, apartments, condominiums), not for the entire mobile home park, apartment complex or condominium building.

For example, if a renter of a single family home wishes to have noise abatement but the owner does not, the opinion of the home owner would prevail. If the owner of the home did not respond for or against the noise abatement measure, then the renter's opinion would be used to be the equivalent to 10% of the home owner. This means that 10 renters in favor of the noise abatement would equal the vote of 1 owner occupied home.

The input of Homeowners Associations (HOA) should be considered during the survey process, especially if the HOA owns common land adjacent to FDOT ROW where the noise barrier would be located. However, no formal vote shall be made by the HOA and the desires of the HOA cannot preclude those of the benefited receptors behind the noise barrier.

### 18.2.3.3.2 Cost Effectiveness

FDOT has established cost effectiveness criteria that have been in place for many years. The basis for the cost effectiveness criteria is that FDOT has provided approximately 1,400 square feet of noise barrier per benefited receptor at a reasonable cost. Using the current unit cost of \$30.00 per square foot, a reasonable cost of \$42,000 per benefited receptor is looked upon as the upper limit. Only benefited receptors will be included in the calculation used to determine if a proposed noise abatement measure has a reasonable cost. Cost factor elements are reviewed annually by FDOT and adjusted every five (5) years, with the last adjustment review occurring on August 3, 2018. The relationship between unit costs and the upper limit for cost reasonableness will be based on maintaining a constant upper limit of 1,400 square feet of noise barrier per benefited receptor. FDOT considers the following elements as part of the overall calculation of cost effectiveness of a noise barrier:

1. The cost of materials and labor;
2. The cost of additional ROW (including the cost of construction and/or maintenance easements) needed exclusively to construct the noise barrier (if any);
3. The cost of new or upgraded drainage structures required by the construction of a noise barrier;

4. Relocation of utilities when they are outside of FDOT ROW (these costs are not included in the cost effectiveness calculations for the noise barrier); and
5. On projects where Florida Gas Transmission (FGT) facilities are present within FDOT ROW, the [\*\*FGT Agreement and Global Settlement\*\*](#) controls the responsibilities of both FDOT and FGT. Where a noise barrier is proposed to be located within the below clearances to FGT's facilities, FGT may at its sole discretion decide to move its facilities.
  - a. Single Line:
    1. Nine (9) inch internal diameter or greater: 15 feet unencumbered from the outside edge of the line plus 25 feet additional temporary workspace on one side of the 15-foot unencumbered space.
    2. Less than nine (9) inch internal diameter: 5 feet unencumbered from the outside edge of the line plus 10 feet additional temporary workspace on one side of the 5-foot unencumbered space.
  - b. Two Lines: 60 feet, measured from the center line of the pipelines, with no additional temporary workspace.
  - c. Three Lines: 75 feet, measured from the center line of the two outside pipelines, with no additional temporary workspace.

For pipelines at those locations where the width between two pipelines is greater than thirty (30) feet, and for three pipelines where the width between the centerline of the two outermost pipelines is greater than forty five (45) feet, such pipelines shall constitute single pipelines as identified in item number 1 (Single Line) above for the purposes of establishing the Specified Width; provided, however, pipelines that are equal to or less than thirty (30) feet apart measured from the center line of the two pipelines shall be treated as two pipelines consistent with item number 2 above (Two Lines).

If FGT decides to move its facilities, FGT and FDOT may split the cost of ROW acquisition, construction and other project costs in accordance with the [\*\*FGT Agreement and Global Settlement\*\*](#). Any additional costs incurred by FDOT shall be included in the cost reasonableness calculations for the proposed noise barrier. If FGT decides not to relocate its facilities, alternative locations for noise barrier placement shall be investigated. Any additional costs incurred as a result of the relocated noise barrier shall be included in the cost reasonableness calculations for that noise barrier.

Cost elements do not include the cost of designing the noise barrier, relocation of utilities (above or below ground) that are permitted within FDOT ROW, clearing and grubbing, mobilization, maintenance of traffic, construction engineering and inspection, and related activities that are considered as part of the total construction project. To be considered as a noise abatement cost, the costs must be incurred because of the installation of the

noise barrier. An example would be when there is a need to extend a culvert that would not be necessary for roadway construction but is required to construct the noise barrier.

It is important that the cost effectiveness of abatement be determined during the PD&E Study, to the extent possible, to enable FDOT to make a statement of likelihood in the Environmental Document to pursue this mitigation effort in the design phase. The PD&E Noise Study should also note that the reasonableness of providing noise abatement in the form of a noise barrier is subject to a detailed review in design and subsequent re-evaluations.

The primary method of determining the cost for noise abatement by FDOT will involve a review of the cost per benefited receptor for the construction of a noise barrier benefiting a single location (such as a subdivision or contiguous impacted areas) with each area being considered a common noise environment area. A common noise environment implies that a group of receptors of the same NAC activity category are exposed to similar noise sources and levels, traffic volumes, traffic mix, speed, and topographic features and are benefited by the same noise barrier or noise barrier system. Noise barriers may be provided for common noise environments that contain different Activity Categories of the NAC, provided that the noise barrier for each Activity Category is feasible and cost reasonable on its own. Contact the District Noise Specialist for questions related to the application of the common noise environment criteria.

In the case of RV parks that also serve as a mobile home site, noise abatement will be considered when fifty-one (51) percent of the noise impacted spaces are occupied fifty-one (51) percent of the year or more by “permanent” residents. A permanent resident would be one who occupies the dwelling unit at least fifty-one (51) percent of the calendar year. For these locations where usage is often seasonal and of short duration, the property owner will determine the occupancy rate of that portion of the facility that is impacted by traffic noise. If less than 51 percent of the impacted spaces are occupied less than 51 percent of the year, abatement measures will not be considered. The same occupancy requirements will apply for other forms of temporary housing not identified here and will be considered on a case by case basis in consultation with OEM. The noise abatement measure must be feasible and reasonable before it will be considered further.

**Third-party funding is not allowed to subsidize the cost of a noise barrier for the purpose of making the noise barrier feasible or reasonable.** Third-party funding as noted in **23 CFR § 772.13(j)** is acceptable on a federal or federal-aid highway Type I project to make functional enhancements as long as the noise abatement measure already has been determined to be feasible and reasonable.

### **18.2.3.3.3 Noise Reduction Design Goal**

As stated in **23 CFR § 772.13(d)(2)(iv)** for an abatement measure to be considered reasonable, it must attain the FDOT noise reduction design goal. To ensure the provision of reasonable traffic noise abatement consideration at the greatest number of impacted locations, FDOT has selected a 7 dB(A) noise level reduction for one (1) or more benefited receptors as the noise reduction design goal. Failure to achieve the noise reduction



design goal will result in the noise abatement measure being deemed not reasonable. In setting this goal, FDOT reviewed historic records of noise barrier reduction dating back to 1979. The average noise reduction for these noise barriers was 7.36 dB(A), which would indicate that the noise reduction design goal of 7 dB(A) would be reasonable.

## 18.2.4 Outdoor Advertising Sign Impacts

Although it is not to be considered as either a feasibility or reasonableness option, Florida Law requires consideration of the potential to construct a noise barrier that might block the motorist's view of an existing, conforming and legally permitted outdoor advertising sign. As early in the PD&E Study as possible, the District Outdoor Advertising section of the Office of Right of Way must be notified (consistent with the [Right of Way Procedures Manual, Topic No. 575-000-000](#)) in order to identify outdoor advertising signs affected by any proposed noise barrier. At a minimum, the section number and milepost for each noise barrier, along with an estimated construction date, will be given to the Outdoor Advertising Section so notice of the possible screening of a sign can be provided to the affected sign permit holder(s). (Note: If the latitude and longitude of the sign can be provided; this will assist the Outdoor Advertising section in locating the needed information).

Outdoor advertising signs that are legally permitted, conforming and erected may increase the height of the sign if visibility is blocked due to the construction of "noise attenuation" barriers consistent with **Section 479.25, F.S.** This statute requires FDOT to notify a local government or local jurisdiction before erecting a noise barrier that will block a lawfully permitted sign. The local government or local jurisdiction is then required to notify FDOT if increasing the height of an outdoor advertising sign will violate any local ordinance or land development regulation of the local government. When the notice has been received from the local government or local jurisdiction, and prior to the erection of the noise barrier, FDOT shall inform all property owners identified as impacted by highway noise, and who may benefit from the proposed noise attenuation barrier, as part of a written survey, that:

1. Erection of a specific noise barrier may block the visibility of an existing outdoor advertising sign;
2. The local government or local jurisdiction may restrict or prohibit increasing the height of the existing outdoor advertising sign to make it visible over the noise barrier; and
3. If a majority of the impacted property owners vote for the construction of the noise barrier, the local government or local jurisdiction will be required to:
  - a. Allow an increase in the height of the sign in violation of a local ordinance or land development regulation;
  - b. Allow the sign to be relocated or reconstructed at another location if the sign owner agrees; or

- c. Pay the fair market value of the sign and its associated interest in the real property.

The statute also requires FDOT to hold a public hearing within the boundaries of the affected local government or local jurisdiction to receive input on proposed noise barriers that may conflict with the local ordinances or land development regulations, and to suggest or consider alternatives or modifications to the proposed noise barrier to alleviate or minimize the conflict with the local ordinances or land development regulations, or minimize any costs associated with relocation, reconstructing, or paying for the affected outdoor advertising sign. Alternatives or modifications to proposed noise barriers that will not provide the minimum 5 dB(A) reduction will not be considered.

The written survey materials shall inform the affected property owners of the location, date, and time of the public hearing. The public hearing may be held concurrently with other public hearings scheduled for the project. A general notice of the public hearing shall also be published in a newspaper in accordance with the notice provision of **Section 335.02(1), F.S.**, and contain the same information provided in the written survey materials. The notice shall not be placed in that portion of a newspaper in which legal notices or classified advertisements appear. Please refer to [Part 1, Chapter 11, Public Involvement](#), for additional details about meeting notification requirements.

FDOT shall not construct a noise barrier that screens or blocks the visibility of a lawfully permitted outdoor advertising sign until after the public hearing is held and the numerical majority of the impacted property owners have approved the construction of the noise barrier. If the construction of the noise barrier is approved, FDOT shall notify the local governments or local jurisdictions. The local governments or local jurisdictions shall then exercise one of the options listed above.

The construction of business names/logos or building addresses on noise barriers is in violation of **23 CFR § 750.709**. For noise barriers in urban and suburban areas, imprinting of subdivision names or logos on the noise barrier may be considered only at the portion of the noise barrier at the legal entrance to the subdivision. FDOT allows consideration of noise barrier aesthetic enhancement that meets FHWA regulations related to this process. Each request for such an application will be handled on a case-by-case basis.

## **18.2.5 Community Coordination**

### **18.2.5.1 Community Coordination in PD&E**

The degree and type of community coordination and participation will vary from project to project. For projects requiring consideration of abatement, the community involvement activities should allow for presentation and discussion of noise impacts related to the project. Opportunities for such involvement should be provided, as appropriate, during the environmental evaluation and documentation phase as part of the public involvement and/or public hearing process. See [Section 18.2.6.2](#) for required coordination with local officials.

### 18.2.5.2 Community Coordination in Final Design

When noise abatement is anticipated in the final design phase, community coordination will include a survey of benefited property owners and residents to determine their viewpoints regarding abatement. This can be done using any number or combination of techniques (e.g., door-to-door contact, telephone polls, mailed survey form, public workshop).

The viewpoint of the benefited receptors (property owners and residents) related to abatement should be analyzed in the decision-making process. Discussions at public meetings may also include a presentation of material options, physical dimensions, obtainable levels of reduction, and cost factors so public input can be considered in decision making.

In the event that some benefited property owners or residents' desire noise abatement and others do not, further assessment may be necessary in order to determine what impact, if any, this will have on the feasibility and reasonableness as well as the social impacts. Consultation with OEM may be needed. Documentation of noise abatement measures developed during the final design should include letters, public hearing transcripts, and survey results. indicating that the benefited property owners or residents were afforded an opportunity to provide input.

### 18.2.6 Noise Study Report

The results of the noise analyses shall be reported in an **NSR** and summarized in the appropriate section of the Environmental Document. Viable alternatives will be documented including the no-build alternative.

The **NSR** should have a logical sequence, which adequately describes the procedures used in developing the **NSR**, performing the required analyses, and arriving at the appropriate conclusions. Data in the **NSR** should be well presented by utilizing graphics and references so the report is readily understandable by both technical and non-technical audiences. Noise levels (measured or predicted) should be reported to the nearest 1/10th of a decibel. The report should focus on relevant information. TNM modeling files should be provided in the StateWide Environmental Project Tracker (SWEPT). The **NSR** should also include: the existing (measured or predicted) as well as the predicted future build and no-build noise levels for each receptor; required field monitoring data and any necessary explanation of the results of this data; a complete set of aerials showing the full project limits and the location of receptor points used in the noise analysis; and the date of the last review of land use that was considered in the **NSR**. [Figure 18-4](#) illustrates a recommended outline for the **NSR**.

The **NSR** must use the **Technical Report Cover Page, Form No. 650-050-38** as the cover sheet of the report. A sample **NSR** cover page is provided in [Figure 18-10](#). This cover page of the **NSR** includes the following 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 December 14, 2016 and executed by FHWA and FDOT.*

### 18.2.6.1 Methodology and Assumptions

Include the following information related to methodology and assumptions in the **NSR**:

1. Noise model(s) and methodology used;
2. Alternatives and years considered;
3. Existing and design year vehicle volumes, speeds, and composition data;
4. Receptor locations and descriptions, including land use activity category;
5. Basis for determination of existing and future traffic noise levels; and
6. Noise descriptor used.

Include a comparison of the total traffic noise levels for each build and no-build alternative along with the appropriate NAC and existing (measured or predicted) noise levels. Also include in the **NSR** all abatement considerations and a statement of likelihood (See [Section 18.2.6.3](#)).

Include an illustration similar to [Figure 18-7](#) in the **NSR** to assist the public in understanding how traffic noise levels relate to other sound sources.

### 18.2.6.2 Coordination Requirements and Documentation

Summarize in the **NSR** any coordination or communications that may have taken place with other agencies and the public and include in the public coordination section. Include comments and any responses to any comments. A statement should also be made that a copy of the final **NSR** will be circulated to the appropriate local planning/zoning officials for their use upon approval of the Environmental Document. The **NSR** should also include a representation of the best estimate of the distances from the proposed edge of the nearest travel lane at which traffic noise levels would approach or exceed the NAC for Activity Categories A through E for each project segment as shown in [Figure 18-6](#).

When the Environmental Document is approved, send copies of the **NSR** to the appropriate local government officials within whose jurisdiction the highway project is located (see [Figure 18-8](#) for a sample **NSR** transmittal letter). The following information should be transmitted along with the **NSR** consistent with **23 CFR § 772.17(a)**:

1. Noise compatible planning concepts;

2. A representation of the estimated distances from the proposed edge of the nearest travel lane at which traffic noise levels would approach or exceed the NAC for Activity Categories A through E for each segment of the project; and
3. After the Date of Public Knowledge, FDOT is no longer responsible for providing noise abatement to new development which occurs adjacent to the proposed highway project.

The above items are intended solely to assist local officials and private developers in promoting compatibility between land development and highways. Upon request, FDOT may provide additional available material and technical guidance which may assist local officials and private developers in this respect. The **NSR** transmittal letter should be included in the SWEPT project file.

### 18.2.6.3 Documentation in the PD&E Phase

Before approval of a CE, FONSI, ROD, NMSA, or SEIR, FDOT shall identify:

1. A Statement of Likelihood for the noise abatement measures which are potentially feasible and reasonable, and which are likely to be incorporated in the project; and
2. Noise impacts for which no noise abatement measures are feasible and reasonable.

**Title 23 CFR § 772.13(h)** states that FHWA will not approve project plans and specifications unless feasible and reasonable noise abatement measures are incorporated into the plans and specifications to reduce the traffic noise impact on existing activities, developed lands, or undeveloped lands for which development is permitted.

Noise abatement will be analyzed two (2) times during the development of a project. The first time will be during the PD&E phase where the Environmental Document is prepared. By then, the noise studies will have progressed to the stage where noise-impacted areas have been identified. At this stage, it is unlikely that exact locations, abatement types, ROW requirements, or design and construction feasibility factors, can be determined, although approximate noise barrier location and height information should be determined. The second time will be during final design prior to Plans, Specifications, and Estimates (PS&E) approval. Any noise sensitive receptor that is permitted between the completion of the **NSR** and the Date of Public Knowledge will be analyzed for traffic noise impacts and, if impacts are predicted, abatement considered during the design phase of the project.

If there are no impacted receptors within the project, the following statement (or variation thereof) should be used:

Based on the noise analyses performed to date, there appear to be no impacted areas within the project that require abatement consideration.

For noise impacted areas requiring abatement consideration, in accordance with **23 CFR Part 772**, the Environmental Document shall contain a Statement of Likelihood similar to the following:

The Florida Department of Transportation is committed to the construction of feasible and reasonable noise abatement measures at the noise-impacted locations identified in (insert a table or figure which shows proposed location and physical description of noise abatement measures determined feasible and reasonable) contingent upon the following conditions:

1. Final recommendations on the construction of abatement measures is determined during the project's final design and through the public involvement process;
2. Detailed noise analyses during the final design process support the need, feasibility and reasonableness of providing abatement;
3. Cost analysis indicates that the cost of the noise barrier(s) will not exceed the cost reasonable criterion;
4. Community input supporting types, heights, and locations of the noise barrier(s) is provided to the District Office; and
5. Safety and engineering aspects as related to the roadway user and the adjacent property owner have been reviewed and any conflicts or issues resolved.

Appropriate project specific contingencies may be added to the statement of likelihood.

If no feasible or reasonable abatement is identified, the following statement (or variation thereof) shall be used:

Based on the noise analyses performed to date, there are no feasible solutions available to mitigate the noise impacts at the locations identified in (insert a table or figure which shows proposed location and physical description of noise abatement measures determined not feasible or reasonable).

#### **18.2.6.4 Documentation in the Design Phase**

As noted in [Section 18.2.3.3.3](#), the FDOT noise reduction design goal is 7 dB(A) for one or more benefited receptors. A minimum insertion loss of 5 dB(A) or more is required to be considered a benefited receptor. During the Design phase, the noise abatement locations, noise barrier types, lengths and heights will be determined. The final noise abatement commitments must be documented in the re-evaluation and the **Noise Study Report Addendum (NSRA)** prior to construction advertisement, regardless of project

funding sources. It is the responsibility of the District Design Project Manager to collect from the environmental staff all PD&E noise abatement commitments and other noise study information such as copies of the **NSR**, pertinent preliminary design-related information. The Design Project Manager must work with the environmental staff to ensure that the final noise abatement commitments are reflected in the noise section of the re-evaluation before the project moves to construction phase.

If, during the final design phase, abatement is no longer considered feasible or reasonable for a given location(s), such determination(s) will be made in the Re-evaluation process prior to requesting approval for construction advertisement ([Part 1, Chapter 13, Re-evaluations](#)). Commitments regarding the exact abatement measure locations, heights, and type (or approved alternatives) will be made during the Design phase and recorded on the **Project Commitments Record (PCR), Form 650-000-001** as required by [Procedure No. 650-000-003, Project Commitment Tracking](#). See [Part 2, Chapter 22, Commitments](#) for more information on commitments.

If abatement is not feasible or reasonable, the following statement (or variation thereof) shall be used:

Based on the noise analyses performed to date, there appears to be no feasible and reasonable solutions available to mitigate the noise impacts at the locations identified in (insert a table or figure which shows proposed location and physical description of noise abatement measures determined not feasible or reasonable).

### 18.2.6.5 Construction Noise and Vibration Impacts

The early identification of potential construction noise and/or vibration impacts that may result from the construction of the project is important. The level of consideration for construction noise and vibration is discussed in **Highway Traffic Noise: Analysis and Abatement Guidance (FHWA, December 2011)**. Any potential construction noise or vibration impacts that are identified in the PD&E phase shall be documented in the **NSR** and in the Environmental Document, along with any identified abatement measures that are potentially feasible and reasonable. A list of example construction noise and vibration sensitive receptors has been developed and can be found in [Figure 18-9](#). This will allow avoidance and/or mitigation options to be developed during the final design phase. These options can then be placed in the construction plans and applied during the construction of the project by the Contractor.

A discussion of construction noise and vibration impacts must be included in the Environmental Document whether the NAC are exceeded or not. It is generally based on site specific conditions and should, at a minimum, include a general reference to the [FDOT Standard Specifications for Road and Bridge Construction](#) to control noise and/or vibration impacts.

Examples of standard specifications that may be applied to a project include:

1. **Section 6-3.1** related to the storage of materials to minimize noise impacts on sensitive receivers;
2. **Section 100-2.1** related to equipment approval requiring the use of factory recommended exhaust mufflers and to remove or repair any equipment that is disapproved by the Engineer;
3. **Section 100-2.2** requires adequate equipment maintenance to minimize noise pollution caused by construction equipment;
4. **Section 100-2.3** suggests that all stationary equipment be screened from noise sensitive receivers beyond normal working hours and, if feasible, screen this equipment during normal working hours to reduce noise impacts;
5. **Section 120-6.4** addresses the concept of establishing haul routes which will direct construction vehicles away from developed areas when feasible and keep noise from hauling operations to a minimum; and
6. **Section 455-1.1** requires that the Contractor take reasonable precautions to prevent structural damage to existing structures by monitoring settlement and vibrations in accordance with the requirements of the specifications.

FHWA's **Highway Construction Noise Handbook** provides guidance for the prediction and mitigation of construction noise. The Roadway Construction Noise Model (RCNM), which is the FHWA's national model for the prediction of construction noise, may be used as needed. The RCNM provides a construction noise screening tool to predict construction noise levels and determine compliance with noise limits for a variety of construction noise projects. The use of the RCNM should be coordinated with OEM prior to application.

Any recommended special construction noise and/or vibration mitigation measures identified during the review of potential construction and/or vibration impacts will be described in the **NSR** and in the Environmental Document, as appropriate. In considering construction noise and/or vibration mitigation, it should be noted that special provisions may be added as appropriate to the project's construction specifications. Any unique noise and/or vibration control efforts to be considered during construction shall be coordinated with the District Noise Specialist and Project Manager prior to inclusion in the **NSR**.

The following is a sample construction noise and vibration statement for inclusion in the appropriate **NSR/NSRA** and Environmental Document:

Based on the existing land use within the limits of this project, construction of the proposed roadway improvements will (will not) have any noise or vibration impact. If noise-sensitive land uses develop adjacent to the roadway prior to construction, additional impacts could result. It is anticipated that the application of the [\*\*FDOT Standard Specifications for Road and Bridge Construction\*\*](#) will minimize or eliminate most of the



potential construction noise and vibration impacts. However, should unanticipated noise or vibration issues arise during the construction process, the Project Manager, in concert with the District Noise Specialist and the Contractor, will investigate additional methods of controlling these impacts.

## 18.2.7 Environmental Document

The expected level of noise impacts discussion for each type of Environmental Document is provided in the sections below. The Environmental Document shall identify locations where noise impacts are predicted to occur, where noise abatement is feasible and reasonable, and locations with impacts that have no feasible or reasonable noise abatement alternative.

The final **NSR** is uploaded into the SWEPT project file and a summary should be included in the Environmental Document. The Highway Traffic Noise section of the Environmental Document should contain enough detail to convey the degree of noise impact attributed to the proposed project, along with certain required statements. The Environmental Document must reference the **NSR** for additional details using a statement similar to the following:

The Noise Study Report for this project is available from the District Office, located at \_\_\_\_\_.

The Environmental Document will also include information regarding the consideration of noise abatement measures that have or have not been determined to be feasible and reasonable based on the information available at the time the **NSR** was completed.

After OEM grants Location and Design Concept Acceptance (LDCA) for a federal project, or a SEIR has been approved, a copy of the **NSR** is sent to the appropriate local government officials who have jurisdiction where the highway project is located. Other information that will aid these officials in their planning and land use decisions to minimize highway noise impacts in the future may be sent along with the **NSR**. See [Figure 18-8](#) for a sample **NSR** transmittal cover letter to a local planning agency.

### 18.2.7.1 Type 2 Categorical Exclusion

On the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** identify if it is a Type I or Type III project ([Section 18.1.2](#)) pursuant to **23 CFR Part 772** and **Section 335.17, F.S.** Summarize the results of noise impacts documented in the **NSR**. The summary should include locations with the predicted noise impacts that have feasible and reasonable abatement barriers, and locations with impacts that have no feasible or reasonable noise abatement alternative. Include the **NSR** as Technical Material and add a map for noise as an attachment, if applicable.

### **18.2.7.2 Environmental Assessment with Finding of No Significant Impact**

The Environmental Analysis section of the EA must reference and summarize the **NSR**. Specific references to the items discussed in [Sections 18.2.2](#) and [18.2.3](#) are included as appropriate. Coordination which occurred during the noise study must be documented. The Comments and Coordination section shall discuss the history of the coordination that occurred and include letters from agencies expressing comments on the **NSR**. Resolution of comments shall also be documented in this section. In the FONSI, provide a summary of all noise impacts resulting from the project. If abatement measures are being recommended for further consideration, identify the sites for which the abatement is proposed. For those locations with impacts where abatement is not feasible and/or reasonable, provide those locations and an explanation as to why the abatement measure(s) considered was determined to not be feasible and/or reasonable.

### **18.2.7.3 Environmental Impact Statement**

The Environmental Analysis section of an Environmental Impact Statement (EIS) should summarize the **NSR** and include the following information:

1. A brief description of noise sensitive areas and their location, including information on the numbers and types of activities which may be impacted. The availability of the **NSR** at the District Office will be noted.
2. The extent of the impact (in decibels). This will include a brief description of the methodology used and identification of the computer model used, along with a comparison of the future predicted noise levels with both FHWA NAC and the existing predicted noise levels.
3. Noise abatement measures which have been considered and those measures that would likely be incorporated into the proposed project.
4. Noise impacts for which no feasible and reasonable abatement is available and the reasons why.

### **18.2.7.4 State Environmental Impact Report**

The Environmental Analysis section of a SEIR should identify the anticipated traffic noise impacts and appropriately reference the basis for decision the same as for a federal project as described in this chapter.

### **18.2.8 Re-evaluations**

The re-evaluation of any Environmental Document that included an **NSR** shall also include an update of the traffic noise analysis. Assumptions made and data used during the original noise analysis and documented in the **NSR** shall be reviewed and updated to ensure the assumptions and any preliminary commitments are still valid. This may

include, but not necessarily be limited to, current and future traffic data (volumes, speeds, composition), roadway alignment (horizontal and vertical), land use, propagation path, barriers/buffers (including trees, berms, structures), variation in terrain between noise source and receptors. Changes to the horizontal and vertical roadway alignment should follow the guidance provided in the Type I Projects Matrix provided in [Figure 18-2](#). The re-evaluation may result in no change to the **NSR** or in a completely new **NSR** being required. At a minimum, it must be documented that the original noise study and analysis was reviewed and that the assumptions, project conditions and results are still valid. Computer modeling efforts will be conducted using the latest version of TNM, for any required subsequent noise re-evaluation as a result of a major design change.

Major changes to the noise regulations were made on July 13, 2010, with an effective date of July 13, 2011. Therefore, all noise re-evaluations conducted after July 13, 2011 will be done in accordance with **23 CFR Part 772** dated July 13, 2010. Coordination with OEM during the re-evaluation process on federal projects is required (see [Part 1, Chapter 13, Re-evaluations](#)).

The final noise abatement commitments must be documented in the re-evaluation and the **NSRA** prior to construction advertisement, regardless of project funding sources. Additionally, the **PCR** must also be updated. If the **NSRA** is substantially modified from the version previously distributed to the affected local governments, a revised version should be sent out to them.

### 18.2.9 Design-Build Projects

When a Design-Build firm proposes an alternative technical concept to the concept included in the Request for Proposal for the Design-Build project, the District must re-evaluate the noise study in conformance with the provisions of **40 CFR § 1506.5** and **23 CFR § 636.109**. The design-build noise study re-evaluation must follow the analysis procedures outlined in this Chapter.

If changes in the roadway design occur during the Design-Build process, the following guidance shall be considered:

1. If the re-evaluation results in the identification of additional impacted receptors, a change in location of impacted receptors, or an increase in the proposed noise abatement dimensions (height and/or length), the FDOT will construct the proposed abatement as long as it's feasible, reasonable, and desired by the public.
2. If the re-evaluation results in reduced traffic noise impacts due to changes in the project design, or previously predicted noise impacts no longer warrant abatement consideration, the FDOT will consider abatement based on the commitments, public sentiment and consultation with OEM, provided that abatement construction is feasible.
3. The public shall be engaged when modifications to noise abatement commitments and the intent to alter abatement measures are being considered.

## 18.2.10 Accelerated Project Delivery

FDOT has developed a Statewide Acceleration Transformation (SWAT) process to improve how projects are delivered. The SWAT process allows for an overlap of PD&E activities and design activities to streamline delivery of projects. Additionally, the SWAT process requires increased coordination between all parties involved in project development to ensure that environmental analysis and issues are properly addressed and documented.

Noise studies for projects delivered through the SWAT process are still required to follow the requirements of **23 CFR Part 772** and this chapter. When design activities overlap PD&E activities, only the PD&E phase **NSR** may be prepared because the roadway plans may have enough detail (Phase II design plans) to allow noise abatement commitments to be made at that time. It is important that subsequent plan sets be reviewed for changes in roadway geometry that could necessitate a change to the noise analysis. Projects developed under the SWAT process will still utilize a Date of Public Knowledge based on the date of the approval of the Environmental Document for the project.

Once the final design of the project is completed, the review of the design plans must verify that no changes have occurred relative to what was previously evaluated and documented in the **NSR**. If significant changes have occurred that may alter the results of the original noise study and any noise abatement commitments (if applicable), a re-evaluation is warranted and documented in the **NSRA** before the project is advertised for construction.

## 18.2.11 Abatement Measure Reporting

**Title 23 CFR § 772.13(f)** requires that each highway agency maintain an inventory of all constructed noise abatement measures. To comply with the inventory requirement, FDOT maintains an inventory of all noise abatement barriers constructed on the SHS in a GIS layer housed in the University of Florida's GeoPlan Center Florida Geographic Data Library (FGDL). Each District Noise Specialist must annually gather and provide inventory data to the University of Florida's GeoPlan Center.

This inventory data shall include at least the following parameters:

1. Type of abatement;
2. Cost (overall cost, unit cost per/sq. ft.);
3. Average height;
4. Length;
5. Area;
6. Location (state, county, city, route);

7. Year of construction;
8. Average insertion loss/noise reduction as reported by the model in the noise analysis;
9. NAC category(s) protected;
10. Material(s) used (precast concrete, berm, block, cast in place concrete, brick, metal, wood, fiberglass, combination, plastic [transparent, opaque, other]);
11. Features (absorptive, reflective, surface texture);
12. Foundation (ground mounted, on structure); and
13. Project type (Type I, Type II) and optional project types such as state funded, county funded, tollway/turnpike funded, other, unknown. The FHWA will collect this information, in accordance with Office of Management and Budget's Information Collection requirements.

For a complete list of items to be reported by the District Noise Specialists, see the FGDL attributes metadata website ([Section 18.3](#)). Federal submission requirement fields are prefaced with FED in the FGDL database.

The noise abatement barriers data is reported tri-annually to FHWA once a request is received to submit the report. At the request of OEM, the GeoPlan Center will prepare the tri-annual report that submitted by the State Noise Program Coordinator to the FHWA Florida Division Office in the format required by **23 CFR § 772.13(f)**.

## 18.3 REFERENCES

- FHWA. FHWA's Noise Policy FAQs - Frequently Asked Questions.  
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- FHWA. Report FHWA-HEP-06-015, FHWA Highway Construction Noise Handbook: Final Report, August 2006. <https://rosap.ntl.bts.gov/view/dot/8837>
- FHWA. Report FHWA-HEP-05-054, FHWA Roadway Construction Noise Model User's Guide: Final Report," January 2006.  
[http://www.fhwa.dot.gov/environment/noise/construction\\_noise/rcnm/rcnm.pdf](http://www.fhwa.dot.gov/environment/noise/construction_noise/rcnm/rcnm.pdf)
- FHWA. Report Number FHWA-PD-96-009, FHWA Traffic Noise Model User's Guide (Version 2.5 Addendum). April 2004.  
[http://www.fhwa.dot.gov/environment/noise/traffic\\_noise\\_model/tnm\\_v25/users\\_manual/index.cfm](http://www.fhwa.dot.gov/environment/noise/traffic_noise_model/tnm_v25/users_manual/index.cfm)
- FHWA. Report FHWA-HEP-10-025, Highway Traffic Noise: Analysis and Abatement Guidance, December 2011.

[https://www.fhwa.dot.gov/environment/noise/regulations\\_and\\_guidance/analysis\\_and\\_abatement\\_guidance/revguidance.pdf](https://www.fhwa.dot.gov/environment/noise/regulations_and_guidance/analysis_and_abatement_guidance/revguidance.pdf)

FHWA. Report Number FHWA-PD-96-046, Measurement of Highway-Related Noise. Cynthia S.Y. Lee and Gregg Fleming; June, 2018.

<https://www.fhwa.dot.gov/environment/noise/measurement/handbook.cfm>

FTA. Report Number 0123, Transit Noise and Vibration Impact Assessment Manual. September 2018. [https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123\\_0.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf)

FDOT. Design Manual, Topic No. 625-000-002, Part 2, Section 264, Noise Walls and Perimeter Walls. <http://www.fdot.gov/roadway/FDM/2018FDM.shtm>

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

FDOT. Right of Way Procedures Manual, Topic No. 575-000-000, Section 12.1, Outdoor Advertising Signs.

<https://www.fdot.gov/rightofway/ProceduresManual.shtm>

FDOT. Standard Specifications for Road and Bridge Construction. January 2016.

<https://www.fdot.gov/design/standardplans/default.shtm>

FDOT. Traffic Noise Modeling and Analysis Practitioners Handbook, January 2016.

<https://www.fdot.gov/environment/publications.shtm>

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>

Section 335.02, F.S., Authority to designate transportation facilities and rights-of-way and establish lanes; procedures for re-designation and relocation; application of local regulations.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0335/Sections/0335.02.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0335/Sections/0335.02.html)

Section 479.25, F.S., Erection of noise-attenuation barrier blocking view of sign; procedures; application. July 1, 2014.

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Section 335.17, F.S., State highway construction; means of noise abatement. 2012.

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[https://ecfr.io/Title-14/cfr150\\_main](https://ecfr.io/Title-14/cfr150_main)

Title 23 CFR § 636.109, How does the NEPA process relate to the design-build procurement process. <https://ecfr.io/Title-23/pt23.1.772>

Title 23 CFR § 750.709; On-property or on-premise advertising. <https://ecfr.io/Title-23/pt23.1.750>

Title 23 CFR § 772, Procedures for Abatement of Highway Traffic Noise and Construction Noise, Tuesday, July 13, 2010. [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title23/23cfr772\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title23/23cfr772_main_02.tpl)

Title 40 CFR § 1506.5(c), Environmental Impact Statements, Nov. 29, 1978.

[http://www.ecfr.gov/cgi-bin/text-idx?SID=bbdf2357d9d42328f1467b91ac5f1076&mc=true&node=se40.33.1506\\_15&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=bbdf2357d9d42328f1467b91ac5f1076&mc=true&node=se40.33.1506_15&rgn=div8)

Title 49 CFR § 210, Railroad Noise Emission Compliance Regulations. Federal Railroad Administration; Dec. 23, 1983, unless otherwise noted. <http://www.ecfr.gov/cgi-bin/textidx?SID=3d877285a1ab8843291df7cfc4bb9c71&mc=true&node=pt49.4.210&rgn=div5#sp49.4.210.a>

University of Central Florida, 2009. A Method to Determine Reasonableness and Feasibility of Noise Abatement at Special Use Locations. Roger L. Wayson and John M. MacDonald. July 22, 2009 Update.

<https://www.fdot.gov/environment/publications.shtm>

University of Florida, GeoPlan Center. Florida Geographic Data Library (FGDL) Metadata Explorer. <http://fgdl.org/metadateexplorer/explorer.jsp>

## 18.4 FORMS

Non-Major State Action Checklist, Form No. 650-050-30\*

Project Commitments Record, Form No. 650-000-001\*\*

[Technical Report Cover Page, Form No. 650-050-38](#)

Type 1 Categorical Exclusion Checklist, Form No. 650-000-12\*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11\*

\*To be completed in [SWEPT](#)

\*\*To be completed in Project Suite Enterprise Edition

## **18.5 HISTORY**

10/6/2003, 4/18/2007, 5/24/2011, 7/27/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 17, 1/14/2019



NOISE ABATEMENT CRITERIA (NAC) [Hourly A-Weighted Sound Level-decibels (dB(A))]				
Activity Category	Activity Leq(h) <sup>1</sup>		Evaluation location	Description of activity category
	FHWA	FDOT		
A	57	56	Exterior	Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose.
B <sup>2</sup>	67	66	Exterior	Residential
C <sup>2</sup>	67	66	Exterior	Active sports areas, amphitheatres, auditoriums, campgrounds, cemeteries, day care centers, hospitals, libraries, medical facilities, parks, picnic areas, places of worship, playgrounds, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, recreational areas, Section 4(f) sites, schools, television studios, trails, and trail crossings.
D	52	51	Interior	Auditoriums, day care centers, hospitals, libraries, medical facilities, places of worship, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, schools, and television studios.
E <sup>2</sup>	72	71	Exterior	Hotels, motels, offices, restaurants/bars, and other developed lands, properties or activities not included in A-D or F.
F	–	–	–	Agriculture, airports, bus yards, emergency services, industrial, logging, maintenance facilities, manufacturing, mining, rail yards, retail facilities, shipyards, utilities (water resources, water treatment, electrical), and warehousing.
G	–	–	–	Undeveloped lands that are not permitted.

*(Based on Table 1 of 23 CFR Part 772)*  
<sup>1</sup> The Leq(h) Activity Criteria values are for impact determination only, and are not design standards for noise abatement measures.  
<sup>2</sup> Includes undeveloped lands permitted for this activity category.

*Note:* FDOT defines that a substantial noise increase occurs when the existing noise level is predicted to be exceeded by 15 decibels or more as a result of the transportation improvement project. When this occurs, the requirement for abatement consideration will be followed.

**Figure 18-1 Noise Abatement Criteria**

<b>Type I Project Activities (Noise Study Required)</b>		<b><u>Not</u> Type I (No Noise Study Required)</b>
1	Construction of highway on new location	
2	New or relocated interchanges	
3	Addition of new interchange ramps (add a ramp where no ramps existed). Viewed as a new location.	
4	Relocation of an interchange ramp where the edge of the outside lane on any segment of the ramp reduces the distance to the closest receptor by one-half. (See #6 for realignment of ramps)	
5	Increasing capacity to an existing on or off interchange ramp (by adding lanes) including associated merge lanes. Viewed as a new location.	
6	Lengthening an existing interchange ramp's acceleration or deceleration lane and associated merging into the mainline to a total of more than 2500 feet (from the gore to the end of the lane), or re-aligning where any segment of the ramp reduces the distance to the closest receptor by one-half.	Lengthening an existing interchange ramp's acceleration or deceleration lane and associated merging into the mainline (total length less than 2500 feet), or re-aligning where any segment of the ramp DOES NOT REDUCE the distance to the closest receptor by one-half.
7	Alteration of the horizontal alignment of an existing highway such that the edge of the outside lane reduces the distance to the closest receptor by one-half.	Alteration of the horizontal alignment of an existing highway such that the edge of the outside lanes DOES NOT REDUCE the distance to the closest receptor by one-half.
8	Alteration of the vertical alignment, or the surrounding topography, where existing shielding is removed and the line of sight between the noise source and the receptor is now direct. (Activity does not include removal of vegetation).	
9	Addition of new through-lanes that increase capacity to an existing highway. (Noise analysis required on both sides of the highway whether the lanes are all in one direction or both directions of travel.)	
10	Restriping existing pavement to add a through-lane or auxiliary lane (See #13, #14 and #15 for auxiliary lanes).	
11	Addition of new or substantially altered weight station, rest stop, ride share lot or toll plaza.	
12	Addition of ramps or new lanes serving as climbing lanes for buses and trucks.	
13	Addition of auxiliary lanes used as through lanes on local roads.	
14	Auxiliary lanes on freeways and expressways connecting two or more interchanges (continuous lanes longer than 2500 feet from gore to gore).	Auxiliary lanes on freeways and expressways connecting two closely spaced interchanges (less than 2500 feet from gore to gore) to accommodate weaving traffic.
15		Turn lanes at intersections associated with arterial highways
16		Bicycle and Pedestrian paths
17		Safety activities (23 USC § 402)
18		Landscaping
19		Installation of fencing, signs, pavement marking, small passenger shelters, traffic signals, railroad warning signals (that don't disrupt traffic patterns)
20		Deployment of electronics, photonics, communications, information processing to improve safety and security
21		Re-surfacing, restoration, rehabilitation or reconstruction of an existing facility (unless there is a change in horizontal or vertical alignment per 7 & 8 above).
22		Electronic toll collection facilities that do not disrupt traffic patterns.

**Figure 18-2 Type I Project Matrix**

<b>Building Type</b>	<b>Window Condition*</b>	<b>Noise Reduction Due to Exterior of the Structure</b>
All	Open	10 dB
Light Frame	Ordinary Sash (closed)	20 dB
	Storm Windows	25 dB
Masonry	Single Glazed	25 dB
	Double Glazed	35 dB
<p>*The windows shall be considered open unless there is firm knowledge that the windows are in fact kept closed almost every day of the year.</p> <p>Source: FHWA Highway Traffic Noise: Analysis and Abatement Guidance, Table 6.</p>		

**Figure 18-3 Building Noise Reduction Factors**

## EXAMPLE PD&E NOISE STUDY REPORT (NSR) OUTLINE

### EXECUTIVE SUMMARY

### TABLE OF CONTENTS

List of Tables  
List of Figures  
List of Appendices

### 1.0 INTRODUCTION

- 1.1 Project Description (includes Project Location Map)
- 1.2 Proposed Improvements (includes conceptual typical section(s))

### 2.0 METHODOLOGY (opening paragraph references regulation, policy and TNM version)

- 2.1 Noise Metrics
- 2.2 Traffic Data
- 2.3 Noise Abatement Criteria (includes general discussion and application specific to the project)
- 2.4 Noise Abatement Measures (General Discussion)
  - 2.4.1 Traffic Management
  - 2.4.2 Alignment Modifications
  - 2.4.3 Buffer Zones (includes noise contours and intended application of contours)
  - 2.4.4 Noise Barriers (includes discussion of minimum reduction requirements and cost reasonable limit)

### 3.0 TRAFFIC NOISE ANALYSIS

- 3.1 Model Validation
- 3.2 Existing Noise Levels (documents noise monitoring to establish existing noise levels; usually only included for new alignment projects)
- 3.3 Predicted Noise Levels and Abatement Analysis (includes discussion of impacts and noise barrier analysis with each noise sensitive area addressed as a separate report section)

### 4.0 CONCLUSIONS (includes Statement of Likelihood)

### 5.0 CONSTRUCTION NOISE AND VIBRATION

### 6.0 COMMUNITY COORDINATION (documents any public comments specific to traffic noise, transmittal of the Noise Study Report to local officials and references noise contours discussed above)

### 7.0 REFERENCES

### APPENDICES

- Appendix A** Traffic Data
- Appendix B** Predicted Noise Levels
- Appendix C** Aerials (showing receptor points)
- Appendix D** TNM Modeling Files and PDF of the NSR (on disc, including "Read Me" file)

Figure 18-4 Example PD&E Noise Study Report Outline

## EXAMPLE DESIGN NOISE STUDY REPORT (NSR) ADDENDUM OUTLINE

### EXECUTIVE SUMMARY

### TABLE OF CONTENTS

List of Tables  
List of Figures  
List of Appendices

### 1.0 INTRODUCTION

- 1.1 Project Description (includes Project Location Map)
- 1.2 Summary of PD&E Results and Commitments
- 1.3 Design Improvements (includes comparison to PD&E conceptual design and design typical section(s))

### 2.0 METHODOLOGY (opening paragraph references regulation, policy and TNM version)

- 2.1 Noise Metrics
  - 2.1.1.1 Traffic Data
- 2.2 Noise Abatement Criteria (includes general discussion and application specific to the project; includes discussion that the PD&E noise analysis determined no substantial increase)
- 2.3 Noise Abatement Measures (General discussion identifying noise barriers as only viable abatement measure based on PD&E noise study; includes discussion of minimum reduction requirements and cost reasonable limit)

### 3.0 TRAFFIC NOISE ANALYSIS

- 3.1 Model Validation (Only if validation update from PD&E noise study is needed)
- 3.2 Predicted Noise Levels and Abatement Analysis (includes discussion of impacts and noise barrier analysis with each noise sensitive area addressed as a separate report section; includes selection of recommended noise barrier length and height)
- 3.3 Engineering Feasibility Review (includes discussion on noise barrier modifications to resolve construction conflicts)

### 4.0 Outdoor Advertising (if applicable, discusses conflicts with outdoor advertising, resolution of conflicts and fulfillment of FDOT responsibilities in accordance with F.S. 479.25)

### 5.0 CONCLUSIONS (includes discussion on fulfillment of PD&E commitments and tabulates specifics for each recommended noise barrier to be included in the design plans and constructed with the project)

### 6.0 CONSTRUCTION NOISE AND VIBRATION

### 7.0 COMMUNITY COORDINATION (includes results of noise barrier survey specific to each noise barrier or noise barrier system)

### 8.0 REFERENCES

### APPENDICES

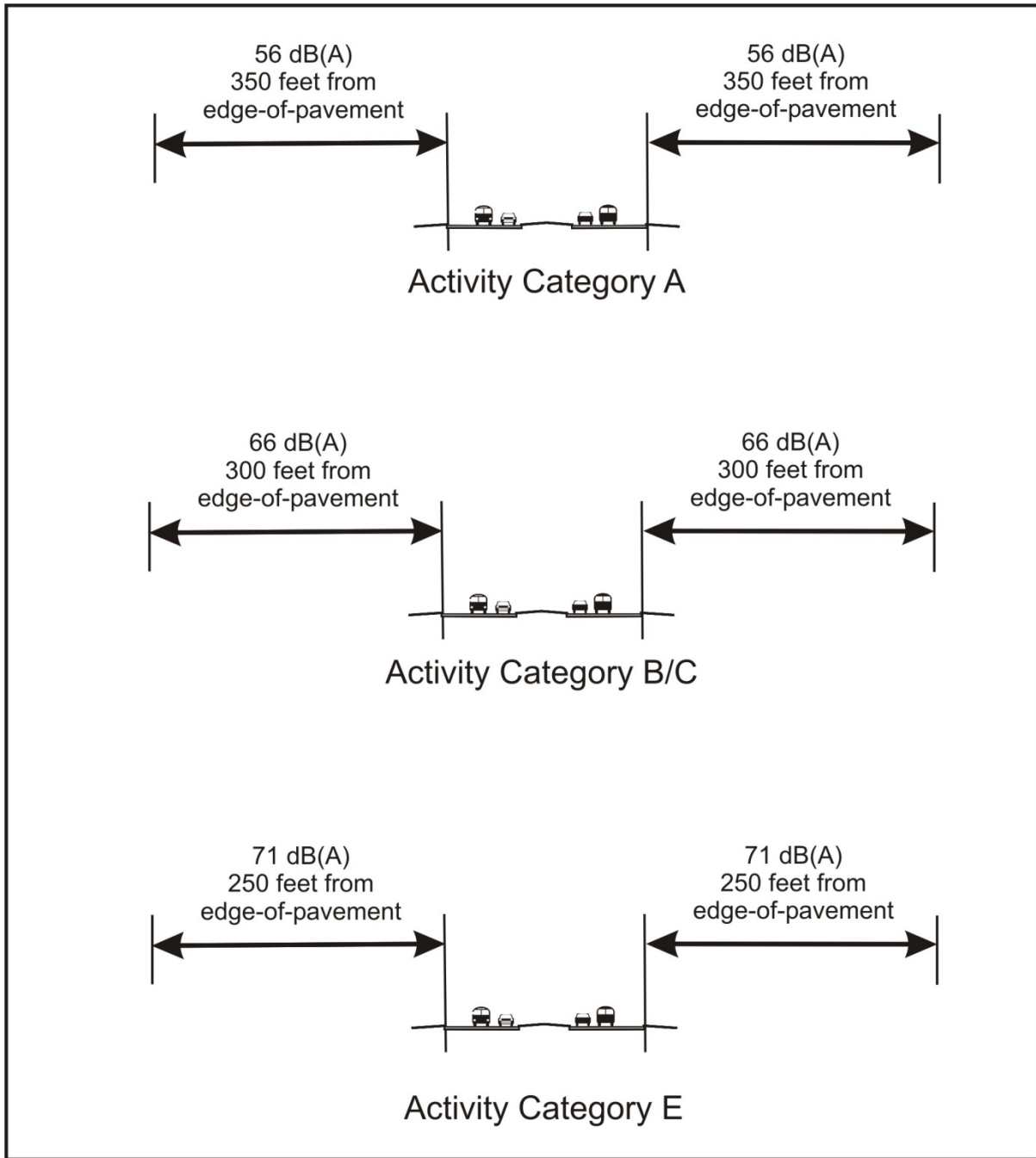
- Appendix A** Traffic Data
- Appendix B** Predicted Noise Levels
- Appendix C** Aerials (showing receptor points and noise barriers to be included in design plans)
- Appendix D** Noise Barrier Survey Package
- Appendix E** TNM Modeling Files and PDF of the NSR Addendum (on disc, including "Read Me" file)

**Figure 18-5 Example Design Noise Study Report Addendum Outline**

COMMON OUTDOOR ACTIVITIES	NOISE LEVEL dB(A)	COMMON INDOOR ACTIVITIES
Jet Fly-over at 1000 ft	---110---	Rock Band
Gas Lawn Mower at 3 ft	---100---	
Diesel Truck at 50 ft, at 50 mph	---90---	Food Blender at 1 m (3 ft) Garbage Disposal at 1 m (3 ft)
Noise Urban Area (Daytime)	---80---	Vacuum Cleaner at 10 ft Normal Speech at 3 ft
Gas Lawn Mower at 100 ft Commercial Area	---70---	
Heavy Traffic at 300 ft	---60---	Large Business Office Dishwasher Next Room
Quiet Urban Daytime	---50---	
Quiet Urban Nighttime	---40---	Theater, Large Conference Room (Background)
Quiet Suburban Nighttime	---30---	Library
Quiet Rural Nighttime	---20---	Bedroom at Night, Concert Hall (Background)
	---10---	
	---0---	
Lowest Threshold of Human Hearing		Lowest Threshold of Human Hearing

Source: California Dept. of Transportation Technical Noise Supplement, Oct. 1998, Page 18.

**Figure 18-6 Typical Noise Levels**



**Figure 18-7 Sample Noise Contours**

Date

Addressee  
Appropriate Growth Management Office  
Local Government  
City, Florida Zip Code

The Florida Department of Transportation (FDOT) has received approval of **(INSERT LDCA or SEIR APPROVAL HERE)** for the Project Development and Environment (PD&E) Study for **(INSERT PROJECT NAME HERE)**. As part of the PD&E Study, a traffic noise study was performed. Consistent with applicable federal regulations and state policies, attached is a copy of the Final Noise Study Report/Noise Study Report Addendum (Choose one as appropriate). **(INSERT APPROPRIATE SECTION/TABLE/FIGURE HERE)** contains information related to the estimated distance from the edge of the nearest travel lane for the improved roadway where traffic noise impacts are predicted to occur in the future design year for the project for the different land use categories contained in the Federal Highway Administration (FHWA) and FDOT Noise Abatement Criteria (NAC).

This information is being provided to assist the local planning agency and developers in the prevention of future traffic noise impacts on lands which are currently undeveloped. The Date of Public Knowledge for the project is the date of approval of the Environmental Document for the project. The FDOT is not responsible for providing noise abatement for noise sensitive land uses that are permitted for construction after that date. Upon request, the FDOT may provide additional available materials and technical guidance related to noise compatible land use planning to assist the local agencies and developers in this regard.

Sincerely,

**(INSERT DISTRICT NOISE SPECIALIST/FDOT PM NAME HERE)**

*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.*

**Figure 18-8 Sample Noise Study Report Transmittal Cover Letter**



<b>Noise</b>	<b>Vibration</b>
Eye Centers/Clinics Medical Centers Hospitals Geriatric Centers Sound Recording Studios TV/Radio Stations Residences Technical Laboratories Hearing Testing Centers Theaters Schools Motels/Hotels Funeral Homes Libraries Meditation Centers Churches/Shrines Parks Day Care Centers Outdoor Theaters	Eye Centers/Clinics Medical Centers Hospitals Geriatric Centers Sound Recording Studios TV/Radio Stations Residences Technical Laboratories Antiques Shops Museums Historic Buildings
Note: This list is not meant to be all inclusive or exclusive, but rather an indication of the type of sites likely to be sensitive to construction noise and/or vibration.	
Source: FDOT Noise and Vibration Task Team; August 17, 1999.	

**Figure 18-9 Construction Noise and Vibration Sensitive Sites**

## Noise Study Report

Florida Department of Transportation

District X

Project Title

Limits of Project

County, Florida

Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

Date

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.

(Signature Block as Needed)

**Figure 18-10 Sample Noise Study Report Cover Sheet**

## **PART 2, CHAPTER 19**

### **AIR QUALITY**

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## PART 2, CHAPTER 19

### AIR QUALITY

#### 19.1 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).

##### 19.1.1 Purpose

The **Clean Air Act (CAA)**, as amended, requires the Environmental Protection Agency (EPA) to set **National Ambient Air Quality Standards (NAAQS)** to protect public health and welfare. The EPA established the first set of primary and secondary **NAAQS** for six air pollutants that are common in outdoor air and are considered harmful to public health and the environment. The six criteria air pollutants are: ozone (O<sub>3</sub>), nitrogen dioxide (NO<sub>2</sub>), particulate matter (PM), sulfur dioxide (SO<sub>2</sub>), carbon monoxide (CO), and lead (Pb). The current standards are provided in [Table 19-1](#). The **NAAQS** show the maximum allowable concentration of a pollutant by averaging time. For example, the maximum allowable primary and secondary ambient concentration of ozone is 0.070 parts per million (ppm), averaged over an 8-hour period.

In accordance with the **CAA**, all areas within the United States are designated with respect to the **NAAQS** as being "attainment," "non-attainment," "maintenance," or "unclassifiable." Areas with documented air pollutant levels less than the **NAAQS** are designated attainment. Areas with documented air pollutant levels greater than the **NAAQS** are designated non-attainment. Maintenance areas are non-attainment areas that have been re-designated to attainment status. An area is designated as unclassifiable when the EPA is not able to determine an area's status after evaluating the available information. Current information on the status of non-attainment areas with respect to the **NAAQS** is available within the **EPA's Green Book (EPA, 2019)**.

There are three non-attainment areas (partial designations) in the state of Florida, all for the pollutant SO<sub>2</sub>, based on the standard last updated in 2010. One non-attainment area is located within Hillsborough County, one area straddles part of the border of

Hillsborough and Polk Counties, and one area is located within Nassau County. Florida has one maintenance area for Pb according to the standard last updated in 2008. The maintenance area for Pb is located in Tampa. However, on-road motor vehicles are not considered a significant source of SO<sub>2</sub> or Pb, and project level analysis for SO<sub>2</sub> and Pb is not needed. Florida is currently in attainment for all other **NAAQS**.

In 1990, the **CAA** was amended to include strategies to achieve and maintain the **NAAQS** for criteria air pollutants, to reduce air pollutant and pollutant precursor emissions from mobile sources, and to provide enforcement sanctions for not achieving and maintaining the **NAAQS**.

Mobile Source Air Toxics (MSATs) are hazardous air pollutants emitted by mobile sources that are known, or suspected, to cause cancer or serious health and environmental effects. The EPA has identified nine compounds with significant contributions from mobile sources that are among the national and regional-scale cancer risk contributors and non-cancer hazard contributors from the **2011 National Air Toxics Assessment (NATA)**. In the **Updated Interim Guidance on MSAT Analysis in National Environmental Policy Act (NEPA) Documents**, FHWA considers these nine compounds priority MSATs. The nine priority MSATs are acetaldehyde, acrolein, benzene, 1,3-butadiene, diesel particulate matter plus diesel exhaust organic gases, ethylbenzene, formaldehyde, naphthalene, and polycyclic organic matter.

This chapter explains how to evaluate project level air quality effects of FDOT projects, and how to address those effects during the environmental review process.

### 19.1.2 Definitions

**Attainment**– The designation that an area has monitored air quality that meets the EPA **NAAQS** for a particular pollutant.

**CAL3QHC** – A dispersion model currently approved by EPA to determine pollutant concentrations at receptor locations near highways using the emission rates determined by the Motor Vehicle Emission Simulator (MOVES) model.

**CO Florida 2012** – An FDOT CO screening test for project level analysis of intersections and interchanges that incorporates emission factors produced from the EPA's MOVES and has a CAL3QHC module built into it, with all the different intersection and interchange configurations pre-programmed as separate input files. **CO Florida 2012** can be used to quickly and easily screen intersections for ambient CO near the intersections. **CO Florida 2012** incorporates worst case conservative assumptions in regard to traffic, temperatures, meteorology, and location of receptors.

**Micron (or Micrometer) (µm)** –  $1 \times 10^{-6}$  meter; that is, one millionth of a meter.

**Mobile Source Air Toxics (MSAT)** – Hazardous air pollutants emitted by mobile sources that are known, or suspected, to cause cancer or serious health and environmental effects.

**Motor Vehicle Emission Simulator (MOVES)** – An EPA emissions model that estimates the emissions rates for mobile sources for criteria air pollutants, greenhouse gases, and air toxics.

**National Ambient Air Quality Standards (NAAQS)** – EPA’s list of the maximum level of pollutants allowed as required by the **CAA**. The six criteria air pollutants are: Ozone (O<sub>3</sub>), nitrogen dioxide (NO<sub>2</sub>), Particulate Matter (PM), sulfur dioxides (SO<sub>2</sub>), CO, and lead (Pb).

**Non-attainment-** The designation that an area has monitored air quality that does not meet the EPA **NAAQS** for a particular pollutant.

**Primary Standards** – Ambient air pollution standards set to protect public health.

**Secondary Standards** – Ambient air pollution standards set to protect public welfare, such as protecting against visibility degradation and damage to animals, crops, vegetation, and buildings.

## 19.2 PROCEDURE

**NEPA** requires that air quality be considered in the preparation of Environmental Documents. Air quality analysis is performed as part of the environmental review process to identify project-related impacts, and to evaluate possible mitigation, if appropriate. Project level air quality analysis varies according to the size of the project, existing air quality issues, and the degree of controversy regarding the project.

### 19.2.1 ETDM Screening

Evaluation of project effects on air quality starts during the Efficient Transportation Decision Making (ETDM) screening for qualifying projects. Potential air quality effects, including attainment status of the area, should be discussed in the Preliminary Environmental Discussion (PED). During the Planning and Programming Screens of the ETDM process, the EPA, which is an Environmental Technical Advisory Team (ETAT) member, provides comments on air quality issues. The ETAT comments are considered along with the FDOT expertise where the results of the review are summarized in the ETDM **Planning Screen Summary Report** and **Programming Screen Summary Report**. These reports support the development of the scope for air quality analysis for a Project Development and Environment (PD&E) Study. For more information, refer to FDOT’s [ETDM Manual, Topic No. 650-000-002](#).

### 19.2.2 Air Quality Analysis

The three categories of pollutants that are included in the Environmental Document for air quality analysis are CO, PM, and MSATs.

### 19.2.2.1 Carbon Monoxide Analysis

Project level analysis is only required for federal projects in non-attainment and maintenance areas. The entire state of Florida is currently in attainment for CO, and most transportation improvement projects reduce delay and congestion. Modeling performed on projects statewide have consistently shown no exceedance of the **NAAQS** CO standard. Therefore, exceedance of the **NAAQS** is not expected to occur. Even though Florida is in attainment for the **NAAQS**, detailed air quality analysis for CO may be needed, depending on project conditions.

The process for assessing CO is depicted in [Figure 19-5](#). A screening test using the **CO Florida 2012** model is needed when:

1. The project is an Environmental Impact Statement (EIS) and/or;
2. The total vehicular delay time (veh-hours) at an intersection in the design year build condition is projected to increase when compared to the design year no-build condition and/or;
3. The project is expected to have community controversy regarding air quality. (Coordination with District specialists may be required to determine potential community controversy.)

When use of the screening test is not warranted the Environmental Document includes a statement that the project is not expected to have adverse effects on air quality ([Section 19.2.4](#)).

When use of the screening test is warranted, intersections within the project corridor are required to be reviewed to evaluate the potential for a violation of the CO **NAAQS**. Levels of CO tend to be the highest adjacent to intersections. At a minimum, the intersection with a combination of the highest intersection approach volume, the highest level of delay (on specific turning movements or for the intersection as a whole) and the lowest approach speed is screened using the **CO Florida 2012** screening test. The screening test is performed for future design year conditions with and without the proposed roadway improvements. For additional information on data requirements for the CO screening test, see the [User's Guide to CO Florida 2012](#) for the screening methodology and the [Environmental Office Software Download web page](#) to download the **CO Florida 2012** model. The **Traffic Data for Air Quality Analysis Form, Form No. 650-050-36** is to be used for entering traffic data in the **CO Florida 2012** model.

The **CO Florida 2012** model can be used to quickly and easily screens intersections for the ambient CO near intersections. **CO Florida 2012** incorporates worst case conservative assumptions including peak hour traffic, January time-frame temperatures, meteorology conditions favorable for higher concentrations of CO (wind speed, stability class, and wind 360-degree angle search), and close-in receptors. **CO Florida 2012** has built in different intersection configurations that are analyzed after certain inputs are entered by the user.



If the CO **NAAQS** are not exceeded during screening, using the worst-case assumptions, the intersection passes the screening test and no detailed modeling has to be performed. Documentation of the evaluation is prepared and provided in an ***Air Quality Technical Memorandum*** and in the Air Quality section of the Environmental Document.

If the results of the screening test predict CO concentrations exceeding the standard noted in [Table 19-1](#) (35 ppm for a 1-hour period or 9 ppm for an 8-hour period), a detailed microscale emissions rates and dispersion analysis is performed on the intersection failing the test to insure there are no violations of the CO **NAAQS**. A detailed assessment requires using actual intersection and receptor geometry, actual traffic predictions for all legs of the intersection, and running the latest versions of EPA's emission rates model (MOVES) and the dispersion model (CAL3QHC) independently. See [Figure 19-1](#) for links to latest MOVES and CAL3QHC models.

If the detailed microscale analysis shows that the intersection still violates the CO **NAAQS**, mitigation measures are evaluated through changes in lane configurations, signal timing, exclusive vehicle allowances per lane, or other techniques. Once this is done the analysis is redone for the adjusted scenarios. Compliance with the **NAAQS** standards must be achieved for the proposed project to proceed.

### **19.2.2.2 Particulate Matter Analysis**

Florida is in attainment for PM, both PM<sub>2.5</sub> and PM<sub>10</sub>, therefore no project level analysis is needed. Only particulate emissions associated with construction activity are considered.

Project level impacts are temporary in nature during construction. PM emissions that can be associated with construction activities include dust as well as products of combustion, roadway deposits from brake dust, tire particles, and roadway dirt. These impacts are minimized by adherence to applicable state regulations and to the [FDOT Standard Specifications for Road and Bridge Construction](#). See [Section 19.2.4](#) for how to include this in the Environmental Document.

### **19.2.2.3 Mobile Source Air Toxics Analysis**

This section presents the varying levels of analysis associated with MSATs. The analysis process is depicted in [Figure 19-6](#). Project level MSAT analysis is only required for federal projects and documented depending on the following specific projects circumstances:

1. No analysis for projects with no potential for meaningful MSAT effects;
2. Qualitative assessment for projects with low potential MSAT effects; or
3. Quantitative analysis to differentiate alternatives for projects with higher potential MSAT effects.

### 19.2.2.3.1 Projects with No Potential MSAT Effects

Projects that have no potential meaningful MSAT effects are **exempted** from MSAT analysis. These projects include:

- Projects qualifying as Categorical Exclusions;
- Projects exempt under the **CAA** conformity rule under **40 CFR § 93.126**; and
- Other projects with no meaningful impacts on traffic volumes or vehicle mix.

Analysis or discussion of MSAT is not necessary for these projects. Documentation demonstrating that the project is exempt will suffice. For other projects with no or negligible traffic impacts, MSAT analysis is not recommended. However, the EA or EIS should document the basis for the determination of no meaningful potential impacts with a brief description of the factors considered.

Refer to [Figure 19-2](#) for suggested language to be used in the EA or EIS when the project is exempt from MSAT analysis.

### 19.2.2.3.2 Projects with Low Potential MSAT Effects

Projects in this category are EAs and EISs that improve operations of highway, transit, or freight without adding substantial new capacity or without creating a facility that is likely to meaningfully increase MSAT emissions. Examples of these types of projects are minor widening projects; new interchanges; replacing a signalized intersection; and projects where design year traffic is projected to be less than 140,000 annual average daily traffic (AADT).

For these projects, a **qualitative assessment** of emissions projections should be conducted. This qualitative assessment should compare the expected effect of the project on traffic volumes, vehicle mix, or routing of traffic and the associated changes in MSAT for the project alternatives, including the No-Build, based on vehicle miles traveled (VMT), vehicle mix, and speed. It should also discuss national trend data projecting substantial overall reductions in emissions due to stricter engine and fuel regulations issued by EPA.

Refer to [Figure 19-2](#) for suggested language to be used in the EA or EIS for projects that require qualitative MSAT analysis.

### 19.2.2.3.3 Projects with High Potential MSAT Effects

Projects that have high potential MSAT effects include projects that:

- Create or significantly alter a major intermodal freight facility that has the potential to concentrate high levels of diesel particulate matter in a single location, involving

a significant number of diesel vehicles for new projects or accommodating with a significant increase in the number of diesel vehicles for expansion projects; or

- Create new capacity or add significant capacity to urban highways such as Interstates, urban arterials, or urban collector-distributor routes with traffic volumes where the AADT is projected to be 140,000 or greater by the design year; and
- Are proposed in proximity to populated areas.

Projects in this category require **quantitative analysis** to forecast specific emission trends of MSAT for each viable alternative to use as a basis of comparison. If there are meaningful differences in MSAT levels among viable alternatives, mitigation options should be considered. See ***FDOT Mobile Source Air Toxics Quantitative Analysis Guidance and Emission Rates Look-up Tables*** for the analysis procedure and documentation requirements. Example strategies to mitigate MSAT emissions are presented in [Figure 19-3](#).

### 19.2.3 Air Quality Technical Memorandum

It is not necessary to prepare an extensive report to document the status of the project with respect to air quality. If a CO screening test or qualitative MSAT assessment/quantitative MSAT analysis was performed, a brief ***Air Quality Technical Memorandum*** is prepared. When final, the memorandum must be placed in the project file. A sample ***Air Quality Technical Memorandum*** is provided as [Figure 19-4](#). The ***Air Quality Technical Memorandum*** should include:

1. A disclosure that the review and evaluation was conducted by FDOT under ***NEPA*** Assignment, see standard language included in the first paragraph of the sample ***Air Quality Technical Memorandum*** ([Figure 19-4](#)).
2. A brief description of the project and the area in which the project is located (e.g., is the area residential, commercial or industrial).
3. A brief description of air quality conditions within the area with respect to the ***NAAQS***. The following statement should be included since Florida is in attainment for CO and PM ***NAAQS***:

This project is not expected to create adverse impacts on air quality because the project area is in attainment for all National Ambient Air Quality Standards. Therefore, the Clean Air Act conformity requirements do not apply to the project. Additionally, the project is expected to [improve/not change] the Level of Service (LOS) and [reduce/not change] delay and congestion on all facilities within the study area.

4. Confirm the project was reviewed for air quality impacts, as appropriate, and provide the results of the CO screening test for the project alternatives when conducted. See [Section 19.2.2.1](#) for screening test requirements.
5. When the project has no or low potential MSAT effects the standard language provided in [Figure 19-2](#) should be used.
6. When the project has high potential MSAT effects, and a quantitative MSAT analysis was performed include:
  - a. **Project specific MSAT information.** Include a brief project description, project location, analysis years (base year and design year), identification of whether an interim year is required, names of alternatives evaluated; and explanation of why quantitative MSAT analysis is performed.
  - b. **Methodology used to estimate MSAT emissions.** Use FDOT *Mobile Source Air Toxics Quantitative Analysis Guidance and Emission Rates Look-up Tables*. Develop MSAT area of analysis with appropriate data (traffic volumes and average speeds in each link, length of each link). Reference or state the source of traffic inputs.
  - c. **Estimation of MSAT emissions.** For each link in the project area, multiply applicable emission rates for each priority MSAT by VMT. Aggregate the emissions from each link to determine total emissions for each priority MSAT. Aggregate the emissions for each priority MSAT to determine the total MSAT emissions. Include a table with total MSAT emissions for the priority MSAT by analysis year, for each alternative analyzed. Include percent change of emission between the analysis years in the table.
  - d. **Discussion of MSAT analysis results and comparison of the MSAT emission changes.** Discuss analysis results for the base year, interim year (if applicable), and design year for each build alternative and the no-build alternative. Include discussion of how the proposed improvements affect base MSAT emissions. Use a bar chart or similar chart to visually compare MSAT trends between analysis years.
  - e. **Incomplete or unavailable information.** Since the MSAT analysis is evolving, include a discussion of unavailable information for project-specific MSAT health impact analysis from Appendix C of the FHWA *Updated Interim Guidance on Mobile Source Air Toxic Analysis in NEPA Documents (FHWA Interim Guidance)*.
  - f. **Mitigation strategies** (if needed for projects with potentially significant MSAT levels). Use Appendix E of the *FHWA Interim Guidance* for information on mitigation strategies.

## 19.2.4 Documentation in the Environmental Document

### 19.2.4.1 Non-Major State Action

Projects evaluated as Non-Major State Actions (NMSAs) typically have no effect on area-wide air quality levels but may provide some air quality benefits on a local basis. For projects evaluated as NMSAs, CO screening analysis is not necessary unless one of the criteria of [Section 19.2.2.1](#) is met. If necessary, the screening test should be performed using *CO Florida 2012* and the results reported in an *Air Quality Technical Memorandum*.

If it is determined that there are no impacts to air quality, the answer to question 3. of the *Non-Major State Action Checklist* can include this statement:

This project is not expected to create adverse impacts on air quality because the project area is in attainment for all National Ambient Air Quality Standards (NAAQS) and because the project is expected to [improve/not change] the Level of Service (LOS) and [reduce/not change] delay and congestion on all facilities within the study area.

### 19.2.4.2 State Environmental Impact Report

For projects evaluated as State Environmental Impact Reports (SEIRs), CO screening analysis is not necessary unless one of the criteria of [Section 19.2.2.1](#) is met. If necessary, the screening test should be performed using *CO Florida 2012* and the results reported in an *Air Quality Technical Memorandum*.

If an analysis is performed, the results are included in the Environmental Analysis section of the *State Environmental Impact Report Form, Form No. 650-050-43*. See [Part 1, Chapter 10, State, Local and Privately Funded Project Delivery](#) for more detail on how to prepare a SEIR.

If it is determined that there are no impacts to air quality, the Air Quality section of the SEIR can state as follows:

This project is not expected to create adverse impacts on air quality because the project area is in attainment for all National Ambient Air Quality Standards (NAAQS) and because the project is expected to [improve/not change] the Level of Service (LOS) and [reduce/not change] delay and congestion on all facilities within the study area.

Construction activities may cause short-term air quality impacts in the form of dust from earthwork and unpaved roads. These impacts will be minimized by adherence to applicable state regulations and to applicable FDOT Standard Specifications for Road and Bridge Construction.

### 19.2.4.3 Type 1 Categorical Exclusion

Projects evaluated as Type 1 Categorical Exclusions (CEs) typically have no effect on area-wide air quality levels but may provide some air quality benefits on a local basis. For projects evaluated as Type 1 CEs, CO screening analysis is not necessary unless one of the criteria of [Section 19.2.2.1](#) is met. If necessary, the screening test should be performed using *CO Florida 2012* and the results reported in an *Air Quality Technical Memorandum*.

If it is determined that there are no impacts to air quality, this is documented in the general verification checkbox of the *Type 1 Categorical Exclusion Checklist* that confirms there are no significant impacts.

### 19.2.4.4 Type 2 Categorical Exclusion

Projects evaluated as Type 2 CEs typically have no effect on area-wide air quality levels but may provide some air quality benefits on a local basis. For projects evaluated as Type 2 CEs, CO screening analysis is not necessary unless one of the criteria of [Section 19.2.2.1](#) is met. If necessary, the screening test should be performed using *CO Florida 2012* and the results reported in an *Air Quality Technical Memorandum*.

The air quality assessment is summarized in the Air Quality section of the *Type 2 Categorical Exclusion Determination Form*.

If it is determined that there are no impacts to air quality, the Air Quality section of the Type 2 CE can state as follows:

This project is not expected to create adverse impacts on air quality because the project area is in attainment for all National Ambient Air Quality Standards (NAAQS) and because the project is expected to [improve/not change] the Level of Service (LOS) and [reduce/not change] delay and congestion on all facilities within the study area.

Construction activities may cause short-term air quality impacts in the form of dust from earthwork and unpaved roads. These impacts will be minimized by adherence to applicable state regulations and to applicable FDOT Standard Specifications for Road and Bridge Construction.

### 19.2.4.5 Environmental Assessment and Environmental Impact Statement

While it is recognized that Florida is currently in attainment for CO and there is low likelihood of adverse air quality impacts associated with projects that reduce delay and congestion, a CO screening test is performed for projects where an EIS is prepared. Such

projects often have a high level of community controversy, including specific concerns about air quality.

For projects where an Environmental Assessment (EA) is prepared, CO screening analysis is not necessary unless one of the criteria of [Section 19.2.2.1](#) is met. If necessary, the screening test should be performed using **CO Florida 2012** and the results reported in an **Air Quality Technical Memorandum**.

The air quality analysis documented in the **Air Quality Technical Memorandum** are summarized in the Environmental Analysis section of the EA or EIS, including the results of the screening test, a statement that indicates that there will not be any violations of the **NAAQS** for CO, and the results of the appropriate MSAT analysis. Each alternative, including the No-Build alternative, is analyzed. The No-Build analysis is for the project opening year and the design year. In most circumstances, the build alternatives will indicate an improvement in CO concentrations. If detailed microscale analysis was required and shows that the intersection exceeds the CO **NAAQS**, mitigation measures are incorporated and discussed in the EA or EIS. Compliance with the **NAAQS** standards must be achieved for the proposed project to proceed.

Appropriate statements regarding MSAT analysis based on the project specifics are included in the Environmental Document as appropriate. Statements for projects with no or low potential MSAT effects are included in [Figure 19-2](#). Documentation for quantitative MSAT analysis in the EA or EIS should include a summary of MSAT analysis and reference the **Air Quality Technical Memorandum**.

If it is determined that there are no impacts to air quality, the Air Quality section of the EA or EIS can state as follows:

This project is not expected to create adverse impacts on air quality because the project area is in attainment for all National Ambient Air Quality Standards (NAAQS) and because the project is expected to [improve/not change] the Level of Service (LOS) and [reduce/not change] delay and congestion on all facilities within the study area.

Construction activities may cause short-term air quality impacts in the form of dust from earthwork and unpaved roads. These impacts will be minimized by adherence to applicable state regulations and to applicable FDOT Standard Specifications for Road and Bridge Construction.

## 19.3 REFERENCES

EPA, 2011 National Air Toxics Assessment Results.  
<https://www.epa.gov/national-air-toxics-assessment/2011-nata-assessment-results>

EPA, The Green Book Nonattainment Areas for Criteria Pollutants.  
<https://www.epa.gov/green-book>

FDOT, CO FDOT Florida 2012 User's Guide and Screening Model.  
<https://www.fdot.gov/environment/software/software.shtm>

FDOT, MSAT Look-up Tables and Quantitative Analysis Guidance February 2018  
<http://www.fdot.gov/environment/pubs/MSAT.shtm>

FHWA, Advisory T6640.8A, Guidance for Preparing  
and Processing Environmental and Section 4(f) Documents, October 30, 1987;  
available from the FHWA Environmental Guidebook.  
<https://www.environment.fhwa.dot.gov/projdev/impta6640.asp>

FHWA, Updated Interim Guidance on Mobile Source Air Toxic Analysis in NEPA  
Documents, October 18, 2016.  
[https://www.fhwa.dot.gov/environment/air\\_quality/air\\_toxics/policy\\_and\\_guidance/msat/](https://www.fhwa.dot.gov/environment/air_quality/air_toxics/policy_and_guidance/msat/)

FHWA, A Methodology for Evaluating Mobile Source Air Toxic Emissions Among  
Transportation Project Alternatives.  
[https://www.fhwa.dot.gov/environment/air\\_quality/air\\_toxics/research\\_and\\_analysis/mobile\\_source\\_air\\_toxics/msatemissions.cfm](https://www.fhwa.dot.gov/environment/air_quality/air_toxics/research_and_analysis/mobile_source_air_toxics/msatemissions.cfm)

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 40 CFR Part 93, Determining Conformity of Federal Actions to State or Federal  
Implementation Plans.  
[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr93\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr93_main_02.tpl)

Title 42 U.S.C. § 85, Subchapter I (Programs and Activities), Part A (Air  
Quality and Emission Limitations).  
<http://uscode.house.gov/browse/prelim@title42/chapter85/subchapter1/partA&edition=prelim>

## **19.4 FORMS**

[State Environmental Impact Report Form, Form No. 650-050-43](#)

[Traffic Data for Air Quality Analysis Form, Form No. 650-050-36](#)



## **19.5 HISTORY**

8/18/1999, 9/13/2006, 8/24/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 16, 1/14/2019

<b>Table 19-1 National Ambient Air Quality Standards (NAAQS)</b>				
<b>Pollutant</b>		<b>Averaging Time</b>	<b>Primary<sup>e</sup></b>	<b>Secondary<sup>f</sup></b>
Ozone (O <sub>3</sub> )		8-hour <sup>a</sup>	0.070 ppm <sup>g</sup>	0.070 ppm
Nitrogen Dioxide (NO <sub>2</sub> )		1-hour <sup>b</sup>	100 ppb <sup>h</sup>	NA
		Annual Arithmetic Mean	53 ppb	53 ppb
Particulate Matter	2.5 microns or less in size (PM <sub>2.5</sub> )	24-hour <sup>k</sup>	35 µg/m <sup>3</sup>	35 µg/m <sup>3</sup>
	10 microns or less in size (PM <sub>10</sub> )	Annual Arithmetic Mean <sup>c</sup>	12.0 µg/m <sup>3</sup>	15.0 µg/m <sup>3</sup>
		24-hour <sup>l</sup>	150 µg/m <sup>3</sup>	150 µg/m <sup>3</sup>
Sulfur Dioxide <sup>d</sup> (SO <sub>2</sub> )		1-hour	75 ppb	NA
		3-hour	NA	0.5 ppm
Carbon Monoxide (CO)		1-hour <sup>i</sup>	35 ppm	NA
		8-hour <sup>i</sup>	9 ppm	NA
Lead (Pb)		Rolling 3-Month Average <sup>j</sup>	0.15 µg/m <sup>3</sup>	0.15 µg/m <sup>3</sup>

<sup>a</sup> The ozone standard is attained when the fourth highest daily maximum 8-hour concentration measured at each site in a year, averaged over three years, is equal to or less than the standard.

<sup>b</sup> To attain the 1-hour standard, the 3-year average of the annual 98<sup>th</sup> percentile of the 1-hour daily maximum concentrations at each site must not exceed 100 ppb.

<sup>c</sup> To attain this primary standard, the 3-year average of the annual arithmetic mean concentrations from single or multiple community-oriented monitors must not exceed 12.0 µg/m<sup>3</sup>.

<sup>d</sup> To attain the 1-hour standard, the 3-year average of the annual 99<sup>th</sup> percentile of the 1-hour daily maximum concentrations at each site must not exceed 75ppb. To attain the 3-hour standard, it is not to be exceeded more than once per year.

<sup>e</sup> Primary standards are designed to establish limits to protect public health, including the health of "sensitive" individuals such as asthmatics, children, and the elderly.

<sup>f</sup> Secondary standards set limits to protect public welfare including protection against decreased visibility and damage to animals, crops, vegetation, and buildings.

<sup>g</sup> ppm = parts per million

<sup>h</sup> ppb = parts per billion

<sup>i</sup> Not to be exceeded more than once per year.

<sup>j</sup> To attain the lead standard, the levels during the rolling 3-month averaging period may not exceed the 0.15 µg/m<sup>3</sup> level over a 3-year period

<sup>k</sup> To attain the primary/secondary standard, the 3-year average of the annual 98<sup>th</sup> percentile concentrations from single or multiple community-oriented monitors must not exceed 35 µg/m<sup>3</sup>

<sup>l</sup> To attain these standards, these levels are not to be exceeded more than once per year on average over 3 years.

NA = Not applicable  
 ppm = parts per million  
 ppb = parts per billion  
 µg/m<sup>3</sup> = microgram per cubic meter

Source: United States Environmental Protection Agency, 2019

## **Federal Highway Administration**

Policies and Guidance Papers -

[http://www.fhwa.dot.gov/environment/air\\_quality/conformity/policy\\_and\\_guidance](http://www.fhwa.dot.gov/environment/air_quality/conformity/policy_and_guidance)

Air Quality -

[http://www.fhwa.dot.gov/environment/air\\_quality/](http://www.fhwa.dot.gov/environment/air_quality/)

Transportation conformity –

[https://www.fhwa.dot.gov/environment/air\\_quality/conformity/index.cfm](https://www.fhwa.dot.gov/environment/air_quality/conformity/index.cfm)

## **Florida Department of Environmental Protection**

Current air quality rules (Chapter 62-4, F.A.C.) –

<http://www.dep.state.fl.us/air/rules/current.htm>

General Air Quality Publications.

<http://www.dep.state.fl.us/air/publication/general.htm>

## **U.S. Environmental Protection Agency**

EPA, 2014. National Emissions Inventory.

<https://epa.gov/air-emissions-inventories/national-emissions-inventory-nei>

What Are the Six Common Air Pollutants?

<https://www.epa.gov/criteria-air-pollutants>

National Ambient Air Quality Standards (NAAQS).

<https://www.epa.gov/criteria-air-pollutants/naaqs-table>

CAL3QHC Model.

<https://www.epa.gov/scram/air-quality-dispersion-modeling-preferred-and-recommended-models#cal3qhcx>

Guidance on Hot Spots Analysis for PM<sub>10</sub> and PM<sub>2.5</sub>.

<http://www.epa.gov/otaq/stateresources/transconf/projectlevel-hotspot.htm>

Motor Vehicle Emission Simulator (MOVES) Model.

<http://www.epa.gov/otaq/models/moves/>

State Implementation Plans (Region 4).

<https://www.epa.gov/sips-fl>

**Figure 19-1 Air Quality Information Sources**

2011 NATA: Assessment Results

<https://www.epa.gov/national-air-toxics-assessment/2011-nata-assessment-results>

The Green Book Nonattainment Areas for Criteria Pollutants.

<https://www.epa.gov/green-book>

**Figures 19-1 Air Quality Information Sources (Page 2 of 2)**

## **MSAT Standard Language**

[USE THIS LANGUAGE FOR EAs OR EISs THAT ARE EXEMPT FROM MSAT ANALYSIS]

The purpose of this project is to (*insert major deficiency that the project is meant to address*) by constructing (*insert major elements of the project*). This project has been determined to generate minimal air quality impacts for Clean Air Act criteria pollutants and has not been linked with any special mobile source air toxic (MSAT) concerns. As such, this project will not result in changes in traffic volumes, vehicle mix, basic project location, or any other factor that would cause a meaningful increase in MSAT impacts of the project from that of the No-Build alternative.

Moreover, Environmental Protection Agency (EPA) regulations for vehicle engines and fuels will cause overall MSAT emissions to decline significantly over the next several decades. Based on regulations now in effect, an analysis of national trends with EPA's MOVES2014 model forecasts a combined reduction of over 90 percent in the total annual emissions rate for the priority MSAT from 2010 to 2050 while vehicle-miles of travel are projected to increase by over 45 percent (Updated Interim Guidance on Mobile Source Air Toxic Analysis in NEPA Documents, Federal Highway Administration, October 12, 2016). This will both reduce the background level of MSAT as well as the possibility of even minor MSAT emissions from this project.

[USE THIS LANGUAGE FOR EAs OR EISs THAT REQUIRE QUALITATIVE MSAT ANALYSIS]

### **Introduction**

A qualitative analysis provides a basis for identifying and comparing the potential differences among MSAT emissions, if any, from the various alternatives. The qualitative assessment presented below is derived in part from a study conducted by FHWA entitled A Methodology for Evaluating Mobile Source Air Toxic Emissions Among Transportation Project Alternatives.

### **MSAT Effects Consideration**

*[Select the appropriate language based on the purpose of the project (widening, interchanges or freight focus projects). Modify the language to meet the project context.]*

#### **A. Widening Projects and Interchange Projects**

For each alternative analyzed in this EA/EIS (*specify*), the amount of mobile source air toxics (MSAT) emitted would be proportional to the vehicle miles traveled (VMT) if other variables such as fleet mix are the same for each alternative. The VMT estimated for each of the Build Alternatives is slightly higher than that for the No-Build Alternative, because the additional capacity increases the efficiency of the roadway and may attract some trips from elsewhere in the transportation network. Refer to Table \_\_\_\_ (*specify*).

## **Figure 19-2 Mobile Source Air Toxics Standard Language**

This increase in VMT would lead to higher MSAT emissions for the recommended alternative along the highway corridor, along with a corresponding decrease in MSAT emissions along the parallel routes. The emissions increase is offset somewhat by lower MSAT emission rates due to increased speeds; according to the Environmental Protection Agency's (EPA) MOVES2014 model, emissions of all priority MSAT decrease as speed increases. Because the estimated VMT under each of the Alternatives are nearly the same, varying by less than \_\_\_\_ (*specify*) percent, it is expected there would be no appreciable difference in overall MSAT emissions among the various alternatives. Also, regardless of the alternative chosen, emissions will likely be lower than present levels in the design year because of EPA's national control programs that are projected to reduce annual MSAT emissions by over 90 percent between 2010 and 2050 (Refer to Updated Interim Guidance on Mobile Source Air Toxic Analysis in NEPA Documents, Federal Highway Administration, October 12, 2016). Local conditions may differ from these national projections in terms of fleet mix and turnover, VMT growth rates, and local control measures. However, the magnitude of the EPA-projected reductions is so great (even after accounting for VMT growth) that MSAT emissions in the project area are likely to be lower in the future in nearly all cases.

*[Include the following paragraph if the project will construct travel lanes closer to populated areas, such as residences, schools and businesses.]*

The proposed improvements may have the effect of moving some traffic closer to nearby populated areas; therefore, under each alternative there may be localized areas where ambient concentrations of MSAT could be higher under certain Build Alternatives than the No-Build Alternative. However, the magnitude and the duration of these potential increases compared to the No-Build alternative cannot be reliably quantified due to incomplete or unavailable information in forecasting project-specific MSAT health impacts. In sum, when a highway is widened, the localized level of MSAT emissions for the Build Alternative could be higher relative to the No-Build Alternative, but this could be offset due to increases in speeds and reductions in congestion (which are associated with lower MSAT emissions). Also, MSAT will be lower in other locations when traffic shifts away from them. However, on a regional basis, EPA's vehicle and fuel regulations, coupled with fleet turnover, will over time cause substantial reductions that, in almost all cases, will cause region-wide MSAT levels to be significantly lower than today.

#### B. Improvements or Expansions to Intermodal Centers or Other Projects that Affect Truck Traffic

For each alternative in this EIS/EA (*specify*), the amount of mobile source air toxics (MSAT) emitted would be proportional to the amount of truck vehicle miles traveled (VMT) and rail activity, if other variables (*such as travel not associated with the intermodal center*) are the same for each alternative. The truck VMT and rail activity estimated for each of the Build Alternatives are higher than that for the No-Build

### **Figure 19-2 Mobile Source Air Toxics Standard Language (Page 2 of 4)**

Alternative, because of the additional activity associated with the expanded intermodal center. Refer to Table \_\_\_\_ (specify). This increase in truck VMT and rail activity associated with the Build Alternatives would lead to higher MSAT emissions (particularly diesel particulate matter) near the intermodal center. The higher emissions could be offset somewhat by two factors: 1) the decrease in regional truck traffic due to increased use of rail for inbound and outbound freight; and 2) increased speeds on area highways due to the decrease in truck traffic. The extent to which these emissions decreases will offset intermodal center-related emissions increases is not known.

Because the estimated truck VMT and rail activity under each of the Build Alternatives are nearly the same, varying by less than \_\_\_\_ (specify) percent, it is expected there would be no appreciable difference in overall MSAT emissions among the various alternatives. Also, regardless of the alternative chosen, emissions will likely be lower than present levels in the design year because of the Environmental Protection Agency's (EPA) national control programs that are projected to reduce annual MSAT emissions by over 90 percent from 2010 to 2050 (Updated Interim Guidance on Mobile Source Air Toxic Analysis in NEPA Documents, Federal Highway Administration, October 12, 2016).

Local conditions may differ from these national projections in terms of fleet mix and turnover, VMT growth rates, and local control measures. However, the EPA-projected reductions are so significant (even after accounting for VMT growth) that MSAT emissions in the study area are likely to be lower in the future as well.

*[The following discussion may apply if the intermodal center is close to other development.]*

The additional freight activity contemplated as part of the project alternatives will have the effect of increasing diesel emissions near nearby homes, schools, and businesses; therefore, under each alternative there may be localized areas where ambient concentrations of MSAT would be higher than under the No-Build alternative. The localized differences in MSAT concentrations would likely be most pronounced under Alternatives \_\_\_\_ (specify). However, as discussed above, the magnitude and the duration of these potential differences cannot be reliably quantified due to incomplete or unavailable information in forecasting project-specific health impacts. Even though there may be differences among the Alternatives, on a region-wide basis, EPA's vehicle and fuel regulations, coupled with fleet turnover, will cause substantial reductions over time that in almost all cases the MSAT levels in the future will be significantly lower than today.

*[Insert a description of any emissions-reduction activities that are associated with the project, such as truck and train idling limitations or technologies, such as auxiliary power units; alternative fuels or engine retrofits for container-handling equipment, etc.]*

### **Figure 19-2 Mobile Source Air Toxics Standard Language (Page 3 of 4)**

Overall, the Build Alternatives in the design year could be associated with higher levels of MSAT emissions in the study area, relative to the No-Build Alternative, along with some benefit from improvements in speeds and reductions in region-wide truck traffic. There also could be slightly higher differences in MSAT levels among Alternatives in a few localized areas where freight activity occurs closer to homes, schools, and businesses. Under all alternatives, MSAT levels are likely to decrease over time due to nationally mandated cleaner vehicles and fuels.

**Incomplete or Unavailable Information for MSAT Effects Analysis**

Documentation of qualitative analysis in the Air Quality Technical Memo should be concluded by a 40 CFR Part 1502 assessment of incomplete or unavailable information. Refer to Appendix C of the [Updated Interim Guidance on Mobile Source Air Toxic Analysis in NEPA Documents, Federal Highway Administration, October 12, 2016](#) for details.

**Figure 19-2 Mobile Source Air Toxics Standard Language (Page 4 of 4)**



## **MSAT Mitigation Strategies**

Lessening the effects of mobile source air toxics should be considered for projects with substantial construction-related MSAT emissions that are likely to occur over an extended building period, and for post-construction scenarios where the NEPA analysis indicates potentially meaningful MSAT levels. Such mitigation efforts should be evaluated based on the circumstances associated with individual projects, and they may not be appropriate in all cases. However, there are a number of available mitigation strategies and solutions for countering the effects of MSAT emissions.

### **Mitigating for Construction MSAT Emissions**

Construction activity may generate a temporary increase in MSAT emissions. Project-level assessments that render a decision to pursue construction emission mitigation will benefit from a number of technologies and operational practices that should help lower short-term MSAT. In addition, the Federal Highway Administration has supported a host of diesel retrofit technologies in the Congestion Mitigation and Air Quality Improvement (CMAQ) Program provisions – technologies that are designed to lessen a number of MSATs

Construction mitigation includes strategies that reduce engine activity or reduce emissions per unit of operating time, such as reducing the numbers of trips and extended idling. Operational agreements that reduce or redirect work or shift times to avoid community exposures can have positive benefits when sites are near populated areas. For example, agreements that stress work activity outside normal hours of an adjacent school campus would be operations-oriented mitigation. Verified emissions control technology retrofits or fleet modernization of engines for construction equipment could be appropriate mitigation strategies. Technology retrofits could include particulate matter traps, oxidation catalysts, and other devices that provide an after-treatment of exhaust emissions. Implementing maintenance programs per manufacturers' specifications to ensure engines perform at EPA certification levels, as applicable, and to ensure retrofit technologies perform at verified standards, as applicable, could also be deemed appropriate. The use of clean fuels, such as ultra-low sulfur diesel, biodiesel, or natural gas also can be a very cost-beneficial strategy.

### **Post-Construction Mitigation for Projects with Potentially Significant MSAT Levels**

Travel demand management strategies and techniques that reduce overall vehicle-mile of travel; reduce a particular type of travel, such as long-haul freight or commuter travel; or improve the transportation system's efficiency will mitigate MSAT emissions. Examples of such strategies include congestion pricing, commuter incentive programs, and increases in truck weight or length limits. Operational strategies that focus on speed limit enforcement or traffic management policies may help reduce MSAT emissions even

### **Figure 19-3 Examples of Mitigation Strategies for MSAT Emissions**

beyond the benefits of fleet turnover. Well-traveled highways with high proportions of heavy-duty diesel truck activity may benefit from active Intelligent Transportation System programs, such as traffic management centers or incident management systems. Similarly, anti-idling strategies, such as truck-stop electrification can complement projects that focus on new or increased freight activity.

Planners also may want to consider the benefits of establishing buffer zones between new or expanded highway alignments and populated areas. Modifications of local zoning or the development of guidelines that are more protective also may be useful in separating emissions and receptors.

The initial decision to pursue MSAT emissions mitigation should be the result of interagency consultation at the earliest juncture. Options available to project sponsors should be identified through careful information gathering and the required level of deliberation to assure an effective course of action. Such options may include local programs, whether voluntary or with incentives, to replace or rebuild older diesel engines with updated emissions controls. Information on EPA clean diesel programs can be found at <https://www.epa.gov/cleandiesel>.

**Figure 19-3 Examples of Mitigation Strategies for MSAT Emissions (Page 2 of 2)**

Date:

To: Name, Title

From: Name, Title

Subject: Financial Management Number(s) \_\_\_\_\_  
Air Quality Technical Memorandum  
*Project Description,*  
\_\_\_\_\_ County

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.

The proposed project is located in \_\_\_\_\_ County, an area currently designated as being in attainment for particulate matter (2.5 microns in size and 10 microns in size) and carbon monoxide (CO).

The project alternatives were subjected to a CO screening model called **CO Florida 2012** that makes various conservative worst-case assumptions related to site conditions, meteorology and traffic. The Florida Department of Transportation's (FDOT's) **CO Florida 2012** model uses the latest United States Environmental Protection Agency (EPA)-approved software to produce estimates of one-hour and eight-hour CO at default air quality receptor locations. The one-hour and eight-hour estimates can be directly compared to the current one- and eight-hour **National Ambient Air Quality Standards (NAAQS)** for CO.

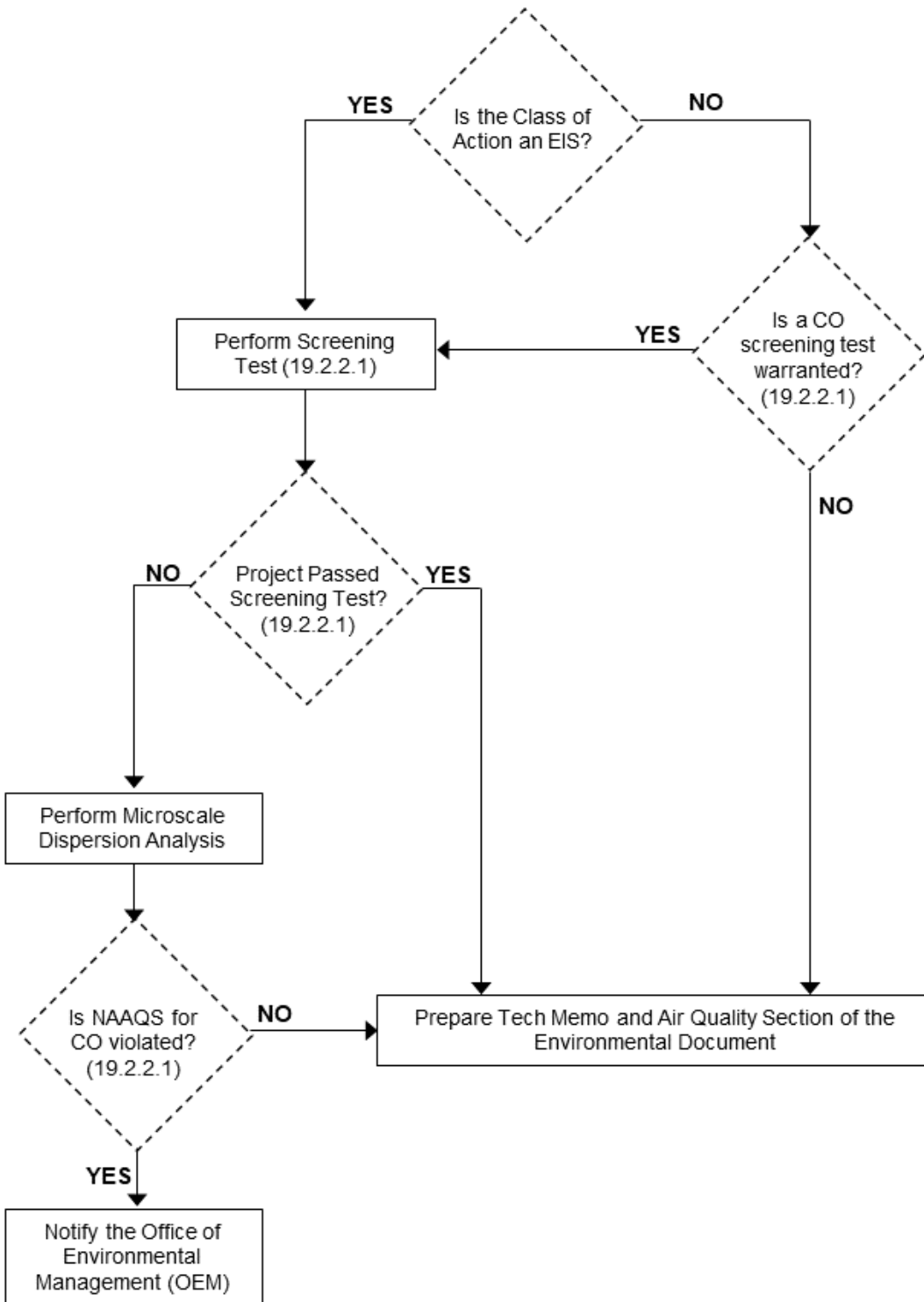
The roadway intersection forecast to have the highest total approach traffic volume was *name of intersection*. The Build and No-Build scenarios for both the opening year (*year*) and the design year (*year*) were evaluated. The traffic data input used in the evaluation is attached to this memorandum.

Estimates of CO were predicted for the default receptors which are located 10 feet to 150 feet from the edge of the roadway. Based on the results from **CO Florida 2012**, the highest project-related CO one- and eight-hour levels are not predicted to meet or exceed the one- or eight-hour **National Ambient Air Quality Standards (NAAQS)** for this pollutant with either the No-Build or Build alternatives. As such, the project "passes" the screening model. The results of the screening model are attached to this memorandum.

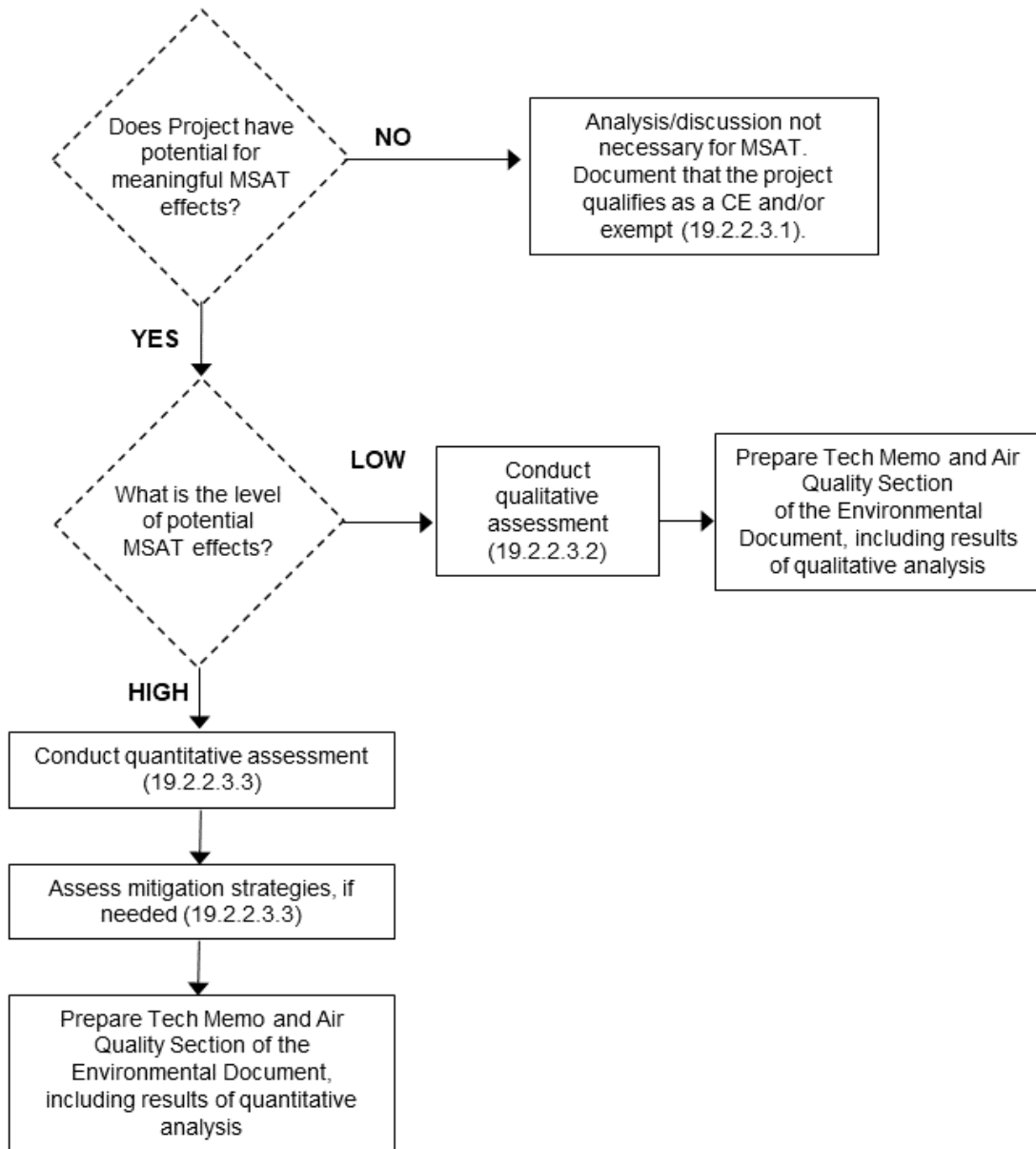
This project is not expected to create adverse impacts on air quality because the project area is in attainment for all National Ambient Air Quality Standards. Therefore, the Clean Air Act conformity requirements do not apply to the project. Additionally, the project is expected to [improve/not change] the Level of Service (LOS) and [reduce/not change] delay and congestion on all facilities within the study area

**[For MSAT analysis, also include the applicable language from *Figure 19-2* or if the project has high potential MSAT effects, include the project specific MSAT information, methodology used to estimate MSAT emissions, estimation of MSAT emissions, discussion of MSAT analysis results and comparison of the MSAT emission changes, incomplete or unavailable information, and mitigation strategies, if needed.]**

#### Figure 19-4 Sample Air Quality Technical Memorandum



**Figure 19-5 Air Quality Analysis Process for Carbon Monoxide**



**Figure 19-6 Air Quality Analysis Process for MSAT**

## **PART 2, CHAPTER 20**

### **CONTAMINATION**

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## PART 2 CHAPTER 20

### CONTAMINATION

#### 20.1 OVERVIEW

##### 20.1.1 Purpose

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).

This chapter provides guidance on identifying, evaluating, and handling potential contamination issues associated with FDOT projects in all phases of the project development process [Planning, Project Development and Environment (PD&E), Design and Construction] to comply with federal and state laws and regulations. Federal requirements for contamination evaluation are contained in the **Resource Conservation and Recovery Act (RCRA)** as amended by **Hazardous and Solid Waste Amendments (HSWA)** and the **Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)** as amended by **Superfund Amendment and Reauthorization Act (SARA)**. **RCRA** deals with waste management for protecting human health and the environment from the potential hazards of waste disposal. **CERCLA** (also known as Superfund) sets federal requirements for responding to spills of hazardous substances and establishes liability for cleanup cost to responsible parties. Florida's requirements for pollution prevention and control are contained in **Chapters 376 and 403 Florida Statutes (F.S.)**, respectively and requirements for dealing with hazardous wastes, and rehabilitation of contaminated sites are outlined in **Chapters 62-730 and 62-780 Florida Administrative Code (F.A.C.)**, respectively.

The 1988 FHWA Memorandum titled **Interim Guidance – Hazardous Waste Sites Affecting Highway Project Development** provides guidance on dealing with contaminated materials during project development and construction of federal-aid transportation projects. The FHWA interim guidance emphasizes the need to identify and assess potentially contaminated sites early in the project development process and to use measures to avoid or minimize project involvement with substantially contaminated sites. In 1998, FHWA issued a **Policy Revision to Support the Brownfields Economic**



**Redevelopment Initiative** which encourages acquisition and/or clean-up of land within brownfields for transportation purposes in certain instances: 1) where such actions are feasible, reasonable, within acceptable limits of liability exposure, 2) when cooperating partners are available, and 3) when parties legally responsible for the contamination are pursued to the maximum extent practicable.

Contamination within or adjacent to FDOT right of way (ROW) has the potential for liability (to FDOT through property ownership and due to contaminated/hazardous material exposure, handling and disposal) and may require assessment, remediation, or special handling. Therefore, FDOT should consider the potential for encountering contamination within the limits of every project, including excavation, acquiring new ROW or easements, proposed stormwater management sites, utility work, structure demolition/modifications, and similar off-site construction activities. To avoid or minimize impacts, evaluation for potential contamination impacts begins during the earliest phase of the project development process and continues through construction. The level of contamination evaluation increases as the project moves from the Planning phase to the Construction phase.

Contamination in soil, groundwater, surface water, sediments, and structures may have the following impacts to an FDOT project:

- Human exposure;
- Potential or actual human health effects;
- Exacerbation of the contamination by construction activities;
- Design modifications or special construction provisions for work within contaminated areas;
- Dewatering permitting requirements
- Requirements for the proper handling and disposal of contaminated material; and,
- Potential cost and/or schedule impacts.

Thus, understanding the type and extent of contamination issues and addressing them early and properly can reduce costs and risks to FDOT. FDOT must utilize the best available information to identify, screen, evaluate, and remediate potential contamination impacts.

If areas with the potential for contamination are identified within or adjacent to an FDOT project, the Project Manager (PM) and District Contamination Impact Coordinator (DCIC) should work together to determine actions to address contamination issues. The PM and DCIC should provide this information in a timely manner to the District management and appropriate technical offices (such as ROW, Design, Construction and Maintenance) and the Office of General Counsel (OGC), as appropriate, to allow for informed project-related decisions to be made.

## 20.1.2 Definitions

**Asbestos** – A naturally occurring, fibrous silicate mineral, including chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated and/or altered. All types of asbestos are known to cause serious health hazards. For purposes of this definition "asbestos" includes Presumed Asbestos Containing Materials (PACM) and Regulated Asbestos Containing Materials (RACM).

**Asbestos Containing Materials (ACM)** - Any material containing more than one percent (1%) asbestos as defined in **29 Code of Federal Regulations (CFR) § 1926.1101, Occupational Health & Safety Administration (OSHA)**.

**Brownfield** – As per **Section 376.79(3), F.S.**, Brownfield means real property, the expansion, redevelopment or reuse of which may be complicated by actual or perceived environmental contamination.

**Cleanup Target Level** – The concentration for each contaminant identified by an applicable analytical test method, in the medium of concern, at which a site rehabilitation program is deemed complete.

**Contamination Assessment and Remediation (CAR) Contractor** – A vendor selected by FDOT that provides services related to hazardous and contaminated materials, emergency response services, site assessment, source removal services, and other environmental services as required by the contract.

**Contaminated or Contamination** - The presence of any contaminant in surface water, groundwater, soil, sediment, or upon the land, in concentrations that exceed the applicable Cleanup Target Levels (CTLs) specified in **Chapter 62-777, F.A.C.**, or water quality standards in **Chapter 62-302** or **62-520, F.A.C.**, or in concentrations that may result in contaminated sediment.

**Contaminant** - Any physical, chemical, biological, or radiological substance present in any medium which may result in adverse effects to human health or the environment or which creates an adverse nuisance, organoleptic, or aesthetic condition in groundwater.

**Contaminated Site** - Any site with hazardous substances, pollutants, or contaminants that are harmful or likely to be harmful to human health or the environment.

**Contamination Screening Buffer** – An area within and adjacent to the project that should be evaluated for possible additional contamination assessment.

**Contamination Source** - The place of origin or major concentration of contaminants from which contamination migrates to surrounding areas through the soil, groundwater, or other media.

**Hazardous Material** - A general term that includes all materials and substances which are now designated or defined as hazardous by federal or state law or by the rules or regulations of the state or any federal agency: **40 CFR § 261.30, 40 CFR § 261.4, 40 CFR §§ 261.21-261.24, Section 376.301, F.S., and Section 403.74, F.S.**

**Hazardous Waste Site** - A site at which wastes as defined in **Rule Chapter 62-730, F.A.C.**, and **40 CFR §§ 260-272**, have been disposed, treated, or stored.

**Lead-Based Paint (LBP)**- Paint or other surface coatings as defined in **Section 381.983, F.S.** that contain lead equal to or exceeding 1.0 milligram per square centimeter, 0.5 percent by weight, 5,000 parts per million (ppm) by weight or 5,000 milligrams per kilogram.

**Level of Investigation** - To standardize contamination evaluations on transportation projects, FDOT broadly uses the following levels of contamination investigation:

**Level I** – A contamination screening evaluation consisting of a desktop review of current and historical records and site reconnaissance to identify past and present activities that have the potential to impact areas in, or immediately adjacent to, project construction. It is used to determine the need and scope of further assessments. Level I evaluation is completed as early as feasible in the project process, typically during the PD&E phase or during preparation of Phase I (30%) design plans for projects which do not have a PD&E Study.

**Level II** – Level II assessment [also known as Impact to Construction Assessment (ICA)] consists of a detailed evaluation of potential contaminated sites based on the findings of Level I evaluation. When applicable, a Level II assessment includes soil sampling, laboratory testing and/or installation of groundwater monitoring wells for sites with known or potentially contaminated materials. This is done to assess the type and extent of contamination in potentially contaminated sites, identify impacts to construction and associated costs for remediation, and to develop recommendations for Level III activities or avoidance measures as warranted. Level II assessment is typically performed during the Design phase and prior to ROW acquisition and Construction. However, it may be performed during the PD&E phase for projects with advanced design activities or when it is required to substantiate the impact of potentially contaminated sites on the preferred alternative.

**Level III** – Level III refers to additional evaluation of contamination identified or suspected based on the Level II assessment and any requisite remediation or abatement of contamination or hazardous materials. It includes a detailed plan for the removal and disposal of contaminated media, storage tanks, and/or other hazardous materials that may directly impact construction activities or ROW acquisition and clearance. Level III activities can occur during design and ROW acquisition, or during or prior to construction to avoid impacts to construction and project delays.

**Metal-Based Coatings (MBC)** – Surface coatings likely to contain heavy metals, including cadmium, arsenic, lead, zinc, and hexavalent chromium that could be present at concentrations considered to be hazardous. Elevated concentrations of the aforementioned metals require worker protection, special storage or transport, and regulated disposal at a licensed facility.

**Modified Special Provision (MSP)** - A specification, prepared, signed, and sealed in accordance with **Chapters 471 and/or 481, F.S.**, that revises an implemented specification (Standard Specification, Supplemental Specification, or Special Provision) to address a project specific need and is approved for use by the State Specifications Engineer.

**Municipal Separate Storm Sewer System (MS4)** - A MS-4 system is a storm water conveyance system owned by a state, city, town or other public entity which discharges to waters of the United States but is not combined with a sewer system or part of a publicly owned treatment works.

**National Pollutant Discharge Elimination System (NPDES)** - the NPDES Stormwater Program is a comprehensive two-phased national program (established by the **Clean Water Act**) for addressing the non-agricultural sources of stormwater discharges which adversely affect the quality of our nation's waters. The program uses the NPDES permitting mechanism to require the implementation of controls designed to prevent harmful pollutants from being discharged by stormwater runoff into local water bodies.

**Potentially Contaminated Site** - A site, within or adjacent to the project limits, suspected to have existing contamination based on past or current activities on or near the site as evidenced by records review, historical land use evaluation, or field reconnaissance.

**Presumed Asbestos Containing Material (PACM)** - Thermal system insulation and surfacing material, caulk, joint compound, and mastics found in buildings and bridges with the potential to have ACM constructed no later than 1980. PACM may be noted as present in other materials that cannot be adequately sampled. Sampling of these materials may be prohibited due to access, safety, and compromising the building's structural integrity.

**Remediation** - Those activities necessary to remove, treat, or otherwise reduce contamination to a level acceptable to the regulatory agency having jurisdiction in accordance with **Chapter 62-780, F.A.C.**, or applicable federal programs (e.g. **RCRA**).

**Regulated Asbestos Containing Material (RACM)** – According to the Environmental Protection Agency (EPA), RACM is (a) friable asbestos material, (b) Category I non-friable ACM that has become friable, (c) Category I non-friable ACM that will be or has been subjected to sanding, grinding, cutting or abrading, or (d) Category II non-friable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations.

**Sediment** – Unconsolidated solid matrix occurring immediately beneath any surface water body. The surface water body may be present part or all of the time and may support a wetland environment or vegetation.

**Solid Waste - RCRA** defines a solid waste as: “any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial or mining and agricultural operations, and from community activities . . . [excluding] . . . solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under **Section 402 of the Federal Water Pollution Control Act.**”

**Superfund Site** - Land in the United States that has been contaminated by hazardous waste and identified (in the National Priorities List) by the United States Environmental Protection Agency (EPA) as a candidate for cleanup because it poses a risk to human health or the environment.

**Technical Special Provisions (TSPs)** - Specifications of a technical nature, prepared, signed, and sealed in accordance with **Chapters 471, 481, or 481 Part 2, F.S.**, that are made part of the contract as an attachment to the contract documents. TSPs describe work that is not covered by the **Standard Specifications** or Workbook and are included as Appendices in a Specifications Package.

## 20.2 Procedure

Project involvement with contamination must be evaluated for all FDOT projects to minimize potential risks, liabilities, health and safety concerns, project delays and cost overruns. The scope of the project, as it relates to potential involvement with contaminated soil, sediments, or groundwater, is a key consideration. Involvement with contamination can be in the form of potential exposure to contaminated soil, groundwater, other surface debris, ACM, or MBC during construction; as well as the potential for plume disturbance during construction; or the consideration of contaminants or storage tanks present on parcels identified for ROW acquisition. These levels of investigation evaluate or assess the sites along or in close proximity to the project corridor for the potential presence of contamination and provide the appropriate information needed to address contamination concerns at each phase of the project development process. Typically, Level I supports the PD&E Study, Level II supports Design phase activities, and Level III supports construction; see [Section 20.1.2](#). However, Level II assessment may be conducted during the PD&E Study, as determined by the DCIC and District Environmental Office staff, to assist the PM in making this determination.

Efforts to conduct coordination as described in the [2014 MOU between Florida Department of Environmental Protection \(FDEP\) and FDOT](#) when addressing for petroleum contamination should be considered and advanced as appropriate at each Level of Investigation, see [Section 20.2.5.1](#). Ideally, petroleum contaminated sites identified during PD&E will be addressed and remediated by FDEP through the provisions

of the **2014 MOU** prior to acquisition or construction. As project environmental review advances from PD&E to construction, the contamination section of the original **NEPA** document and subsequent re-evaluations provide a summary of results of the associated Level of Investigation at each phase. The Construction Advertisement re-evaluation should contain a final summary of contamination investigations completed and reflect resolution of contamination related issues to accommodate advancement of construction.

The DCIC is the District's point of contact for all issues related to contamination impacts within the existing or proposed FDOT ROW. The DCIC is responsible for administration of the District's contamination program, which may include management of the Contamination Assessment and Remediation (CAR) contract(s); coordination of contamination activities in all phases of the project development process; emergency response activities as they relate to contamination discharges on FDOT ROW or facilities and maintenance and retention of documentation for contamination work performed within the District. Additional duties may include coordination of hazardous materials and petroleum compliance issues with appropriate personnel for FDOT facilities and maintenance yards.

## **20.2.1 Contamination in the Project Development Process**

Contamination issues can be avoided or minimized by changing the project's design, or remediated if they are identified early in the project development process. The benefit of early identification of contamination is to minimize unanticipated contamination encountered during construction of a project. Contamination issues on FDOT projects can be identified early during Work Program development through Statewide Acceleration Transformation (SWAT) meetings, or during Efficient Transportation Decision Making (ETDM) screening, scope of services development, and the PD&E Study. Many options are available to effectively manage, or remediate contamination issues that are discovered early in the project development process. These options include conducting Level II assessment, design modifications, developing Modified Special Provisions (MSPs), or remediating contamination issues (prior to construction) using the CAR Contractor, as appropriate. Additionally, sites contaminated with petroleum may be remediated using the [\*\*2014 MOU between FDEP and FDOT \(Section 20.2.5.1\)\*\*](#).

Contamination issues often vary from project to project; therefore, the DCIC and PM should be both flexible and innovative in addressing the issues. [\*\*Figure 20-1\*\*](#) summarizes general considerations related to contamination impacts on projects that the DCIC, PM, and project analysts should consider when evaluating contamination issues.

### **20.2.1.1 ETDM Screening and Project Scope Development**

Evaluation of potential contamination impacts on PD&E projects begins when the District prepares Preliminary Environmental Discussion (PED) for projects that are screened through the ETDM process (See [\*\*Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification\*\*](#)). The ETDM process provides an opportunity for regulatory agencies [FDEP, EPA, and Water Management Districts (WMDs)] to comment on sites or properties that have or had regulated activities. Evaluation of potential

contamination impacts is limited to the broad impact that known or suspected contaminated sites may have on the project scope. The District can use the ETDM Environmental Screening Tool (EST), FDOT records and/or other online resources maintained by the FDEP, local agencies and WMDs to obtain data for preparation of PED.

The PM, DCIC and ETDM Coordinator should coordinate with regulatory agencies and other appropriate local agencies throughout the ETDM screening process. Coordination should also include District staff such as the District Drainage Engineer, Permit Coordinator, District Design Engineer, Design PM, District Structures Engineer, District Construction Environmental Coordinator, OEM, and others who might be involved in future phases of the project.

The following project activities occur during the ETDM process:

- **Planning Screen** – Specific information identified in the PED of the Planning Screen includes information about known or potential contaminated sites located within or adjacent to project alternatives. The District may begin to coordinate with the FDEP for potential assessment or remediation of petroleum contaminated facilities within or adjacent to the project ROW, pursuant to the [2014 MOU between FDEP and FDOT \(Section 20.2.5.1\)](#).
- **Programming Screen** – The PED should include discussion about known or potential project involvement with contamination based on the District's familiarity with the project area and anticipated project activities. The PED should also list all known and potential contamination issues located within the project area using available data and District staff familiarity with the project area. Based on the effect of the project, the PED should indicate whether a Level I evaluation is anticipated. The District must begin to coordinate or update the status of coordination with the FDEP on potential assessment or remediation of petroleum contaminated sites within or adjacent to the project ROW, pursuant to the [2014 MOU between FDEP and FDOT](#).

After the ETDM screening, the PM and DCIC review the Environmental Technical Advisory Team (ETAT) comments related to contamination issues published in the **Programming Screen Summary Report** for the project. While reviewing the report, the PM and DCIC should pay close attention to any list of potential contamination sources and/or sites that warrant further investigation.

The results of the ETDM screening and the District's familiarity with the potential contamination issues in the project area are used to estimate the level of effort for contamination evaluation in the scope of the PD&E Study. The PM should work with the DCIC to determine contamination evaluation needs and the level of evaluation effort for contamination to be included in the scope of services for the PD&E Study or CAR contract. A thorough scope of services for the PD&E Study is important to ensure all contamination issues are identified early in the project development. For projects that overlap the PD&E and Design phases, the **Contamination Screening Evaluation Report (CSER)** / Level I evaluation and Level II assessment may be combined or completed consecutively

Evaluation of potential contamination impacts for projects that do not have a PD&E phase begins during the scope development stage for the project. Depending on the type of construction activity, these projects generally require contamination evaluation that is not as extensive as projects that have a PD&E phase. The extent of assessment for projects with no PD&E phase is based on the scope of design and the expected inclusion of subsurface activities (e.g., drainage structures, mast arms, high mast lighting, cantilever sign bases, ponds, sidewalks, driveways, or underground utilities). The Design PM should work with the DCIC to determine the scope of contamination evaluation and documentation requirements for these projects.

### 20.2.1.2 Project Development and Environment

During PD&E, a Level I evaluation (contamination screening) is performed to screen known and/or potentially contaminated sites that may impact project alternatives. The identified potential contaminated sites are evaluated for impact to each project alternative and each site is assigned a “risk rating”. Based on the assigned risk rating and the proposed construction activities in the area of potential contamination, the PM and the DCIC coordinate actions that should be taken to address contamination issues.

Level I evaluation is documented in the **CSER**. The findings of the **CSER** should be summarized in the appropriate Environmental Document prepared for each PD&E project (See [Section 20.2.2.6](#)).

The proposed project scope of work should be considered in qualifying the effort and detail invested in the Level I evaluation. Project construction activities which expose potentially contaminated soils, ACM/MBC, or groundwater, proposed activities that could exacerbate an existing contaminated groundwater plume and projects with ROW acquisition, warrant more detailed evaluation as outlined in this Chapter. Contamination evaluation for Projects with no soil excavation or groundwater disturbance, and no ROW acquisition, primarily with all sites assigned No or Low risk ratings, may be documented by technical memorandum or contamination clearance letter with identification of potentially contaminated sites within the project vicinity. Contaminated sites, primarily those assigned Medium or High risk ratings, should continue to be evaluated in the Design phase.

### 20.2.1.3 Design

During the Design phase, planned ROW acquisition and project design features should be considered in determining the potential contamination impacts. There may be instances when contamination involvement can be avoided with minor design changes; for example, moving drainage structures or redesigning french drains to solid pipes in areas identified as having potential for soil or groundwater contamination. In addition, the potential pond sites and floodplain compensation (FPC) areas should be evaluated during the Level I/contamination screening evaluation. Level I evaluation should be updated during the Design phase wherever there is change in design (including additional utility adjustment on the project).



A Level II assessment, if warranted, is typically performed during the Design phase. The DCIC should continue to coordinate with the Design Project Manager and ROW staff as appropriate. Design plans and their revisions should be reviewed by the DCIC to ensure that design features are not impacted by or exacerbate, contamination issues. Additionally, drainage easements should be evaluated if there is a potential for contamination impacts to construction activities. The DCIC should also coordinate with regulatory agencies as necessary, such as coordinating with FDEP for projects that may require remediation through the [2014 MOU between FDEP and FDOT](#), solid waste/Storage tank removal, or dewatering permits.

#### **20.2.1.4 Construction**

For projects with identified contamination issues, the DCIC should attend the pre-construction meeting and coordinate closely with the construction PM to ensure the contractor is fully aware of potential involvement, commitments, remediation activities, avoidance measures, or any further coordination or measures as needed. During the Construction phase, the DCIC should support the Engineer on contamination-related matters and verify completion of any necessary Level III activities.

If avoidance of contamination is not possible, steps must be taken to remove or render safe the contaminated media prior to or during construction using Level III assessment.

#### **20.2.2 Level I / Contamination Screening Evaluation**

The Level I evaluation is performed (during the PD&E phase or development of Phase I design plans for projects which do not have a PD&E phase) to screen potentially contaminated sites that are within or adjacent to the project. Level I evaluation does not involve sampling and testing soil or groundwater. The information obtained from the Level I evaluation should be sufficient enough to determine potential contamination risk on each project alternative. The Level I evaluation consists of desktop review of the proposed project scope of work; contamination-related records; site reconnaissance/field review, interviews; estimating risk ratings; and preparation of a report or technical memorandum.

Level I evaluation may determine through review of environmental records or field review evidence that the site is not suspect to contamination (e.g., properly constructed and decommissioned landfills, contamination at the site was handled and disposed of according to regulations, or documented contaminants stored pose no risk to human and environment). If the Level I evaluation clearly finds no contamination issues in the project area, there is no need for further investigation providing there are no new discharges causing contamination; or no changes in design or construction activities on the site that can exacerbate contamination issues.

If sites (ranked medium or high) are identified during the Level I evaluation, then the sites are further considered for a Level II assessment.

### 20.2.2.1 Desktop Review

The purpose of the desktop review is to identify potential contaminated sites and to evaluate the potential for encountering contamination from current and/or previous land uses. Desktop reviews should be performed prior to the field review. The desktop review should include consideration of land use adjacent to the transportation project when screening for contamination issues.

Review of historical aerial photos and Sanborn maps can also provide information on potential contamination sources. The EST contamination layer and comparisons of old and new aerial photographs and Sanborn maps may identify any land-filling or other earth disturbing activities, historic non-regulated gasoline service stations, past agricultural uses, trucking facilities, possible cattle ranching activities (cattle dipping vats), automotive repair facilities, dry cleaners, and heavy industrial uses (e.g. ship yards). Databases maintained by federal, state, or local governments or regulatory agencies are the most reliable sources of data for desktop review. Desktop review may also include review of available historical aerial photographs and Sanborn fire insurance maps to evaluate the potential for contaminated materials to exist from the earliest date of development/use of the property.

Sources of data for desktop review are the Environmental Screening Tool (EST), publicly available databases, or databases from commercial environmental data service companies. Commercial environmental databases have limitations, thus their use is left to the discretion of the DCIC.

Desktop review should include review of topographic and hydrologic conditions of the site to evaluate the potential for migration of contaminants above or below ground. Sources for hydrologic information include individual site information in FDEP's Oculus database, United States Geological Survey (USGS) maps and States Department of Agriculture (USDA) soil survey and reports.

Search distances (contamination screening buffers) used for the desktop review vary depending on the context of the project and type of contamination source. The project analyst (or consultant) performing Level I investigation should coordinate with the DCIC if the buffer distance is to be modified to reflect project context. The following buffer distance are recommended on FDOT projects:

1. 500 feet from the ROW line for petroleum, drycleaners, and non-petroleum sites. Corridor projects in heavily industrialized or urbanized areas with dewatering planned near the contaminated sites need to be addressed with FDEP, WMD, or the local delegated program lead.
2. 1000 feet from the ROW line for non-landfill solid waste sites (such as recycling facilities, transfer stations and debris placement areas).
3. 1/2 mile from the ROW line for **CERCLA**, National Priorities List (NPL) Superfund sites, or Landfill sites. Include a detailed discussion of these sites if they are

expected to potentially impact the project. Coordinate with OGC and environmental permitting agencies, as appropriate.

The following sources available in EST should be considered in evaluating contamination on a project.

1. FDEP Map Direct Geographic Information Services (GIS) Application
2. FDEP Contamination Locator Map
3. FDEP Institutional Control Registry
4. National Priorities List
5. Proposed National Priority List
6. Superfund Enterprise Management System (SEMS)
7. Historical/Current Aerial Photos

Other sources that should be considered include:

1. FDEP OCULUS database
2. FDOT ROW map notes
3. Sanborn Maps
4. County/City/Municipals Directories and Registries
5. District GIS databases
6. Other state and local data resources that may be applicable and available

### **20.2.2.2 Site Reconnaissance/Field Review**

A field review or site reconnaissance is required to identify potential/suspect and documented contaminated sites within or adjacent to the project area. The field review is an opportunity to verify the locations of potentially contaminated sites identified during the desktop review and discover previously undocumented contamination impacts. The DCIC or representative should participate in the field reviews. Field review is typically conducted from existing FDOT or public ROW and should not require reviewers to enter a property suspected to have contamination issues.

Field reviews can include observations of apparent changes in topography such as depressions or mounds indicative of subsurface concerns. Through field reviews, visual

indications of surface spills, surface staining, areas of suspect liquids, tanks, suspicious odors, apparent sink holes, distressed vegetation, ventilation pipes, former pump islands/tank pads, soakage pits, drums, or chemical storage containers can be used to screen potentially contaminated media. Photographs should be taken of each site reviewed and any specific areas of concern should be noted during the site visit. Information about current and former uses of the site (ascertained through visual inspection or interviews) should be noted. Above ground utilities, and any evidence of below ground utilities should be documented on field notes.

The lack of visual characteristics for contamination does not imply the media is not contaminated. Based on the results of the desktop review, field review and interviews with the operators of the site, it may be necessary to conduct a Level II assessment to sample and test soil, groundwater, and/or surface water. **Property Access Agreements** Notification to access properties that have not been acquired or that currently have tenants may be needed prior to conducting Level II assessment. The District Project Manager is responsible to prepare written notification to property owners or tenants. The notification requirements to enter the property of others to conduct a survey, drill a test well, and collect samples are contained in **Section 337.274, F.S.** Any testing (if warranted and approved by the DCIC) should be conducted in accordance with existing **FDEP Standard Operating Procedures** contained in **Chapter 62-160, F.A.C.**

For projects involving existing bridges, building structures, and existing or abandoned utilities (which will be moved or demolished), the potential need for Asbestos Containing Materials (ACM), Lead-Based Paint (LBP), or Metal Based Coatings (MBC) surveys should be identified. Similar considerations should be given to project involving bridge timbers, fender systems, or railroad ties that may have the potential to contain wood preservatives. The DCIC should be involved to determine District preferences for the extent and timing of the survey.

The DCIC should coordinate with the District Maintenance Office and District Construction Office may also have information about existing contamination from previous projects.

### **20.2.2.3 Interviews**

Interviews with present and past owners, adjacent property owners, operators, and/or occupants of the properties with contamination concerns may be used to identify potential contaminants and environmental concerns at a site with little existing information.

### **20.2.2.4 Contamination Risk Rating**

FDOT uses a contamination risk rating system to evaluate the likelihood that a contaminated site may impact a project. The rating system provides information needed to address potential contamination impact through avoidance, remediation. The presence of a contaminated site adjacent to the project area does not always mean a high risk is present on the project. The analyst should consider proposed construction activities and determine if the scope of work may cause direct contact with the contaminant. In some cases, a regulatory agency may also be performing corrective actions to known

contamination issues, which may fully remediate or substantially reduce the level of contamination issues prior to project construction.

Additionally, regulated/permitted sites with no documented contamination should only be evaluated when the sites abut the FDOT ROW. Sites with documented contamination impacts should be evaluated within 500 feet of the project corridor due to dewatering impacts during construction.

There are four (4) contamination risk rating categories (No, Low, Medium or High) that are assigned to each property or site evaluated for potential contamination impacts to the project. These risk rating categories and their appropriate use are explained as follows:

1. **No** - A review of available information on the property and a review of the conceptual or design plans indicates there is no potential contamination impact to the project. It is possible that contaminants have been handled on the property. However, findings from the Level I evaluation indicate that contamination impacts are not expected.
2. **Low** - A review of available information indicates that past or current activities on the property have an ongoing contamination issue; the site has a hazardous waste generator identification (ID) number, or the site stores, handles, or manufactures hazardous materials. However, based on the review of conceptual or design plans and/or findings from the Level I evaluation, it is not likely that there would be any contamination impacts to the project.
3. **Medium** - After a review of conceptual or design plans and findings from a Level I evaluation, a potential contamination impact to the project has been identified. If there is insufficient information (such as regulatory records or site historical documents) to make a determination as to the potential for contamination impact, and there is reasonable suspicion that contamination may exist, the property should be rated at least as a "Medium". Properties used historically as gasoline stations and which have not been evaluated or assessed by regulatory agencies, sites with abandoned in place underground petroleum storage tanks or currently operating gasoline stations should receive this rating.
4. **High** - After a review of all available information and conceptual or design plans, there is appropriate analytical data that shows contamination will substantially impact construction activities, have implications to ROW acquisition or have other potential transfer of contamination related liability to the FDOT.

A recommendation for each site with a rating of medium or high should include a listing of the analytical parameters of concern and media (e.g., soil, groundwater), a discussion of potential involvement with ROW acquisition and/or construction and if the site is anticipated to warrant additional (Level II or III) assessment.

The rating can also change based on changes in design, construction activities, construction methods, ROW needs, or other factors when the project progresses from

design to construction. Where ROW acquisition is anticipated, the DCIC should inform and coordinate further related activities with PM, the assigned ROW agent and/or Office of General Counsel as appropriate. Prior to ROW acquisition, Level II assessment must be performed to characterize the types, concentrations, and extent of contamination within the acquisition area unless this information is already available from regulatory agencies.

Documentation of contamination evaluations and recommendations are summarized in the Environmental Document and progressively updated with subsequent re-evaluations as described in [Section 20.2](#).

### 20.2.2.5 Contamination Screening Evaluation Report

Documentation of the contamination screening evaluation is required to demonstrate that contamination involvement in the project was considered and addressed as appropriate. The documentation of the Level I evaluation is a **CSER** for PD&E projects, and a **Level I Evaluation Report** for projects that do not have a PD&E Study. A Technical Memorandum or contamination clearance letter is prepared for project with no contamination impacts or with minimal involvement with contamination. The decision to prepare a Technical Memorandum should be made in consultation with DCIC during development of the scope of services for the project after the ETDM Programming Screen is completed.

The **CSER** or **Level I Evaluation Report** documents screening methodology and contamination screening results. The report also includes data reviewed; findings; previous remedial actions; a risk rating for each potentially contaminated site; conclusions about the findings of the evaluation; and need for Level II assessment. Risk ratings, conclusions and the need for additional assessment presented in the report must be supported by data. If known or potentially contaminated sites are identified, their locations should be clearly marked (with stations and offsets, if appropriate) on the map that show project alternatives. The level of detail of the **CSER** depends on the complexity and scope of the project; severity of potential contaminated material; and number of potential contaminated sites. The report should be reviewed for technical accuracy, clarity of presentation and quality. Sources of all information and supporting documentation should be included (or appended) in the report.

The **CSER** report should have headings and subheadings to effectively delineate the sections appropriate to the level of analysis. See [Figure 20-2](#) and [Figure 20-3](#) for a sample **CSER** cover page and examples of section details, respectively. The cover page of the **CSER** should use the **Technical Report Cover Page, Form No. 650-050-38**. The cover page of the **CSER** or Technical Memorandum should contain the following 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 December 14, 2016 and executed by FHWA and FDOT.*

The following is a suggested outline for the **CSER**:

- **Cover page**—See [Figure 20-2](#) for sample cover page
- **Table of Contents**
- **Introduction**— Briefly state the purpose of the report.
- **Project Description**— Briefly describe the proposed improvements and define the project limits and construction activities. The description should state if the project is anticipated to acquire new ROW. Include project location map.
- **Project Alternatives**—Briefly describe each viable alternative that is analyzed in detail. Illustrate project alternatives using maps (overlaid on the aerial photographs) or other relevant figures. The maps should include commercial, industrial, or any other properties within the vicinity of the project which may pose contamination concerns.
- **Methodology**—Summarize the method used to evaluate contamination impacts on the project including all sources of information used and all individuals interviewed. Describe how contaminated sites were screened and evaluated for each project alternative.
- **Land Uses**—Briefly describe existing land uses. Include land use maps. Identify the current and previous users of each potentially contaminated property and the type of business conducted. Review historical aerial photos and indicate any historic land uses that may have resulted in contamination impacts to the subject properties.
- **Hydrologic Features**—Briefly describe of the hydrologic features within and adjacent to the project limits.
- **Interviews**—Summarize the outcome of interviews with site owners, operators, managers, regulatory agency staff, and others. To streamline preparation of **CSER**, this may be included in Project Impacts section
- **Project Impacts**—Based on the outcome of desktop review and field review: 1) Describe the source(s) of hazardous material; 2) Describe pertinent activities taken by regulatory agencies (regulatory status); and 3) Provide a narrative of potential contamination impacts on each project alternative, for each site with known or potential contamination issues. Locate known and/or potentially contaminated sites on the alternative concept plans. Summarize the number of potentially contaminated sites and their respective risk ratings as described in [Section 20.2.2.4](#) for each alternative in a matrix format.

- **Conclusion**—Discuss the findings of the contamination evaluation and need for additional investigation (Level II or Level III assessment) during subsequent phases (i.e., ROW acquisition or design). Include in the discussion, a listing of the analytical parameters of concern and media (e.g., soil, groundwater) for each site that will require additional investigation.
- **Appendices**—Include, site maps, relevant project plan sheets, site photographs with captions, historical research documentation, regulatory records documentation, interview documentation, site review checklists, field notes, topographic maps, project alternatives concept plans, and any letters, emails, or memos that document coordination with regulatory agencies.

### 20.2.2.6 Environmental Document

Documentation of contamination should be included in the Environmental Document as outlined in this section. All commitments made through coordination efforts should be documented in the Environmental Document and transmitted to the next phases of project development (Design and Construction) in accordance with [Procedure No. 650-000-003, Project Commitment Tracking](#) and [Part 2, Chapter 22, Commitments](#).

#### 20.2.2.6.1 Type 1 Categorical Exclusions and Non-Major State Actions

**Type 1 Categorical Exclusions (CEs)** – Include a brief summary of Level I evaluation in the [Type 1 Categorical Exclusion Checklist \(Part 1, Chapter 2, Class of Action Determination for Federal Projects\)](#). Upload **Level I Report**, technical memorandum, or contamination clearance letter as well as documentation of subsequent assessment, as appropriate in the StateWide Environmental Project Tracker (SWEPT).

**Non-Major State Actions (NMSAs)** – Include a brief summary of Level I evaluation in the [Non-Major State Action Checklist \(Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery\)](#). Upload the **Level I Evaluation Report** or a technical memorandum as well as documentation of subsequent evaluation, as appropriate, in SWEPT.

#### 20.2.2.6.2 Type 2 Categorical Exclusions

Projects which are Type 2 CEs may have an involvement with contamination provided that the involvement is determined not to be significant. The determination of significance should use the guidance in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#). Upload the **CSER**, or a technical memorandum as well as documentation of subsequent evaluation, as appropriate, in SWEPT. Briefly summarize project involvement with contamination (based on Level I evaluation) in the **Type 2 Categorical Exclusion Determination Form**. The summary should at least answer the following questions:

1. Are there any known or potentially contaminated sites within or near the project area.



2. How did the project avoid or minimize impact to any known or potentially contaminated sites?
3. Are there sites that require additional investigation (i.e. Level II assessment)?

Note that a determination of significance for contamination involvement is rare and can generally be resolved through application of procedure described in this Chapter. Any potential significant involvement should be coordinated with OEM and OGC as early as practical during the development of the project, preferably before preparation of **Type 2 Categorical Exclusion Determination Form**.

### **20.2.2.6.3 Environmental Assessment and Environmental Impact Statement**

The findings from the **CSER** are summarized in the in Environmental Analysis section of an Environmental Impact Statement (EIS) or an Environmental Assessment (EA). A summary table of impacts for each alternative should also be provided. Coordination which occurred during the contamination impact assessment is summarized in the Environmental Analysis section. Where applicable, the following statement should be provided:

*The State of Florida has evaluated the proposed project corridor and has identified potentially contaminated sites for the various proposed alternatives. Results of this evaluation will be utilized in the selection of a preferred alternative. When a specific alternative is selected for implementation, a site assessment will be performed to the degree necessary to determine levels of contamination and, if necessary, evaluate the options to remediate along with the associated costs.*

The Comments and Coordination section should discuss and include letters from agencies expressing comments on the Level I evaluation. Resolution of comments shall also be documented in this section.

For an EA with Finding of No Significant Impact (FONSI), the document will include a brief statement indicating the effect of the project. The availability of the **CSER**/Level I evaluation in the District Office should be noted. If known or potentially contaminated sites may affect the preferred alternative, the final Environmental Document [Final Environmental Impact Statement (FEIS)/Record of Decision (ROD), FEIS, or EA with FONSI] should briefly discuss these impacts and remediation/mitigation measures to eliminate or minimize the impacts. The following is an example statement that can also be included:

*Based upon the above considerations, it is determined that there is no practical alternative to the proposed action, and that all practical measures have been included to eliminate or minimize all possible impacts from contamination involvement.*

Upload the **CSER** as well as documentation of subsequent evaluation, as appropriate, in SWEPT.

#### **20.2.2.6.4 State Environmental Impact Reports**

SEIRs should summarize the results of the contamination screening evaluation in the Environmental Analysis section of the **State Environmental Impact Report Form, Form No. 650-050-43**.

The summary should answer the following questions:

1. Are there known or potentially contaminated sites within or near the project area.
2. How did the project avoid or minimize impact to any known or potentially contaminated sites?
3. Are there sites that require additional investigation (i.e. Level II assessment)?

Upload the **CSER** or Technical Memorandum, as appropriate, in SWEPT.

#### **20.2.2.6.5 Re-evaluations**

Changes to contamination impacts after approval of the Environmental Document must be re-evaluated consistent with [Part 1, Chapter 13, Re-evaluations](#). Design changes to the approved PD&E concept should be evaluated for potential contamination concerns. Updates to contamination status, anticipated or actual activities taken to resolve contamination issues should be discussed in the **Re-evaluation Form**. A construction advertisement Re-evaluation should reflect resolution of previously identified contamination issues. Resolution may include a description of how the issue will be handled if it will be addressed just prior to or during construction. Status of sites identified in the **CSER** with a Medium or High Risk Rating must be updated with subsequent re-evaluations. Final resolution on the disposition and method of addressing potentially contaminated sites during construction should be summarized in the re-evaluation.

### **20.2.3 Level II Assessment**

A Level II assessment, also referred to as an **Impact to Construction Assessment (ICA)**, is usually performed during the Design phase to assess the type and extent of potential contamination impacts to construction activities on the project or ROW acquisition. Level II assessment is also used to establish a basis for developing remediation goals. Level II assessment should normally be performed only on projects identified for property acquisition or construction in FDOT's 5-year Work Program. The DCIC may use the District CAR contractor to perform Level II assessments. In some instances, a Level I evaluation and Level II assessment may be performed during the PD&E phase for a project with advanced design activities, or to assist FDOT in selecting the preferred alternative.

Level II assessment is required on all Medium to High ranked contaminated sites identified during Level I evaluation, unless project design changes or updated contamination/hazardous material information shows that the site no longer poses a risk to the project. The Level II assessment should consist of further evaluation with consideration of updated information, changes in design, review of design details, and/or ROW acquisition status. A Level II assessment may include site access, and sampling and testing of soil and groundwater, if appropriate. Soil and/or groundwater sampling would be conducted to further ascertain, the type, location and potential involvement with contamination as well to aid in further development of approaches to address contamination when found. Additionally, depending on the results of the Level I evaluation, sampling may also be required for asbestos, metal based coatings, surface water, sediments, wood preservatives, or air quality.

The scope of Level II assessment depends on the potential for contamination impacts and the type of construction contracting method for the project. Design Build (DB) and Public, Private Partnership (P3) projects often require an increased level of effort much earlier in the Design phase to identify potential impacts and ensure contamination issues are understood and considered in the DB and P3 processes. For these projects, the FDOT can adjust the assessment requirements (e.g., performing multiple levels of investigation concurrently), based on additional project information and design plans that are made available for review during the process.

The assessment methodology should be developed and coordinated between the project analyst, PM, and DCIC before beginning assessment. For guidance on assessment methods and cleanup target levels, refer to the FDEP's website, as well as **Chapters 62-780 and 62-777, F.A.C.**

If the Level II assessment indicates contamination issues are not present in the project area, or contamination issues will not impact construction (including dewatering efforts), or ROW acquisition, no further assessment should be required unless there is a record of a new contaminant discharge occurring within the construction limits after the assessment was completed.

If the Level II assessment indicates that contamination is present in areas that may impact construction activities or ROW acquisition, and involvement is anticipated, further assessment (Level III) is warranted to define the how contaminants will be avoided, removed or managed.

### **20.2.3.1 District Contamination Impact Coordinator Role during the Design Phase**

The DCIC should perform the following activities during Level II assessment phase:

- Review the status of known or identified contaminated sites undergoing regulatory review or remedial action for baseline information.
- Coordinate Level II assessments, if warranted for the project, and coordinate with the assigned ROW agent and design PM, as appropriate.

- Review design plans and identify if there are activities which could cause exposure to, excavation of, or exacerbation of, existing soil or groundwater contamination.
- Review inclusion of plume identification, dewatering or proper site specific contamination plan notes to be included in the design plans, when appropriate, or preparation of MSP related to contamination.
- Coordinate with regulatory agencies, as necessary, such as coordination with FDEP for projects that require use of the [2014 MOU between FDEP and FDOT](#), or with WMDs for projects that require dewatering permits.
- As needed, update contamination status for contaminated sites adjacent to the project that are remediated by FDEP under the [2014 MOU between FDEP and FDOT](#).
- Verify commitments included in the final Environmental Document are addressed during Design phase.
- If possible, remediate contamination prior to construction activities using Districtwide CAR contracts.
- Coordinate with the CAR Contractor during remediation.

The presence of contamination or hazardous materials in the soil, sediment, groundwater and/or structures, within or adjacent to the ROW, may affect the ROW acquisition and project construction schedules. The schedule for Level II activities should allow sufficient time for FDOT to complete related activities required for the project. Thus, coordination between FDOT, the CAR Contractor, regulatory agencies, current tenants, and property owners is necessary to complete the assessment in a timely manner. It is possible that FDOT's production schedule will progress much faster than the regulatory agency and current property owner's assessment and remediation schedule. If the agency or property owner assessment and remediation schedule might affect FDOT's construction schedule, it may be necessary for FDOT to assume the responsibility for conducting the assessment within the ROW and complete remediation activities sufficient to accommodate construction activities, prevent exacerbation of existing contamination, and/or reduce construction worker exposure, either in advance of, or concurrent with construction. A final report documenting the type and level of assessment or remediation that was conducted should be provided to the FDOT PM and DCIC once the work has been completed. Interim reports or other investigation documents may also be provided, based on the project needs and context.

### **20.2.3.2 Right of Way Support**

For parcels with building structures that might be purchased as part of the ROW acquisition, Level II Assessment should include review of building interiors, if possible. This should include a search for the potential for ACM and/or MBC (if not addressed by a separate District ROW contract), hazardous materials storage, staining, or other conditions that may indicate that potential/suspect contamination is or may be present. If contamination issues are identified on parcels to be acquired by FDOT, the DCIC should

coordinate with the District ROW Office and provide contamination-related information to support the appraisal of the parcel.

When possible, a decision should be made by the District (Environmental, ROW, and Construction Offices) for advance parcel acquisition as early as possible during the final design of the project to allow sufficient time for remediation of contamination to meet the production schedule.

### **20.2.3.3 Contamination Plan Markings and Special Provisions**

If contamination is not avoided in the project, locations of known or potential contamination issues that will be encountered during construction should be marked on the design plans. Examples of contamination issues that can be shown on the design plans are limits of contaminated soil, landfills, storage tank system components, pump islands, monitoring wells, and groundwater contamination plumes.

Project notes (such as “General Notes Concerning Contamination”) that explain how the contractor will handle cleanup activities during construction are prohibited in the design plans. Instead, the PM and DCIC should rely on applicable implemented Standard Specifications that explain how contamination remediation plans will be executed during construction. If the Standard Specifications do not adequately address contamination needs for the project, the DCIC should work with the project’s Engineer of Record (EOR) to develop MSPs, or Technical Special Provisions (TSPs), as appropriate to ensure contaminated materials are handled and disposed of properly. Development of MSPs and TSPs requires coordination with the District and State Specifications Engineers as outlined in [Specifications Package Preparation Procedure, Topic No. 630-010-005](#).

### **20.2.4 Level III Assessment - Contamination Remedial Action**

Level III assessment activities can take place during the Design phase, when acquiring ROW (if advanced acquisition has been completed), prior to the start of construction or during construction. These activities require coordination for appropriate funding allocation prior to construction letting.

Each site with potential contamination impacts should have a clearly defined scope of work for remediation activities, which conforms to the requirements of the appropriate regulatory agency. Generally, the provisions published by the FDEP for assessment and remediation of contaminated sites will be adequate for most regulatory agencies. The liability provisions in **Section 337.27, F.S.**, should always be considered when identifying the need for regulatory involvement and the extent of remedial activities.

In some instances, remedial activities could occur prior to the start of construction. These activities require coordination for appropriate funding allocation prior to construction letting. In certain cases, the Project Engineer, in coordination with the DCIC, may implement changes to the original Design to avoid or limit construction activities within contaminated areas.

The Level III scope of work should include a summary of the Level II assessment with recommendations on the limits of contamination and recommended remediation or construction support activities. If soil or groundwater remediation is necessary, the procedures should follow the applicable standards of the appropriate regulatory agency. Petroleum related Level III activities should be coordinated with the FDEP consistent with the [2014 MOU between FDEP and FDOT](#), see [Section 20.2.5.1](#).

## **20.2.5 Additional Considerations**

### **20.2.5.1 2014 MOU between FDEP and FDOT**

In June 2014, FDEP and FDOT entered into a Memorandum of Understanding ([2014 MOU between FDEP and FDOT](#)) to address discharges of petroleum pollutants in the FDOT transportation facilities. The MOU provides a process where FDEP can prioritize funding for assessment and remediation of petroleum pollutants from trust fund-eligible source sites into the SHS. Additionally, the MOU provides the procedure for dealing with inactive sites that have contaminant plumes extending beneath the FDOT ROW where FDOT adds a map note on the roadway ROW map as an institutional control to provide notice of existing contamination.

Based on the MOU, FDEP may conduct cleanup or provide funding to a third party contractor to assist with cleanup activities for petroleum contaminated sites. Projects covered under the [2014 MOU between FDEP and FDOT](#) should continue to be tracked throughout the project life cycle. If costs are incurred by FDOT, they may be recoverable under the [2014 MOU between FDEP and FDOT](#).

### **20.2.5.2 CERCLA / Superfund Sites**

When a **CERCLA** or abandoned Superfund site is located within the project limits, the Office of General Counsel should be contacted if the contamination has the potential to be exacerbated by project activities. The DCIC should also coordinate with the EPA (and/or FDEP if they have been given delegation) for any remedial action decisions that are made for that site.

### **20.2.5.3 Asbestos Containing Materials and Metal Based Coating Surveys**

It is FDOT's responsibility to protect the health and safety of its employees, contractors, consultants and the traveling public through inspections and proper handling, management and removal of ACM or MBC. Therefore, ACM and MBC surveys should be performed as early as possible in the Design phase, possibly as early as the PD&E phase, to allow for an evaluation of the impacts prior to the Construction phase. The asbestos and coatings surveys must be conducted according to the Asbestos Management Procedure in the [Right of Way Procedures Manual, Topic No. 575-000-000](#).

The DCIC should coordinate with the District Structures Engineer, District Bridge Engineer, District Maintenance Engineer, or District Facilities Engineer, as appropriate,

when survey or abatement actions are required for facilities or structures that have or may have ACM, LBP, or MBC. The District Structures Engineer, District Bridge Engineer, District Maintenance Engineer, or District Facilities Engineer may have additional information acquired during surveys or previous maintenance activities regarding ACM and MBC on structures/bridges within the project.

The DCIC should make sure an ACM or MBC survey is performed on all bridges and other structures prior to demolition and any required abatement performed prior to construction. When ACM or MBC have been identified, abatement plans and provisions for worker safety, handling, storage, shipping, and disposal of the hazardous material shall be prepared.

Lead based paint may have been removed as part of previous bridge repainting or maintenance operations therefore testing for MBC will likely not show the presence of MBC even though MBC will likely still be present within faying surfaces of splices and top flanges embedded in concrete decks. Therefore, abatement plans must be prepared regardless of the outcome of the survey for all bridges constructed in 1980 or earlier.

If the project involves replacement, modification, or rehabilitation of the bridge constructed in 1980 or earlier, include the following standard statement in the ACM and MBC survey reports:

*Based on the age of the bridge, lead-based coating shall be assumed to be present within faying surfaces of splices and top flanges embedded in concrete decks as well as other surfaces. Abatement plans for handling, management and removal of asbestos-containing materials and lead-based coating must be prepared before demolition, modification or rehabilitation of the bridge.*

#### **20.2.5.4 Use of Bridge Debris as an Artificial Reef**

For coastal bridge replacement projects, consideration may be given to using clean bridge debris material for use as an artificial reef. Consideration for use of debris as an artificial reef will include, but will not be limited to, management, testing for hazardous materials, storage, estimated cost and/or transport of the material as well as permitting and agreements that may be necessary. This is coordinated with regulatory and resource agencies (FDEP, U.S. Army Corps of Engineers, and Florida Fish and Wildlife Conservation Commission), as well as other stakeholders, once it is determined that demolition is the preferred alternative for the project. Additionally, this work should be coordinated as appropriate among the Design PM, Project Engineer of Record, Environmental Manager, District Permits Coordinator, the Construction Project Manager and the DCIC, and it should occur as early in the design phase as possible. See ***Part 1, Section 110.5.2.3 of the FDOT Design Manual (FDM), Topic No. 625-000-002*** for more guidance.

### **20.2.5.5 Dewatering During Construction**

Construction activities may require dewatering. Dewatering operations must obtain a National Pollution Discharge Elimination System (NPDES) Generic Permit for Discharge of Groundwater. Dewatering operations seeking coverage under the NPDES Generic Permit for Stormwater Discharges from Large and Small Construction Activities under subsection **62-621.300(4), F.A.C.**, are not required to obtain separate coverage under subsection **62-621.300(2), F.A.C.**

Contamination issues must be screened within 500 feet of the dewatering area before permit application. Any pollutants of concern (i.e. contamination) present in ground water at the dewatering site at concentrations equal to or exceeding the surface water criteria under subsection **62-302.530 F.A.C** must be remediated otherwise dewatering operation will not qualify for permit under subsection **62-621.300(2), F.A.C.** Therefore, dewatering operations in areas identified with contamination issues require treatment of effluent to limits and requirements specified in the NPDES Generic Permit.

## **20.3 REFERENCES**

Chapter 62-302, F.A.C., Surface Water Quality Standards

Chapter 62-520, F.A.C., Ground Water Classes, Standards, and Exemptions

Chapter 62-528, F.A.C., Underground Injection Control

Chapter 62-610, F.A.C., FDEP Standard Operating Procedures

Chapter 62-621, F.A.C., Generic Permits

Chapter 62-701, F.A.C., Solid Waste Management Facilities

Chapter 62-730, F.A.C., Hazardous Waste

Chapter 62-761, F.A.C., Contaminated Site Cleanup Criteria

Chapter 62-761, F.A.C., Underground Storage Tank Systems

Chapter 62-762, F.A.C., Aboveground Storage Tank Systems

Chapter 62-777, F.A.C., Contaminant Cleanup Target Levels

Chapter 62-780, F.A.C., Contaminated Site Cleanup Criteria

FDEP, Contamination Locator Map (CLM).

<http://ca.dep.state.fl.us/mapdirect/?focus=contamlocator>



FDEP, Generic Permit for Discharge of Ground Water from Dewatering Operations, Document Number 62-621.300(2)(a)  
[https://www.flrules.org/gateway/readRefFile.asp?refId=4262&filename=Generic%20Permit%2062-621.300\(2\)\(a\).pdf](https://www.flrules.org/gateway/readRefFile.asp?refId=4262&filename=Generic%20Permit%2062-621.300(2)(a).pdf)

FDEP OCULUS website. <http://depedms.dep.state.fl.us/Oculus/servlet/login>

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

FDOT, Efficient Transportation Decision Making Manual, Topic No. 650-000-002.  
<http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

FDOT, FDOT Design Manual (FDM), Topic No. 625-000-002.  
<http://www.fdot.gov/roadway/FDM/2018FDM.shtm>

FDOT, Local Agency Program Manual, Topic No. 525-010-300.  
[http://www.fdot.gov/programmanagement/LAP/LAP\\_TOC.shtm](http://www.fdot.gov/programmanagement/LAP/LAP_TOC.shtm)

FDOT, Right of Way Procedures Manual, Topic No. 575-000-000.  
<http://www.fdot.gov/rightofway/ProceduresManual.shtm>

FDOT, Standard Specifications for Road and Bridge Construction.  
<http://www.fdot.gov/programmanagement/Specs.shtm>

FDOT, 2012. Statewide Stormwater Management.  
<http://www.fdot.gov/maintenance/FDOTStormWaterMgmtPlan2012.pdf>

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>

Memorandum of Understanding between FDOT and FDEP, June 16, 2014

Section 334.27, F.S. Soil or Groundwater Contamination Liability

Sections 337.27 and 337.274, F.S. Exercise of Power and Entering Land

Sections 376.031 and 376.301, F.S. Definitions

Section 381.983, F.S. Definitions

Section 403.031, F.S. Definitions

Title 23 Code of Federal Regulations (CFR) Part 771, Environmental Impact and Related Procedures. [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title23/23cfr771\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title23/23cfr771_main_02.tpl)

Title 40 CFR §§ 230-300, Ocean Dumping and Solid Wastes. <http://www.ecfr.gov/cgi-bin/text-idx?SID=9e41e4fb951c2baf6b8d495cfacbf88f&mc=true&node=pt40.27.230&rgn=div5>

Title 40 CFR §§ 1500-1508, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. <http://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=2844df1cb4a3af5ebaa699f42d98a60f&mc=true&tpl=/ecfrbrowse/Title40/40chapterV.tpl>

Title 49 CFR §§ 171-172, Hazardous Materials Regulations. [http://www.ecfr.gov/cgi-bin/text-idx?SID=d97de10c4a7811818a0e8c2ce2169a55&mc=true&tpl=/ecfrbrowse/Title49/49cfrv2\\_02.tpl#0](http://www.ecfr.gov/cgi-bin/text-idx?SID=d97de10c4a7811818a0e8c2ce2169a55&mc=true&tpl=/ecfrbrowse/Title49/49cfrv2_02.tpl#0)

United States Code, Title 29, Parts 1910 and 1926, U.S. Department of Labor, Occupational Health and Safety Administration (OSHA)

## 20.4 FORMS

[State Environmental Impact Report Form, Form No. 650-050-43](#)

[Technical Report Cover Page, Form No. 650-050-38](#)

## 20.5 HISTORY

12/10/2003, 9/1/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 22, 1/14/2019

Examples of issues or questions that may be considered for a project.

1. Pre-existing contamination within or immediately adjacent to the existing or proposed ROW
  - a. If contamination is present, what is the current status of the assessment or remediation by the Florida Department of Environmental Protection (FDEP) or third party?
  - b. What is the size / extent of the contamination plume and what planned construction activities does it affect? Should FDOT conduct further assessment (Level II) to better define extent and type of contamination?
  - c. If not petroleum, what is the contaminant? What other regulatory considerations exist for the contaminant?
  - d. If contamination exists, is it only petroleum or are there non-petroleum components?
  - e. If the contaminant is petroleum, has there been coordination with FDEP and/or is it eligible for remediation in accordance with the [2014 MOU between FDEP and FDOT?](#)
2. Contamination Related Structures in the ROW
  - a. Are there known or suspected Underground Storage Tanks (USTs), Above Ground Storage Tanks (ASTs), soakage pits, hydraulic lifts, or other potential contamination-related structures and/or ACM/LBP issues within the existing or proposed ROW that could impact construction?
  - b. Are there known or suspected contamination related structures and/or ACM/LBP issues within areas of proposed ROW acquisition which could impact ROW clearance and demolition?
  - c. What must be done to address them?
  - d. Should removal occur prior to construction?
  - e. Is UST removal appropriate for consideration under the [2014 MOU between FDEP and FDOT?](#)

### Figure 20–1 Key Points to Consider

### 3. Impacts to the Design

- a. How will the known or potential contamination impact the design?
- b. Is there a viable avoidance alternative, design modification, or mitigation measure?
- c. Are there remediation or construction costs to be considered in coordination with the Work Program Office?
- d. Are areas of contamination marked on the design plans?
- e. Is there a need to prepare MSP or TSP?

### 4. Impacts to Construction

- a. How will the potential contamination impact the planned construction?
- b. Have the design and construction PMs been advised and coordinated with?
- c. What notifications need to be made to the construction contractor?
- d. Will remediation or removal of contaminated soil be completed prior to construction?
- e. Are there anticipated additional time or costs to construction?
- f. How will impacts to the construction contractor's planned activities be minimized?
- g. Do the contamination impacts pose an exposure or health & safety concern for the construction contractor?
- h. How will FDOT address these issues?
- i. Will the CAR contractor be involved during construction?

### 5. Exacerbation Potential

- a. Were contamination issues reviewed for proposed dewatering, sheet piling, pond construction?
- b. Will dewatering *impact* a ground water contamination plume?

## **Figure 20–1 Key Points to Consider (Page 2 of 3)**

- c. Will stormwater proposed drainage measures (e.g., ponds, french drains) impact a groundwater plume?
6. **CERCLA**/Superfund, NPL Sites
    - a. Are there known **CERCLA**/Superfund Sites within a ½ mile radius of the project limits?
    - b. What impact do these sites have on the project?
    - c. Is there potential of project activities to exacerbate, encounter contamination from, or acquire any portion of a **CERCLA** Site?
    - d. Has the District Office of General Counsel been advised of potential **CERCLA** involvement when identified?
  7. Site Contamination Removal and Remediation
    - a. If removed, how will the contaminant be transported?
    - b. What type of documents will be required for transporting waste from the site?
    - c. What is the status of the current site assessment and remediation on the FDEP's OCULUS website?
    - d. Have contractual and funding mechanisms been established for the costs of remediation and disposal?
    - e. Can the contamination-impacted soils (with levels less than Commercial/Industrial criteria) be reused on the project?

**Figure 20–1 Key Points to Consider (Page 3 of 3)**

## CONTAMINATION SCREENING EVALUATION REPORT

Florida Department of Transportation  
District X  
Project Title  
Limits of Project  
County, Florida  
Financial Management Number: XXXXX-X  
ETDM Number: XXXXXX  
Date

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.

**Figure 20–2 Sample Contamination Screening Evaluation Report Cover Page**

**Cover Page**—See [Figure 20-2](#) for sample cover page.

**Executive Summary**—Briefly summarize the report. This should generally be no more than two pages.

**Table of Contents**

1. **Introduction**—Briefly state the purpose of the report and provide details on the basics of the project. An example introduction could be:

"The purpose of this report is to present the findings of a contamination screening evaluation for <<Insert Project Title>>. This report identifies and evaluates known or potential contamination sites within or adjacent to the project area that may affect implementation of the project. The report also presents recommendations for additional analysis and documents possible project impacts and their mitigations."

2. **Project Description**—Briefly describe the proposed improvements and define the project limits and construction activities. The description should also state if the project is anticipated to acquire new ROW. Include a project location map.

3. **Project Alternatives** —Briefly describe each viable alternative that is analyzed in detail. Illustrate project alternatives using maps or other relevant figures.

4. **Methodology**—Summarize the method used to evaluate contamination impacts on the project including all sources of information used and individuals interviewed. Describe how contamination was screened and evaluated for project alternatives. An example for a methodology could be:

"A contamination screening evaluation of \_\_\_\_\_ Road was conducted to identify potential contamination issues within the proposed project limits from properties or operations located within the vicinity of the project. This evaluation consisted of the following tasks:

- a. A description of the coordination with agencies contacted (such as FDEP, local government agencies, WMDs).

**Figure 20–3 Contamination Screening Evaluation Report Outline**

- b. A detailed description of data collected and their sources (such as database names, environmental database providers, local regulatory agencies, information on hazard classes obtained from generators, transporters, stationary tanks, and known leaks and spills).
  - c. A review of the aerial photographs (including historical aerials) used to determine the potential contamination problem areas.
  - d. Field observations (windshield surveys) performed to verify information provided and to identify other potential sources within the vicinity of the project.
  - e. A determination of the potential contamination risk rating (i.e., No, Low, Medium or High) for each potential contaminated site or property within the proposed project limits."
5. **Land Uses**—Briefly describe existing land uses. Include land use maps. Review historical aerial photos and indicate any historic land uses that may have resulted in contamination impacts to the subject properties. An example of a land use description would be:

" \_\_\_\_\_ Street, development has been in strip form fronting on \_\_\_\_\_ Road. The depth of commercial development is very shallow with residential apartments and single-family homes immediately behind the commercial property. A 23-acre shopping mall is located at the intersection of \_\_\_\_\_ Street. The area is fully developed with no open spaces remaining."

Identify the current property owner and previous land use or previous business types of every suspect property on each project alternative (this is not intended to be a "Title Search"). This information should be available from the District ROW Survey and Mapping Office or from the County Property Appraisers office.

Identify the current and previous users of each property and the type of business conducted. This information should be available through county records (most are now online), city directories, Sanborn Insurance maps, plat maps and in the local public library. (To streamline report preparation, specific former and current land uses at each site can be included in the narratives in Section 8 – Project Impacts.)

Photographs of each potentially impacted sites should be taken, as well as any specific areas of concern noted during the field review. A photographic log should be prepared and include a caption indicating site location, potential impact, the photographer position, and camera direction.

**Figure 20–3 Contamination Screening Evaluation Report Outline (Page 2 of 6)**



- 6. Hydrologic Features**—Briefly describe of the hydrologic features within and adjacent to the project limits. This should be no longer than one page in length, unless there is a specific reason to provide more extensive detail. An example of a hydrologic features description would be:

"The project area is generally underlain by the \_\_\_\_\_ aquifer, which is characterized by high porosity sands and limestone which typically allows rapid infiltration of rain-fall and surface runoff. The groundwater surface generally follows the ground surface with a North to South gradient at a depth of \_\_\_\_\_ feet below ground surface. Flow rates are estimated to be \_\_\_\_\_ feet per day. There are no surface water features (lakes, canals) or wells within the immediate project area. The \_\_\_\_\_ is located \_\_\_\_\_ from the project area and is considered outside any possible zone of influence. Existing surface drainage is flat, relying primarily on infiltration for removal."

- 7. Interviews** (if applicable)—Summarize the outcome of interviews with site owners, operators, managers, regulatory agency staff, and others. The City/County engineer should be able to provide current or historical permit information. The local WMD personnel can provide information on water wells in the area, problems associated with water quality, and discharge requests that have been approved, disapproved, or are under consideration.

Utility companies may be able to provide additional information concerning the services provided to the site, such as a sewer connection or septic system, how much electrical capacity is provided to the facility, (e.g., large electrical capacity could mean large equipment for manufacturing) or any documentation of prior polychlorinated biphenyl (PCB) use, if present. Utility companies may also have information on materials used to construct their utility lines (i.e., transite asbestos-containing pipes).

(To streamline report preparation, outcome of interviews can be included in the narratives in Section 8 – Project Impacts.)

**Figure 20–3 Contamination Screening Evaluation Report Outline (Page 3 of 6)**

8. **Project Impacts**—Based on the outcome of desktop review and field review: 1) Describe the source(s) of hazardous material; 2) Describe pertinent activities taken by regulatory agencies (regulatory status); and 3) Provide a narrative of contamination impacts on each project alternative, for each site with known or potential contamination issues. The narrative can include a table with details of each site or property by alternative that would be impacted. This table should include, at a minimum, the following information:
- a. Property description - Including facility name, physical address, and former site names.
  - b. Permit or ID numbers - Include FDEP program identification numbers or other permit numbers.
  - c. Type of Contamination Impact - List each hazardous material or potential hazard.
  - d. Contamination sources for each site with known or potential contamination issues.
  - e. Regulatory status of contaminated sites summarizing pertinent activities taken by regulatory agencies for each site or property and briefly outline the potential contamination issue(s) that would have an impact on the proposed project or alternative.
  - f. List of potential contamination-related structures - Located within the property boundaries as well as information on whether they are above ground tanks (ASTs) or USTs, along with tank size(s), contents, age, if they remain in place, etc. Other structures such as hydraulic lifts, soakage pits, and potential ACM/LBP structures, should also be documented.
  - g. Distance of known contamination plumes (or storage tank) from ROW (existing and/or proposed).
  - h. Identify the contamination risk rating for each site and alternative. Present the number of known or potentially contaminated sites with risk rating for each of the alternatives being considered.

Locate known and/or potentially contaminated sites on the alternative concept plans. Summarize the number of potentially contaminated sites and their respective risk ratings for each alternative in a matrix format.

**Figure 20–3 Contamination Screening Evaluation Report Outline (Page 4 of 6)**

9. **Conclusions** - Provide conclusions and recommendations related to the contamination impacts on the project. Each Medium- or High-rated site or property within the proposed project corridor will require Level II testing in the next phase of project development. When ascertainable, this section should note if the contamination impacts identified relate to ROW acquisition as well as potential involvement with construction. Unusual or notable impacts, such as CERCLA sites should be noted. Pertinent agency or stakeholder comments, coordination or commitments should be summarized. If this report is intended to be shared with other agencies or stakeholders for additional coordination, it can be stated in this section.

This section should also include a statement regarding potential for dewatering during construction.

This section should also include a very brief discussion of estimated costs for assessment and remediation, if known.

## Figures

- a. Project Location Map: An area map (region, county, state, etc.) showing the general location of the proposed project, including project limits with a detailed map of the immediate project area.
- b. Land Use Map: A map or maps of the proposed project corridor and surrounding area showing current or future land uses (i.e., commercial, multi and single-family residential, schools, malls, parks,) if the map adds value to the evaluation.
- c. Contaminated Site(s) Location Map: A detailed map of the proposed project, including project limits, showing the locations of all potentially contaminated sites for each alternative.
- d. Maps should be scaled appropriately to provide useful information and discern features or structures, if warranted and should be consistent. Multiple maps and enlarged sub-maps may also be utilized.

### Figure 20–3 Contamination Screening Evaluation Report Outline (Page 5 of 6)

## Tables

- a. Potentially Contaminated Sites: This table should present information on each contaminated site or property that was evaluated as part of this document.
- b. Number of Potentially Contaminated Sites per Alternative: This table should present the number of known or potentially contaminated sites or properties with risk rating for each viable alternative. An example of this table would be:

Project Alternative	Contamination Risk			
	No	Low	Medium	High
A	#	#	#	#
B	#	#	#	#
C	#	#	#	#

# = number of contaminated sites per risk rating for each viable alternative

10. **Appendices** - The document should include appendices that provide additional information required to support the risk rating, as well as provide information on current regulatory status. Examples of the information that could be included are as follows:

- a. Electronic regulatory database radius search documents.
- b. Potential Hazardous Waste Generator documentation and permits.
- c. Other Permit information.
- d. Tank registration data.
- e. Regulatory agency assessment documents including maps, diagrams, etc.
- f. Regulatory compliance reports.
- g. Copies of historical aerial photographs.
- h. Field notes, Site review checklists, Site review photo logs with captions

**Figure 20–3 Contamination Screening Evaluation Report Outline (Page 6 of 6)**

## **PART 2, CHAPTER 21**

### **UTILITIES AND RAILROADS**

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## PART 2, CHAPTER 21

### UTILITIES AND RAILROADS

#### 21.1 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).

This chapter provides guidance to the District Project Development and Environment (PD&E) Project Managers (PM), the District Utility Offices (DUO), and the District Railroad Coordinators (DRC) for identifying and documenting utility and railroad conflicts during the PD&E phase. A utility, as defined in FDOT's [Utility Accommodation Manual \(UAM\), Rule 14-46.001 F.A.C.](#), is all active, deactivated or out-of-service electric transmission lines, telephone lines, telegraph lines, other communication services lines, pole lines, ditches, sewers, water mains, heat mains, gas mains, pipelines, gasoline tanks, and pumps owned by the Utility Agency/Owner (UAO).

Conflicts with utilities as well as railroad crossings affect both the cost and schedule of a project, and may influence the selection of the preferred alternative or other environmental considerations, for example the installation of noise walls. FDOT must consider the potential for encountering utilities and rail lines within the limits of every project, including associated pond sites and other off-site improvements. Coordination between the District, the Railroads, and the UAOs should begin early and continue throughout the project development process to plan for the cost and time required for utility conflict resolution and relocations as well as railroad crossings.

For projects that do not have a PD&E phase, coordination with UAOs will be done by the DUO and the District's Design PM in accordance with the [FDOT Design Manual \(FDM\), Topic No. 625-000-002](#) and the [UAM, Rule 14-46.001 F.A.C.](#)

## 21.2 PROCEDURE

Coordination, cooperation, and communication to eliminate, minimize, or mitigate utility or railroad related issues should be practiced throughout the PD&E phase. The District, through the PM, the DRC and the DUO, should coordinate often with UAOs and Railroads and provide project information as early as possible.

Identification of Utilities and Railroads in a project area should begin prior to the PD&E phase. During planning or corridor development, calling Sunshine 811 along with site visits can help identify existing utilities within and adjacent to the project corridor. This information can be used to avoid major utility or railroad conflicts in choosing corridors or alternatives to carry forward to the PD&E phase. Existing utilities information will also be used in preparing the PD&E Scope of Service. The railroad does not fall under Sunshine 811. It must be contracted separately.

During alternatives development, the DUO and PM should hold informational meetings with UAOs to discuss the PD&E Study as it relates to their existing and any proposed facilities. The goal of this early coordination is to assist with the development of concept plans that avoid conflicts with major utility facilities in the next phase of project development. All stakeholders will benefit from early coordination that identifies opportunities to reduce utility impacts, as well as impacts to the project schedule and cost. Similarly, early coordination with the DRC and Railroads impacted by PD&E projects is required to accommodate design changes and minimize delays.

UAOs and Railroads are project stakeholders and should be invited to public meetings and hearings, where they can receive direct feedback from customers on potential issues. Attendance of UAOs and Railroads at public meetings also helps them to identify and resolve issues related to their facilities early in the process when adjustments to the project are more easily facilitated.

### 21.2.1 PD&E Project Scoping

The PM needs to coordinate with the DUO in preparing the Scope of Services for the PD&E Study. Information needed to prepare the scope includes: (a) the anticipated number of UAOs that may be within the PD&E Study limits; and, (b) the anticipated complexity of coordination with each UAO during the PD&E Study. The UAOs in the project area may be identified using Sunshine 811 supplemented by site visits. When preparing the Scope of Services, requirements for UAO coordination and documentation in the **Utility Assessment Package** will be determined. The **Utility Assessment Package** (see [Section 21.2.2.3](#)) is prepared either in-house by the DUO or by the PD&E Consultant during the PD&E phase. Ultimately, the DUO is responsible for the **Utility Assessment Package** regardless of who prepares the package. Therefore, the DUO must review and approve the Consultant's prepared **Utility Assessment Package**.

PD&E projects with advanced preliminary design or where the Design phase is concurrent with the PD&E phase will require a higher level of coordination with UAOs than projects

with a standard PD&E Study. See [Part 1, Chapter 4, Project Development Process](#) for details.

While it is important to know the location of all utility facilities within the PD&E Study limits, the PD&E team should focus their efforts on utility facilities that could: (a) impact development of the preferred alternative, (b) entail lengthy or drawn out coordination efforts, (c) may be cost prohibitive to relocate, or (d) rise beyond the level of ordinary utility coordination. These utility facilities may include substations and electrical transmission lines for power companies, large “hubs” for telecommunication lines, large gas or oil transmission mains, military communication lines, and other underground lines. Some UAOs have special agreements with FDOT [e.g., the Florida Gas Transmission (FGT) Global Agreement], some utility facilities are fragile (e.g., large clay pipes and pipes that have been underground for decades). Therefore, the level of engineering detail required for the PD&E Study should be discussed in depth with the DUO during PD&E scoping. Projects with substantial utility concerns or accelerated schedules may require detailed locations of utilities. Therefore, the DUO may request the PD&E Study to include detail survey and/or Subsurface Utility Engineering (SUE) services for these projects.

## 21.2.2 Utility Procedure

The process to address utilities during the PD&E phase consists of three stages: **PD&E Request Package**; UAO Coordination; and **Utility Assessment Package**. Each stage is discussed in the following sections.

### 21.2.2.1 PD&E Request Package

The PD&E PM is responsible for developing and submitting a **PD&E Request Package** to the DUO soon after the project alternatives are developed. The **PD&E Request Package** should consist of the project typical section(s) and concept plans for each alternative under evaluation. The typical section data should include, as appropriate, roadway and shoulder width, median width, sidewalks, border widths, and Right of Way (ROW) lines.

The concept plans should overlay viable project alternatives on an aerial photograph. At a minimum, the concept plans must contain the following information:

1. Travel lanes, shoulders, curb and gutter, sidewalk, barrier walls, and noise walls, if applicable;
2. Bridges;
3. Drainage structures;
4. ROW lines and width;
5. Access control lines;



6. Horizontal alignment stationing; and
7. Special landscaping or mitigation areas, if known.

### 21.2.2.2 Utility Coordination

Once the **PD&E Request Package** has been developed and submitted to the DUO, the DUO will notify the UAOs within the project area by forwarding them the **PD&E Request Package**. This transmittal should request that the UAOs provide information for above ground and below ground utilities within the PD&E project area, and request information for both existing and planned utility facilities. The transmittal should also request that the UAOs provide information pertaining to any existing easements or other property interests that may be affected by the project. The UAOs contacted by the DUO should review the concept plans and typical section(s) to identify all major facilities, buildings, and other obstructions or encroachments of UAOs within or adjacent to the project. Each UAO should identify both existing and planned utility corridors and installations in, or adjacent to, each project alternative. Generally, the UAOs should respond in writing and delineate their facilities and any property interests on the concept plans, in accordance with the [UAM, Rule 14-46.001 F.A.C.](#)

A meeting to discuss utility impacts related to the project alternatives should be held with each UAO approximately 30 days after sending the **PD&E Request Package**. In the meeting, the UAO, DUO, and PM should discuss alternatives that may minimize or avoid conflicts, evaluate and consider recommended mitigation/avoidance strategies, discuss timelines for new installations or relocations that are anticipated to be unavoidable, as well as possible potential amounts of relocation costs, and schedule impacts for those relocations. If a UAO's easements or property interests could be affected, the DUO will need to discuss potential conflicts and encroachments, as well as potential subordination of those interests to FDOT's ROW interest. However, no determinations should be made at this stage as to any compensation for a UAO's easement or property interest. The DUO shall take any inquires or requests for compensation to the Office of General Counsel (OGC) for guidance. The possibility of a UAO entering into a Utility Work Agreement, should also be discussed with OGC.

The DUO may have additional meetings with any individual UAO that have the potential for major conflicts with the project to better understand those conflicts and discuss their resolutions.

If applicable, the PM and the DUO in conjunction with the District ROW Office, should consider the feasibility of joint ROW acquisition to minimize any utility ROW replacement costs. This should be discussed in the Utilities and Railroads section and in the Relocation Potential section of the Environmental Document. In addition, if FGT is anticipated to require ROW per the **Agreement and Global Settlement (August 21, 2013)**, this should be discussed with the OGC and documented in the Environmental Document.

A listing of agreements made between FDOT and UAOs, including the **August 21, 2013 Florida Gas Transmission Agreement and Global Settlement**, can be found on the FDOT Utility Office website on the [Utility Agreements, Resolutions and Certificate of Incumbency](#) Table.

### 21.2.2.3 Utility Assessment Package

The information provided by the UAOs through coordination is used by the DUO in preparing the **Utility Assessment Package**. A **Utility Assessment Package** should be generated for each proposed alternative and include the following information:

1. Names of all identified UAOs;
2. One set of aerials denoting the location of major existing and planned utility facilities. Aerials should be developed in such a way that information regarding the major utility facilities is easily discernable. For example, to facilitate an understanding of the total impacts to the affected utilities, aerials should show multiple UAO facilities instead of each UAO being depicted on separate sets of aerials;
3. A description of all existing and planned utilities;
4. A discussion of mitigation/avoidance recommendations to reduce utility conflicts;
5. A cost estimate and anticipated time frames for relocation of major facilities where conflicts are anticipated to be unavoidable (including ROW costs);
6. A discussion of joint ROW acquisition;
7. A discussion of ROW needs for FGT, if applicable;
8. A discussion of which UAOs are likely to enter a **Utility Work by Highway Contractor Agreement (UWHCA)**, including whether existing facilities are affected by the project or are proposed installations. Include cost and schedule impacts;
9. A description of existing or proposed encroachments onto any UAO easement or property interest as well as any subordinations; and
10. Information concerning the UAO disposition if it is determined that a UAO will not be affected by the project.

Any discussion in the **Utility Assessment Package** regarding conversations with the UAO concerning compensation or legal determinations should be reviewed and approved by the District OGC before being included.

The **Utility Assessment Package** shall be provided to the PM for consideration in comparing alternatives and selecting a preferred alternative. The Environmental Document will include a summary of this package. If it is determined that a utility will not be affected by the project, information concerning the disposition of the existing utility facility is included in the appropriate Environmental Document. (See [Section 21.3.](#))

Should there be an opportunity for FDOT to enter into a formal agreement with a UAO during the PD&E phase, the DUO must inform the PM. Together, the DUO and the PM will coordinate with the OGC as appropriate to negotiate and execute the agreement with the UAO. Agreements reached during the PD&E phase will be included in the **Utility Assessment Package** and documented in the project files. These agreements could include ROW acquisition, utility easements, or preliminary engineering.

### 21.2.3 Railroad Procedure

For projects that include a railroad crossing or railroad corridor, it is the responsibility of the PM to initiate coordination with the DRC, who will provide information concerning present and future use of the rail line, and existing or proposed protection devices at the crossing. In addition, the DRC can provide information about rail crossings such as: crossing status (active or inactive), condition of the crossing, crash incidents, number of tracks, crossing purpose, railroad schedules, and the owner of the railway. If a project requires adding a new railroad crossing (at-grade or grade separated) additional coordination with the DRC as well as public involvement specific to railroad crossing may be required.

Coordination with Railroads and local governments is required for any project that requires construction or reconstruction of a highway-rail grade crossing, in accordance with **Section 337.11, Florida Statutes (F.S.)**, see also **Chapter 14-57, F.A.C.** The DRC is responsible for this coordination. For projects that require closing or constructing a new grade crossing, **Railroad Grade Crossing Application, Form No. 725-090-66** must be completed. Some of the information required for this form include:

1. A safety analysis of the grade crossing,
2. Discussion of land use and traffic generators served by the crossing,
3. Existing and projected traffic,
4. Effect on rail operations, and
5. Effect on emergency vehicles access.

See **Railroad Grade Crossing Application, Form No. 725-090-66** for complete instructions.

For design requirements, including vertical and horizontal clearances, for grade separated crossings and at grade crossings refer to **Part 2, Section 220 Railroad Crossing** of the [FDOT Design Manual, Topic No. 625-000-002](#) and **Chapter 14-57, F.A.C.** The PM should also coordinate with the DRC to determine if there are any special requirements.

The PM and the DRC need to work closely together to maintain the project schedule. The level of coordination will vary depending on the level of engineering detail required for the PD&E phase. For standard PD&E projects followed by a traditional design-bid-build, it is important to begin coordination with the railroad to ensure both FDOT and the railroad company understand the impacts of each alternative when choosing the preferred alternative. If the railroad is listed or is eligible for listing on the National Registry for Historic Places (NRHP), additional coordination with District Environmental Office as well as the State Historic Preservation Officer (SHPO) may be required. Refer to [Part 2, Chapter 8, Archeological and Historical Resources](#) for more guidance.

The PM, DRC, and railroad company should also work together to establish and anticipate any coordination efforts that may be needed as the project advances. For a project with advanced preliminary design or Design phase concurrent with the PD&E phase, or a project with the PD&E phase followed by a design-build contract (see [Part 1 Chapter 4, Project Development Process](#)), coordination may require additional details such as deciding who will fund the at grade improvements, scheduling the work, determining if the railroad company will perform construction. The DRC is responsible for this coordination. For more information see the [Rail Handbook](#).

Documentation of the coordination with the railroads must be included in the project file. The Environmental Document and **Preliminary Engineering Report** will discuss this coordination and involvement with any rail facilities to the appropriate level of detail required to address any issues identified.

For rail safety projects which meet the Type 1 Categorical Exclusions (CEs) use the **Type 1 Categorical Exclusion Checklist** per the guidance in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#). The DRC must coordinate with the District Environmental Office.

## 21.3 ENVIRONMENTAL DOCUMENT

The utilities and railroads impact evaluation and coordination should be summarized in the appropriate sections of the Environmental Document. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for a discussion of the different Classes of Action. Upload the **Utilities Assessment Package**, documentation of railroad coordination, and other relevant information that support the impact evaluation in the StateWide Environmental Project Tracker (SWEPT).

Commitments will be documented in the Commitments section of the Environmental Document and transmitted to the next phase of project development in accordance with [Procedure No. 650-000-003, Project Commitment Tracking](#) and [Part 2, Chapter 22, Commitments](#).

### 21.3.1 Type 2 Categorical Exclusions

Projects which are Categorical Exclusions (CEs) may involve utilities and railroads provided the involvement is determined not to be significant. The determination of significance should be agreed upon by the DUO, DRC, District Environmental Manager, and the PM following the guidance in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#). Briefly summarize project involvement with Utilities and Railroads in the *Type 2 Categorical Exclusion Determination Form*.

### 21.3.2 Environmental Assessments and Environmental Impact Statements

For Environmental Assessments (EAs) and Environmental Impact Statements (EISs), it is the PM's responsibility to document project-related utility or railroad impacts. The documentation should include a summary of the information in the *Utilities Assessment Package* and a discussion of any issues identified with railroads in the Environmental Analysis section of the EA or the EIS.

### 21.3.3 State-Funded Projects

For State Environmental Impact Reports (SEIRs), the PM should briefly summarize the results of the utilities and railroad impact evaluation and coordination in the Environmental Analysis section of the *State Environmental Impact Report Form, Form No. 650-050-43*.

## 21.4 RE-EVALUATION OF UTILITY AND RAIL IMPACTS

Project re-evaluation should document changes to utilities and railroads in accordance with [Part 1, Chapter 13, Re-evaluations](#). The District Utilities staff and the DRC must be consulted during the re-evaluation process to ensure that there are no changes to the anticipated impacts.

## 21.5 REFERENCES

Chapter 335, F.S., State Highway System. <http://www.leg.state.fl.us/Statutes/>

Chapter 337, F.S., Contracting; Acquisition, Disposal, and Use of Property.  
<http://www.leg.state.fl.us/Statutes/>

FDOT. Standard Specifications for Road and Bridge Construction, Florida Department of Transportation. <https://www.fdot.gov/programmanagement/Specs.shtm>

FDOT, Construction Project Administration Manual, Topic No. 700-000- 000. <https://www.fdot.gov/construction/manuals/cpam/cpammanual.shtm>

FDOT, Local Agency Program Manual, Topic No. 525-010-300. <https://www.fdot.gov/programmanagement/LAP/LAP-TOC.shtm>

FDOT, FDOT Design Manual, Topic No. 625-000-002. <http://www.fdot.gov/roadway/fdm/>

FDOT, Rail Handbook. <https://www.fdot.gov/rail/publications.shtm>

FDOT, Utility Accommodation Manual, Rule 14-46.001 F.A.C. <https://www.fdot.gov/programmanagement/utilities/default.shtm>

FDOT, Utility Agreements, Resolutions and Certificate of Incumbency. <https://www.fdot.gov/programmanagement/utilities/97LaterUA.shtm>

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>

Rule 14-57, F.A.C., Railroad Safety and Clearance Standards, and Public Railroad-Highway Grade Crossings Rule. <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=14-57>

Title 23 CFR § 645(a), Utility Relocations Adjustments and Reimbursement. [http://www.ecfr.gov/cgi-bin/text-idx?SID=62260a79a5de349c9956cf878c41325f&mc=true&tpl=/ecfrbrowse/Title23/23cfr645\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=62260a79a5de349c9956cf878c41325f&mc=true&tpl=/ecfrbrowse/Title23/23cfr645_main_02.tpl)

Title 23 CFR § 645(b), Accommodation of Utilities. [http://www.ecfr.gov/cgi-bin/text-idx?SID=62260a79a5de349c9956cf878c41325f&mc=true&tpl=/ecfrbrowse/Title23/23cfr645\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=62260a79a5de349c9956cf878c41325f&mc=true&tpl=/ecfrbrowse/Title23/23cfr645_main_02.tpl)

Title 23 CFR § 646(b), Railroad-Highway Projects. <https://www.ecfr.gov/cgi-bin/text-idx?SID=662c928e6d84c4a93d53ec5f220fcd8c&mc=true&node=pt23.1.646&rgn=div5>

Title 23 CFR Part 771, Environmental Impact and Related Procedures.

<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=3f0e8ae65ee76fc13c0bc7a240e9fc59&mc=true&r=PART&n=pt23.1.771>

## **21.6 FORMS**

[Railroad Grade Crossing Application, Form No. 725-090-66](#)

[State Environmental Impact Report Form, Form No. 650-050-43](#)

## **21.7 HISTORY**

11/14/2003, 7/15/2016, 6/14/2017: NEPA Assignment and re-numbered from Part 2, Chapter 10, 1/14/2019

## **PART 2, CHAPTER 22**

### **COMMITMENTS**

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## PART 2, CHAPTER 22

### COMMITMENTS

#### 22.1 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).

Commitments are an important component of a transportation project as they provide assurance to resource agencies and other stakeholders that identified issues will be addressed in future phases of project delivery. The primary purpose of this chapter is to provide guidance to FDOT Districts on how to prepare the commitments section of an Environmental Document during the Project Development and Environment (PD&E) phase. This chapter also details how PD&E phase commitments are developed and the necessary coordination, tracking, and documentation required to ensure these obligations are transferred to future project phases and subsequently fulfilled.

Because commitments made during the PD&E phase are implemented during future project phases, it is important to ensure the appropriate documentation and tracking of commitments through all phases of project development. Coordination among appropriate District staff from the PD&E phase through the Operation and Maintenance phase is critical to ensure commitments are tracked and completed. Commitments established as a result of the PD&E Study and/or agency coordination/consultation must be documented as described in [Section 22.2](#).

FDOT requires that commitments be tracked through [Procedure No. 650-000-003, FDOT Commitment Tracking](#) and reviewed and documented in subsequent re-evaluations. This procedure provides guidance on tracking and documenting project commitments throughout Project Development, Design, Right of Way (ROW), and Construction phases. Commitments must be tracked using Project Suite Enterprise Edition (PSEE) Commitments Module. PSEE can be used to generate the **Project Commitment Record (PCR)**. See [Section 22.2.3.1](#) for guidance on how to document and track commitments.

FDOT is statutorily empowered to contract with other Local Agencies to plan, develop, design, acquire ROW, and construct transportation facilities through LAP. FDOT reimburses these Local Agencies for services provided to the public. When FDOT contracts with any Local Agency for reimbursement using federal funds administered by the FHWA, FDOT must ensure Local Agencies comply with all applicable federal statutes, rules, and regulations, and commitments are tracked.

### **22.1.1 Project Commitments**

A FDOT commitment is an obligation to an external stakeholder to provide a feature, or perform an action, related to a project that will be implemented in a future project phase. Examples of commitments include:

- Design features meant to minimize adverse effects on identified environmental resources
- Actions during Design/Permitting phase meant to define in greater detail the presence/absence or potential impact on a resource
- Actions during construction to avoid impacts to protected resources

Project commitments may be established during the PD&E, Design, ROW, and Construction phases of a project. Commitments are rarely established during the Planning phase of a project, due to uncertainties of project impacts during this early project phase.

A commitment made during the PD&E phase as a result of coordination/consultation with agencies, the local community, or other stakeholders on social, cultural, physical, natural or engineering issues/resources is an environmental commitment. FDOT may make a commitment to the local community which could include context-sensitive solutions or design features like lighting, benches, bicycle or pedestrian facilities, aesthetic treatments, or landscaping.

A commitment may also be made to support federal and/or state permitting. During Permitting, these commitments may become permit conditions at the discretion of the applicable regulatory agency, and their status should be updated appropriately. For example, commitments regarding protected species or habitat impacts may be included in the permit at the discretion of the Florida Department of Environmental Protection (FDEP), Water Management District (WMD), or the U.S. Army Corps of Engineers (USACE). [Section 22.1.1.2](#) provides additional information on environmental commitments and permitting.

The Project Manager for each project phase is responsible for establishing commitments (as appropriate) and ensuring that the commitments are properly documented. Each Project Manager is responsible for coordinating with others who may be tasked with

implementing actions based on the project commitments, such as the District Environmental Office [District Environmental Management Office (DEMO), Planning and Environmental Management Office (PLEMO)], Design Office, Construction Office, District Permit Coordinator, ROW Office, or Maintenance Office.

Before making a commitment, the project manager must coordinate with staff from the other project phases to ensure the action involved is feasible. The commitment must be feasible in terms of necessity, practicality, cost, and timing. Continuous coordination is vital to ensure that all commitments are appropriate and, once agreed to by FDOT, are implemented. All project commitments must be properly coordinated, documented, tracked, and implemented for the project to successfully advance to completion.

When making commitments, the Project Manager must consider the practical impact a commitment may impose on future project phases and ensure that:

1. Commitments are clear and concise;
2. The commitment language is coordinated with the appropriate District subject matter expert(s);
3. Commitments do not contradict other commitments or requirements;
4. The source of and reason for the commitment is fully documented in the project file; and
5. Commitments are the result of agency consultation rather than regulatory requirements.

Project managers should be mindful of whether statewide precedence is being created when making new or unique commitments, as well as making any long-term obligations, procedural mechanisms, or dedication of state resources needed to uphold commitments. For example, proposed preservation of FDOT ROW for a non-transportation related purpose, or monitoring in perpetuity should prompt further discussion within the District and OEM prior to making the commitment. The approval of a commitment is at the discretion of each District and is evaluated based upon the magnitude of impact it has on FDOT resources.

Project Managers must coordinate with appropriate District personnel prior to agreeing to a commitment that would obligate substantial FDOT resources. For example, during the PD&E phase a Project Manager can make a commitment to a resource agency to continue coordination with that agency during the Design phase, where environmental permits are typically obtained. This type of commitment does not typically require vetting within other project phases or by the District chain of command. However, a commitment to include a wildlife crossing during PD&E should prompt the Project Manager to coordinate with staff from other offices and obtain approval. A wildlife crossing could

potentially obligate substantial funds, time, and effort from multiple offices, and therefore should be thoroughly vetted before making such a commitment.

It is important to recognize that FDOT is required to follow the requirements detailed in its standard specifications, manuals, and handbooks. For example, a commitment should not be made to follow the [Standard Specifications for Road and Bridge Construction \(Standard Specifications\)](#). The [Standard Specifications](#) also note that FDOT follow federal and state laws, rules, and regulations. Those should not be listed as commitments. For example, wetland mitigation is required as part of federal dredge and fill permits and state environmental resource permits. Therefore, wetland mitigation should not be listed as a commitment.

### **22.1.1.1 Local Agency Program Commitments**

FDOT's Project Manager must ensure that any commitments made by an implementing LAP Agency are discussed with FDOT, to ensure that commitments are documented clearly stating LAP Agency responsibility, and that FDOT is not obligated to fulfill those commitments. FDOT should not make commitments on behalf of a LAP Agency. FDOT should review the commitments to ensure that the commitments are incorporated into the contract documents. See [Local Agency Program Manual, Topic No. 525-010-300](#) for more information on LAP projects.

### **22.1.1.2 Permitting and Commitments**

Commitments regarding listed species and/or habitat that were identified during the PD&E phase may later be included as a specific condition in an environmental permit. Permit conditions are developed in coordination with the applicable regulatory agency and must be met to comply with an environmental permit. These conditions are normally developed during the Design phase when projects are typically permitted; however, in some instances, permitting may take place during the PD&E phase. Commitments that are included in project permits must be tracked as part of permit compliance. Failure to comply with permit conditions is a violation of the permit and may result in enforcement action against FDOT. It is critical that permit conditions are met, and appropriate documentation demonstrating the permit condition has been satisfied is submitted to the appropriate regulatory agency and included in the project file. See [Part 1, Chapter 12, Environmental Permits](#) for more information on environmental permitting.

An example of a commitment made during the PD&E phase that may be included as a permit condition includes a commitment for species protection made in coordination with a regulatory agency, such as:

- Re-initiate or continue consultation with the commenting wildlife agencies during permitting to better define potential species impacts;
- Conduct species-specific pre-construction surveys (such as for the bald eagle) to verify nest presence/absence/activity;

- Conduct species-specific pre-construction surveys (such as for the gopher tortoise) since the species protection would not result from federal permitting and the species is not wetland-dependent and automatically included in the state Environmental Resource Permit review; or
- Protect a species during construction (such as the West Indian manatee, eastern indigo snake, and small-tooth sawfish).

Another commitment that may be included in an environmental permit is a commitment to avoid cultural or historical resources. For example, a commitment may be made to have an archaeological monitor on site during construction activities near a known archaeological site. This type of commitment is typically made during the PD&E phase and coordinated with the appropriate regulatory agency, such as the State Historic Preservation Officer (SHPO). The commitment would then be included as a permit condition at the discretion of the permitting agency during Design/permitting. When a commitment made in PD&E subsequently becomes a permit condition, its status should be updated appropriately.

### 22.1.2 FDOT Commitment Tracking

FDOT's procedure for documenting and tracking project commitments is in [Procedure No. 650-000-003, Project Commitment Tracking](#).

Project commitments made by FDOT must be included in the PSEE Commitment Module which is the standard system for documenting, transmitting, and tracking project commitments. For projects with a PD&E Study, the PD&E Project Manager uses PSEE to transmit commitments to the Project Manager during the Design phase (see [Section 22.2.3.1](#)). The **Project Commitment Record (PCR)** is generated using PSEE.

## 22.2 PROCEDURE

Some projects may qualify for Efficient Transportation Decision Making (ETDM) screening in the Environmental Screening Tool (EST). [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) and Chapter 2 of the [ETDM Manual, Topic No. 650-000-002](#) list the qualifications for ETDM screening. Regardless of whether a project is screened, commitments must be documented in the Environmental Document.

### 22.2.1 Projects Not Qualifying for Screening

For transportation projects not qualifying for EST screening, commitments are documented as a part of discussions and coordination with resource agencies, the public, and other stakeholders. Decisions and commitments must be documented in the Environmental Document and/or project file, and appropriately addressed through incorporation into the final design/construction plans. The commitments are entered in PSEE and a **PCR** can be generated as necessary:

1. **Type 1 Categorical Exclusion (CE)** - For these projects, complete a **Type 1 Categorical Exclusion Checklist** according to [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#). Include project commitments in the project file, and generate a **PCR** as detailed in [Section 22.1.2](#).
2. **Non-Major State Actions (NMSA)** - Complete a **Non-Major State Action Checklist** ([Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)). For these projects include project commitments in the project file, and generate a **PCR** as detailed in [Section 22.1.2](#).
3. **Type 2 CE** - Some Type 2 CEs may not require screening through the EST. For these projects, commitments are documented on the **Type 2 Categorical Exclusion Determination Form** as if the project was screened. See [Section 22.2.3.1](#) for guidance on documenting Type 2 CEs.

## 22.2.2 Projects Qualifying for Screening

For projects qualifying for EST screening, the proposed project is entered into a Planning or Programming Screen Event according to the [ETDM Manual, Topic No. 650-000-002](#). This screening initiates project-level coordination with the regulatory agencies and includes a Preliminary Environmental Discussion (PED) ([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)).

Environmental Technical Advisory Team (ETAT) members review the proposed project and respond with comments. The ETAT members may provide recommendations to FDOT for minimizing potential environmental impacts. It is recommended that commitments not be made during ETDM Screening since the project is preliminary and many changes may occur as the project advances and through the PD&E phase.

## 22.2.3 Project Development and Environment Phase

During PD&E, FDOT should review the **Programming Screen Summary Report** to consider ETAT member recommendations. The Project Manager is responsible for collecting and maintaining correspondence with agencies/organizations (e.g., letters, emails), documenting coordination on project commitments as part of the project file. The Project Manager adds commitments to PSEE after approval of the Environmental Document.

Agency or stakeholder recommendations, if any, made during ETDM screening are in the “General Project Recommendations” section of the **Programming Screen Summary Report**. The District reviews the recommendations during the PD&E phase to determine whether they continue to be applicable to the project. This may require contacting the ETAT member that made the recommendation, and discussing whether it is still applicable. If, through coordination, it is determined that a recommendation is no longer

applicable, the Environmental Document should include a thorough discussion of the coordination with the ETAT member that led to this decision.

During the PD&E Study, FDOT may need to make project commitments to resource agencies or other stakeholders to address social, cultural, physical natural or engineering issues and advance the project. See [Section 22.1.1](#) for guidance on preparing a project commitment. Once a Project Manager has identified a necessary commitment, they are responsible for coordinating with the District Design Office, Construction Office, District Permit Coordinator, ROW Office, or Maintenance Office to ensure the feasibility/viability of the commitment, and for obtaining approval on the commitment.

### 22.2.3.1 Documenting Commitments

All commitments established as a result of the PD&E Study and/or agency coordination must be documented in the Commitments section of the Environmental Document (Type 2 CE, Environmental Assessment, Environmental Impact Statement, or State Environmental Impact Report). The Commitments section should include a list of commitments made, the agreed upon language, and the stakeholder(s) involved. It should include any commitments made through coordination with agencies/organizations during the PD&E phase. Commitments may also be listed in associated technical reports (e.g., **Natural Resource Evaluation, Noise Study Report, Memorandum of Agreement**). The PD&E phase Project Manager should include these commitments in the “Commitments” section of the final Environmental Document and enter them into the PSEE Commitment Module in accordance with [Section 22.1.2](#), so they can be transmitted to the Design and Construction Offices according to [Procedure No. 650-000-003, Project Commitment Tracking](#).

### 22.2.4 Re-evaluation

The status and/or changes to an environmental commitment after approval of the Environmental Document must be documented in a re-evaluation as per [Part 1, Chapter 13, Re-evaluations](#). Re-evaluations prepared through this process should provide a status update of the commitments by attaching the **PCR** in the “Commitment Status” section of the **Re-evaluation Form**. Commitments can be made after an Environmental Document has been approved. These new commitments typically arise from subsequent agency negotiations, public involvement activities. They should be discussed in the appropriate resource section of the **Re-evaluation Form** and listed as a new commitment in the Commitments section. The new commitments are also added to the **PCR** using PSEE. The District Environmental Office uses the PSEE Commitment Module to generate the **PCR** to attach to the Re-evaluation.

### 22.2.5 Design Phase

During Design, the Design Project Manager is responsible for reviewing PSEE for project commitments made during the PD&E phase. The Design Project Manager should coordinate with the PD&E Project Manager, District Environmental Office, and the Permit

Coordinator as appropriate to ensure that project commitments are understood. The Design Project Manager should ensure that commitments impacting a project's design are completed or accurately incorporated in the contract documents. The Design Project Manager should also coordinate with the Permit Coordinator to ensure commitments related to permit conditions (e.g., species protection measures) are addressed.

The Design Project Manager is responsible for providing an update to the status of commitments during Design phase. The status update of the commitment in the PSEE Commitment Module is typically handled by the Design Project Manager but in some Districts, this may be completed by the Environmental Management Office. The Design Project Manager should ensure that the updated **PCR** is transmitted to the ROW or Construction Project Manager, as appropriate.

The District should have a clearly established protocol in place to re-engage the Environmental Office or others to address project commitments including any new commitments as needed during Design phase. It is helpful to discuss commitments during project coordination meetings or hand off meetings, and prior to Construction phase to ensure commitments are addressed.

### **22.2.6 Right of Way Phase**

During the ROW phase, the District Right of Way Office is responsible for coordinating with the Design Project Manager for potential new commitments identified in the ROW phase. Once Commitments are determined to be appropriate, the Right of Way Office enters the Commitments in the Right of Way Management System (RWMS) for tracking with PSEE.

The District should have a clearly established protocol in place to re-engage the Environmental Office or others to address project commitments including any new commitments as needed during the ROW phase. It is helpful to discuss commitments during project coordination meetings or hand off meetings, and prior to the Construction phase to ensure commitments are addressed.

### **22.2.7 Construction Phase**

The Project Manager in the Construction phase is responsible for reviewing the **PCR** for project commitments to ensure that they have been included in the project's contract documents to be addressed during construction. During construction, it is the Project Manager's responsibility to ensure that the project is constructed according to the project design plans and that all the project commitments found in the **PCR** are met and documented prior to final acceptance.

The District should have a clearly established protocol in place to re-engage the Environmental Office or others to address project commitments as needed during construction.



During Construction Final Acceptance, the Project Manager is responsible for ensuring that the commitments were addressed including commitments specified in the contract plans, permit conditions, and any new commitments made during construction. This is handled by the Construction Office but may require Environmental Office involvement ([Chapter 8 of the Construction Project Administration Manual, Topic No. 700-000-000](#)).

## 22.2.8 Operation and Maintenance Phase

Most commitments are addressed during Design or Construction phases. Commitments are rarely fulfilled during the Operation and Maintenance phase. However, in the rare instance when a commitment is transmitted to the Operation and Maintenance phase, the Project Manager is responsible for reviewing the **PCR** for project commitments to ensure that project commitments are understood and fulfilled. An example of a PD&E commitment that could impact the Operation and Maintenance phase is a commitment to maintain landscaping in a specific manner which may differ from standard FDOT Maintenance requirements.

## 22.3 REFERENCES

- American Association of State Highway and Transportation Officials. 2006. Practitioner's Handbook. Tracking Compliance with Environmental Commitments/ Use of Environmental Monitors
- FDOT. Construction Project Administration Manual, Topic No. 700-000-000. <https://www.fdot.gov/construction/manuals/cpam/cpammanual.shtm>
- FDOT. Efficient Transportation Decision Making Manual, Topic No. 650-000-002. <http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>
- FDOT. Local Agency Program Manual, Topic No. 525-010-300. <https://www.fdot.gov/programmanagement/LAP/LAP-TOC.shtm>
- FDOT. Project Commitment Tracking, Topic No. 650-000-003. <http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=650-000-003>
- FDOT. Standard Specifications for Road and Bridge Construction. <https://www.fdot.gov/programmanagement/implemented/specbooks/default.shtm>
- 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. <https://fdotwww.blob.core.windows.net/sitefinity/docs/default->

[source/environment/pubs/executed-fdot-nepa-assignment-mou-2016-1214.pdf?sfvrsn=fe9a018f\\_0](https://www.fdot.com/source/environment/pubs/executed-fdot-nepa-assignment-mou-2016-1214.pdf?sfvrsn=fe9a018f_0)

## **22.4 HISTORY**

1/12/2000, 1/5/2009, 2/23/2016, 6/14/2017: NEPA Assignment and re-numbering from Part 2 Chapter 32, 1/14/2019

## **PART 2 CHAPTER 23**

# **ACQUISITION AND RESTORATION COUNCIL (ARC) COORDINATION**

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## PART 2 CHAPTER 23

# ACQUISITION AND RESTORATION COUNCIL (ARC) COORDINATION

### 23.1 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 the 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).

This chapter provides guidance for projects requiring the use of state-owned upland conservation lands which are managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation. These lands are held by the Board of Trustees of the Internal Improvement Trust Fund (TIITF), which is also referred to as the Board of Trustees (BOT).

The TIITF is responsible for the acquisition, administration, management, control, supervision, conservation, protection and disposition of all land owned by the state or any of its agencies, departments, boards or commissions with specific exclusions provided in **Section 253.03, Florida Statutes (F.S.)**, such as land held for transportation facilities, transportation corridors, and canal rights of ways.

Administratively supported by the Florida Department of Environmental Protection (FDEP), the Acquisition and Restoration Council (ARC) administers the review and approval of management plans and land uses for all state-owned conservation lands, which includes overseeing the process of review of acquisition of interests (i.e. easements) on these lands and recommending approvals to the BOT. This includes acting on FDOT's applications for easements on such lands.

To acquire an upland interest in state-owned conservation lands, the District will need to follow the procedure outlined in this chapter. State-owned conservation lands may include uplands or sovereignty submerged lands. Sovereignty submerged lands, sometimes referred to as sovereign submerged lands, are those lands beneath navigable freshwater

or tidally-influenced waters for which Florida acquired title in 1845 by virtue of statehood and which have not been conveyed out of state ownership. This chapter only addresses use of upland state-owned conservation lands. Use of state-owned submerged lands are addressed in [Part 1, Chapter 12, Environmental Permits](#).

## **23.1.1 Programs, Statutes, and Policies**

### **23.1.1.1 Land Acquisition Funds**

In 1963, the State of Florida initiated land acquisition programs, which established funds to purchase land for both recreation and conservation use. The TIITF is responsible for purchasing these lands under the various acquisition programs.

#### **23.1.1.2 Specific Programs**

In addition to TIITF owned conservation land, the following programs were developed for land acquired either directly or with matching state lands conservation program funds, and are subject to the provisions described in this Chapter:

- Land Acquisition Trust Fund (LATF)
- Environmentally Endangered Lands (EEL)
- Conservation and Recreation Lands (CARL)
- Save our Coast (SOC)
- Save Our Rivers (SOR)
- Preservation 2000 (P-2000)
- Florida Communities Trust (FCT)
- Florida Forever (FF)

Lands acquired under these programs may be individually managed by one of several state resource agencies or their associated offices, or local governments with programs using state conservation land funds, such as the Miami-Dade County EEL Program, which have established conservation areas using state conservation funds; examples of State Land Management agencies include:

- FDEP
  - Office of Resilience and Coastal Protection

- Division of Recreation and Parks
- Florida Department of State
  - Division of Historical Resources (DHR)
- Department of Agriculture and Consumer Services (DACS)
  - Florida Forest Service (FFS)
- Florida Fish and Wildlife Conservation Commission (FWC)
- Water Management Districts

### 23.1.1.3 Statutory Authority

- **Section 253.001, F.S.**, reaffirms the BOT's existence and its duty to hold lands in trust for the use and benefit of the people of the state pursuant to the ***Florida Constitution***.
- **Section 253.02, F.S.**, establishes a board of four trustees, consisting of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, to manage the lands and administer the funds associated with the sale and management of the lands. This statute authorizes the BOT to grant easements on state-owned conservation lands for electric transmission and distribution facilities, and to set up a provision for fee simple title exchange to manage impacts. This statute was the basis for BOT developing its policy for all linear facilities, which includes transportation projects.
- **Section 259.035, F.S.**, created the ARC, an entity that maintains review and advisory authority over lands designated as conservation land and/or land acquired under the land acquisition programs described above. The ARC is comprised of 10 voting members, as listed:
  - Four (4) appointees from the Governor of which three (3) shall be from related scientific disciplines and one shall have specific land management experience;
  - One (1) appointee from Executive Director of FWC;
  - One (1) appointee from Commissioner of DACS;
  - Secretary of the FDEP (or designee);
  - Director of the FFS (or designee);

- Director of the DHR (or designee);
- Executive Director of the FWC (or designee).

The statute also defines the FDEP staff as primary support. The ARC oversees the evaluation, selection and ranking of state land acquisition projects on the Florida Forever priority list. In addition, the ARC administers the review and approval of management plans and land uses for state-owned conservation lands.

- **Section 253.77, F.S.**, states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the TIITF under this chapter, until the person has received the required lease, license, easement, or other form of consent authorizing proposed use.

#### 23.1.1.4 Policies

The following policies were established by the TIITF to provide criteria by which an easement can be granted to linear facilities (such as FDOT roadway corridors) as authorized under **Section 253.02, F.S.**, and to address conditions in which the TIITF can impose minimization or mitigation of adverse impacts to state-owned conservation lands originally established by land acquisition programs listed in [Section 23.1.1.2](#). These policies have been further codified in **Chapter 18-2, Florida Administrative Code (F.A.C.) – Management of Uplands Vested in the Board of Trustees**.

The **Policy for Incompatible Use of Natural Resource Lands** approved by the TIITF on August 9, 1988, applies to linear facilities including public transportation corridors. This policy describes considerations taken by the TIITF in authorizing use of state-owned conservation lands. It describes conditions the TIITF may impose to minimize or mitigate unavoidable adverse impacts to the use of the natural resource and public enjoyment of the use of such lands, including requiring the acquisition of mitigation lands adjacent to or within the boundaries of the affected natural resources. In exchange for such easements **Section 253.02(2)(b)4, F.S.**, provides that the applicant shall provide additional compensation by vesting fee simple title in the TIITF to other available uplands that are 1.5 times the size of the easement acquired by the applicant. Parcels acquired on behalf of TIITF must have an economic, ecological, and recreational value that is at least equivalent to the value of the lands under the proposed easement. Priority for replacement uplands shall be given to parcels identified as inholdings and additions to public lands and land on a Florida Forever land acquisition list by the Land Management Agency of the affected natural resource.

Also, if the use of the land is to be located on state forests, parks, EEL, CARL, LATF, or other state natural resource lands, it must provide a “net positive benefit” to the particular lands on which the use will be located; and if the use is to be located on EEL lands, it



must be in strict accord with the public purpose for which the land was acquired. “Net positive benefit” is defined as follows:

...means any effective action or transaction which promotes the overall characteristics of a particular parcel of natural resource lands. It is compensation over and above the market value of the affected parcel to offset any requested use or activity which would preclude or affect, in whole or in part, current or future uses of the natural resource lands. Net positive benefit shall not be solely monetary compensation but shall include mitigation and other consideration related to environmental or management development or restoration that produces a new or modified environment that is more productive or is ecologically more valuable.

The policy, ***Use of Natural Resource Lands by Linear Facilities As Approved by The Board of Trustees of the Internal Improvement Trust Fund on January 23, 1996*** describes measures to be taken when there is no practicable alternative to the use of the land by minimizing adverse impacts to natural resource lands where applicable and providing mitigation.

For mitigation, the policy requires the applicant pay the TIITF an amount not to exceed fair market value of the interest acquired in the parcel on which the linear facility and related appurtenances will be located. In addition to the amount for the land, the applicant must also provide the managing agency that measure of additional money, land, or services necessary to offset the actual adverse impacts reasonably expected to be caused by the construction, operation, and maintenance of the linear facility and related appurtenances. Such impact compensation will be calculated from the land managing agency's timely presentation of documented costs which will result from the impacts of the proposed project.

Generally, the lands purchased under the Incompatible Use policy do not substitute for additional compensation under the Linear Facilities policy, and FDOT will have to provide additional compensation to the Land Management Agency, as well as a “net positive benefit” as defined in subsection ***18-2.017(31), F.A.C.***, for an easement across state land which is managed for the conservation and protection of natural resources under the Incompatible Use policy. The amount paid by the FDOT for the additional compensation will be 1-2 times the appraised value of the impacted lands. Note however; avoidance and minimization of impacts is coordinated by the District with the Land Management Agency before application to the TIITF.

## **23.2 PROCEDURE**

### **23.2.1 Identification of State-Owned Conservation Lands and Applicability**

The District should identify potential use of state-owned conservation lands early in the development and environmental review of a project, regardless of the type of Environmental Document being prepared and regardless of whether it requires a federal or state Environmental Document.

These lands are typically identified using the Area of Interest (AOI) tool in the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) located under Special Designations in the Conservation tab and/or the Florida Natural Areas Inventory Land within the Recreation Data layer. District coordination with the Land Management Agency or the FDEP Bureau of Public Land Administration (BPLA) is appropriate to confirm that the land in question has been acquired utilizing the acquisition program(s) listed in [Section 23.1.1.2](#) or is currently designated as TITF-owned conservation land.

These lands typically function as conservation areas, recreation areas, parks, and wildlife refuges. Other environmental regulations may apply to the impacted state-owned conservation land, which must be addressed during the project study. These other laws/regulations are further discussed in [Section 23.4](#).

The District is expected to keep OEM informed of potential use of state-owned conservation lands and its intent to consult with the Land Management Agency at the local and headquarters levels and the ARC (through coordination with the FDEP). The District should conduct early coordination with the appropriate Land Management Agency to confirm that state-owned conservation land potentially impacted by a project was originally acquired through the acquisition programs listed in [Section 23.1.1.2](#), or it is designated as a conservation land by the TITF and document this coordination in the project file. If the lands are anticipated to be impacted, and are subject to review by the BOT, additional written coordination will be required and documented in the project file as described in [Section 23.2.2.1](#). Additionally, when these lands are within the project study area, the District should describe this in the Environmental Document, including the presence of these lands, the level of involvement and results of associated coordination.

### **23.2.2 Coordination**

#### **23.2.2.1 Coordination Between FDOT and the Land Management Agency**

If during the early stages of the transportation project, it is determined that the FDOT will directly impact state-owned conservation lands, the District should coordinate further with the Land Management Agency throughout the Project Development and Environment

(PD&E) and Design phases, and go through the process of evaluating and documenting avoidance, minimization, and mitigation considerations to achieve "no net harm" to the state-owned conservation land. This coordination process is provided in [Figure 23-1](#). Depending on the project and complexity of involvement with the state-owned conservation land, the time needed to coordinate with the Land Management Agency may vary significantly. Following initial communication with the Land Management Agency, if warranted, the District prepares correspondence with a detailed summary for consideration by the Land Management Agency, which includes a description of coordination conducted, a description of anticipated impacts and justification and a summary of the avoidance, minimization and mitigating considerations which the Land Management Agency may use in crafting a letter of no objection and/or determination of net positive benefit.

Ultimately, an official letter from the Land Management Agency to the District should be obtained which summarizes the steps taken to achieve "no objection" to the state-owned conservation land. Proposed mitigation measures to obtain a "net positive benefit" determination by the Land Management Agency will vary depending on the property, its use, and the potential unavoidable impact. These should be negotiated and may include financial contribution, additional right of way acquisition or physical enhancement of property features, appropriate to offset or restore the impacted portions of the land. The District should also coordinate with appropriate FDOT functional area representatives: for example, District Right of Way Office or Office of the General Counsel, in establishing appropriate proposed mitigation measures.

### **23.2.2.2 Coordination between FDOT, Land Management Agency, and Bureau of Public Lands Administration**

The FDEP Division of State Lands (DSL), BPLA administers the application process for obtaining easements on state conservation lands. Upon initiation of coordination with the Land Management Agency, the District should also contact the BPLA to coordinate additional steps needed to obtain an easement to utilize these lands.

Minimally, upon receipt of a letter from the appropriate Land Management Agency, the District will prepare an **Upland Easement Application** and include supplemental information ([Section 23.2.3.1.2](#)). The Land Management Agency or the BPLA provides the narrative required in the **Upland Easement Application**. In cases of larger impacts to state-owned conservation lands, additional information to the **Upland Easement Application** may be provided in a **State Lands Impact Report (SLIR)**. See [Section 23.2.3.1.3](#). The BPLA reviews the package for completeness and when complete, will prepare an item for presentation at a regularly scheduled ARC meeting. The contact information for the FDEP office which handles impacts to state-owned conservation lands is provided as follows:

Bureau Chief, Bureau of Public Lands Administration  
Department of Environmental Protection  
3900 Commonwealth Boulevard, MS. 100  
Tallahassee, Florida 32399-3000

### **23.2.2.3 District Coordinates with OEM Director**

The District should communicate with the OEM Director regarding the anticipated impact to state-owned conservation lands, and the need to fulfill ***Upland Easement Application*** requirements. This communication may be accomplished through the District's assigned OEM Project Delivery Coordinator (PDC). OEM will inform FDOT's Office of General Counsel (OGC) in Central Office as appropriate.

### **23.2.2.4 Mitigation**

The District should coordinate with the Land Management Agency and BPLA as appropriate and determine potential impacts to the state-owned conservation land and measures to achieve "net positive benefit" through the avoidance, minimization, and/or development of any enhancement features that will minimize harm to state-owned conservation land ([Section 23.2.2.1](#)).

Based upon these proposed measures, as warranted, the District will coordinate with the Land Management Agency and begin early preparation of a MOA if necessary. The MOA would formalize FDOT's mitigation commitments for the proposed impact, and/or the necessary funds (or land donation) that provide mitigation.

### **23.2.3 Upland Easement Application, ARC Agenda Item Package and Memorandum of Agreement**

The District prepares an ***Upland Easement Application*** for preliminary staff review and comment by the Land Management Agency and BPLA and submits it to the BPLA. Under subsection ***18-2.109(4), F.A.C.***, agencies do not have to pay a non-refundable application fee.

Once the ***Upland Easement Application*** is accepted, the BPLA assembles and submits an ARC Agenda Item Package to the ARC Staff Director. At this point, the ARC Staff Director will be responsible for scheduling a project review at a regularly scheduled meeting of the ARC. The MOA, when warranted, is developed after the ***Upland Easement Application*** is completed and after the ARC approval of the impact to state-owned conservation lands.

#### **23.2.3.1 ARC Agenda Item Package**

In preparation of the ARC Agenda Item Package, the BPLA staff will consider the ***Upland Easement Application*** and the supplemental information provided by the Land

Management Agency. Coordination, with the Land Management Agency having jurisdiction over the subject property, is summarized in the ***Upland Easement Application*** narrative or when extensive information is needed, it may be provided in a ***SLIR*** prepared by the District. Additionally, correspondence with the Land Management Agency regarding net positive benefit recommendations should be attached and described in the Upland Easement Application.

### **23.2.3.1.1 Upland Easement Application**

The following items are incorporated into the ***Upland Easement Application***. The most recent BPLA application form can be found on the ***FDEP Website*** ([Section 23.5](#)):

1. Type of Easement
2. Applicant Information
3. Property Information
4. Include the following information as applicable:
  - a. Recent aerial photograph with boundaries of proposed easement area identified.
  - b. A statement describing the public benefits that will occur as a result of the proposed project (which requires the easement).
  - c. A letter from the applicable local planning agency stating that the proposed project (thus the easement) is consistent with the local government Comprehensive Plan adopted pursuant to ***Section 163-31667, F.S.***
  - d. A county tax map identifying the parcel proposed for easement.
  - e. Two prints of a certified survey of the easement area meeting the minimum technical standards of ***Chapter 5J-1-050-052, F.A.C.***, which contains the boundaries, legal descriptions, and acreage of the property.
  - f. A Statement of written approval from the Land Management Agency along with a statement from the managing agency describing how the proposed easement conforms to the management plan when the easement application involves state land which is under lease, sublease, easement, or management agreement.
  - g. A statement of intended use which shall include, at a minimum, the following:

1. The requested term for the proposed easement, which shall not be greater than is necessary to provide for the reasonable use of the state land.
2. The need for the proposed easement and written evidence that all other alternatives to the use of state land have been denied.
3. Projected revenue to be generated from the use of the state land.
4. Whether the intended use is public or private and the extent of public access for such use.
5. A description of the type of facility proposed for the easement area (e.g., road, overhead utility, pipes)

### **23.2.3.1.2 Supplemental Information for the Upland Easement Application**

There are recommended items to support and provide the narrative for the ***Upland Easement Application*** that are the responsibility of the BPLA and the Land Management Agency. The District should coordinate the preparation of the ***Upland Easement Application*** and the following supplemental information with the the Land Management Agency prior to submittal:

1. Description of when and under what program or fund the parcel under consideration was acquired (i.e., EEL, LATF), or donated.
2. Description of the purpose of the parcel's acquisition (P-2000 or FF goals and criteria or similar purpose descriptions) or donation and restrictions or conditions of use that apply to the parcel, if any.
3. Description of the current level of public recreational use or public access of the parcel.
4. Description of the natural resources, land cover, vegetation, habitat, or natural community, if any, that are currently present on the parcel.
5. Description and list of the imperiled and other wildlife species, if any, that occur or have use of the parcel. If appropriate, any species survey commitments by FDOT prior to construction.
6. Description and list of historical and/or archeological resources, if any, that occur or have the potential of occurring on the site.

7. Formal alternative siting analysis (i.e., the PD&E alternatives analysis) that includes a description and assessment of other potential alternative sites, and why they are not feasible or practicable alternatives.
8. Assessment of the impacts the proposed alternative use will have on the natural/historical/archeological/recreational resources, if any, as well as on the current public use, and purpose for the site or parcel.
9. Assessment of the potential impacts on the larger area of conservation lands the parcel is located within (park, wildlife management area, forest trail), and on any surrounding conservation lands, if any.
10. Assessment of how the proposed package of consideration and "net positive benefit" for the requested alternative use of the parcel [such as the general standard requirement for replacement land (depending on parcel's size)], will offset the impacts and benefit the larger area of conservation lands (e.g., park, forest, wildlife management area, trail system) that the parcel is within and particularly how it will offset the impacts or benefit the natural/historical/archeological resources, habitat, and public recreational uses of the public conservation area the parcel is located within.

### **23.2.3.1.3 State Lands Impact Report**

The **SLIR** is a detailed report which is prepared utilizing similar information gathered from the PD&E Study documents. The report further addresses the supplemental information to the **Upland Easement Application** described in [Section 23.2.3.1.2](#). Projects with PD&E Studies may have the necessary information available; however, projects without a PD&E Study may require additional information-gathering or analysis and additional time to prepare such information.

### **23.2.3.2 Scheduling ARC Meeting Agenda Item**

Once the BPLA provides the ARC Agenda Item Package to the ARC Staff Director, then the item will be scheduled for the next available ARC meeting. The District should work closely with the BPLA during scheduling of the ARC agenda and inform the OEM PDC of these activities.

The ARC typically meets six times a year (February, April, June, August, October, and December); therefore, review duration can extend for 3-4 months. The Districts should make sure that the ARC Agenda Item documents are finalized with the BPLA at least one month prior to the ARC meeting so that the item can be timely placed on the ARC Agenda and check with BPLA for correct meeting dates.

### **23.2.3.3 ARC Review of ARC Agenda Item Package**

The ARC meetings are public meetings. The District advises the OEM Director of scheduled ARC meetings when an ***Upland Easement Application*** submitted by FDOT is under consideration. At an ARC meeting, either the District presents its request for an easement to the ARC or the BPLA may present the District's request, other stakeholders may present, the public may comment, and then the Council is expected to act on the information provided. FDOT Central Office representatives may attend as needed.

Depending on the nature and extent of the required use of the lands, the District may need to present during the ARC meeting. The PowerPoint presentation outlines the proposed project, avoidance/minimization measures, development of enhancement features, use of state-owned conservation lands, final mitigation proposed for impact to these state lands, and other background information pertinent to the review and approval of the application package. Project location maps and other exhibits will be helpful in explaining the proposed impact to such lands.

### **23.2.3.4 ARC Determination and Development of the MOA**

After review of the ARC Agenda Item Package, the ARC will make the Linear Facilities Policy Determination in regard to the impact to the state-owned conservation lands. If the ARC does not approve the impact, they may defer concurrence to a future meeting, for another review, or defer to the BOT for approval.

If the ARC approves the application package, then the application is revised and finalized. If an MOA is necessary to memorialize those measures which have been conceptually agreed to by the Land Management Agency in issuance of its official letter to FDOT outlining the steps to achieve "net positive benefit", the Land Management Agency, the FDOT, and the TIITF would be signatories.

Depending on the mitigation proposal, there may be a need for the District to program appropriate funds within the Work Program to cover mitigation costs. This step is key to ensuring that available funds will be administered to project mitigation for the impacts to state-owned conservation lands.

### **23.2.3.5 Agencies sign MOA; FDEP Prepares Easement Document for FDOT Approval**

After the ARC meeting and easement approval, the MOA, if necessary, is finalized and signed off on by all agencies pertinent to the MOA.

In addition, BPLA will prepare an easement document for FDOT review and approval. Under subsection ***18-2.020(4)(d)***, ***F.A.C.***, public easements are not subject to an easement fee.



Once both agencies have signed the document, FDOT records the easement with the Clerk of Courts.

## 23.3 ENVIRONMENTAL DOCUMENTATION

The documentation required for each type of Environmental Document is outlined below:

**Type 1 Categorical Exclusion (Type 1 CE)** - Identify in the ***Type 1 Categorical Exclusion Checklist*** ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)) if there are state-owned conservation lands being acquired in the project area that are subject to review and approval by the ARC. Include a summary of impacts and coordination (as appropriate) under the Right of Way issue header and include any correspondence in the project file. Final decisions by the ARC and a copy of the MOA if applicable, should be referenced and included in the project file.

**Non-Major State Action (NMSA)** - Identify in the ***Non-Major State Action Checklist*** if there are state-owned conservation lands being acquired in the project area that are subject to review and approval by the ARC. Include a summary of impacts and coordination (as appropriate) under the Right of Way issue header and include any correspondence in the project file. Final decisions by the Council and MOA if applicable, should be referenced and included in the project file.

**Type 2 Categorical Exclusion (Type 2 CE)** - The Cultural Resources/Recreational Areas and Protected Lands section of the ***Type 2 Categorical Exclusion Determination Form*** should specify if state-owned conservation lands are present in the project area. If present, describe the state-owned conservation land subject to review by ARC in the comment box and summarize the outcome of coordination. Include correspondence in the project file. If final decisions by the ARC are made and the MOA is signed prior to Location and Design Concept Acceptance (LDCA), they should be referenced and attached.

**Environmental Assessment (EA) and Environmental Impact Statement (EIS)** - The discussion of impacts to state-owned conservation land should be included in the Recreational Areas and Protected Lands subsection of the Environmental Analysis Section of the Environmental Document. It should include a summary of the identification and impact to state-owned conservation land and the ARC review process. Correspondence during this process should be included in the Comments and Coordination section, referenced in the Environmental Analysis section, and added to the StateWide Environmental Project Tracker (SWEPT) project file. If final decisions by the ARC and MOA are made prior to LDCA, they should be included in the Appendix.

**State Environmental Impact Report (SEIR)** - The discussion of impacts to state-owned conservation lands should be included in the Recreational Areas and Protected Lands subsection of the Environmental Analysis Section of the ***State Environmental Impact Report Form, Form No. 650-050-43***. It should include a summary of the identification and impact to state-owned conservation land and the ARC review process.

Correspondence during this process should be included in the SWEPT project file. If final decisions by the ARC are made and the MOA is completed prior to LDCA, they should be attached.

State-owned conservation land commitments, including commitments in the MOA, are documented in the Commitments section of a Type 2 CE, EA, EIS, or SEIR. See [Part 2, Chapter 22, Commitments](#) for more detail on how to prepare this section. Commitments should be documented according to [Procedure No. 650-000-003, Project Commitment Tracking](#).

Changes in impacts to state-owned conservation land after approval of the Environmental Document must be documented per [Part 1, Chapter 13, Re-evaluations](#).

## 23.4 OTHER APPLICABLE LAWS AND REGULATIONS

When transportation projects affect state-owned conservation lands, other state or federal provisions may apply. In addition to assessment of potential environmental impacts within the project area as further described through-out the [PD&E Manual](#), it should be noted that other, similarly-related federal laws may need to be considered, as applicable, concurrent with ARC coordination.

Because of *NEPA* Assignment, FDOT has assumed FHWA responsibilities for **Section 106** coordination, and has the authority to administer most of the anticipated **Section 4(f)** requirements. Examples of such additional requirements are listed below.

- **Section 4(f)** of the *U.S. Department of Transportation (USDOT) Act of 1966*. Most components are administered by FDOT, in coordination with the resource owner/manager. FHWA coordination is necessary for constructive use and certain other parameters. See [Part 2, Chapter 7, Section 4\(f\) Resources](#), for additional detail.
- **Section 6(f)** of the *Land and Water Conservation Fund Act*. This refers to a federal funding program which provides recreation and conservation funds to states for use in the purchase and development of parks, recreation areas, and refuges. See [Part 2, Chapter 7, Section 4\(f\) Resources](#), for additional detail.
- **Section 106** of the *National Historic Preservation Act of 1966*, which is now administered by FDOT and involves coordination with the State Historic Preservation Office (SHPO) and potentially with the Advisory Council on Historic Preservation. See [Part 2, Chapter 8, Historical and Archeological Resources](#), for additional detail.

## 23.5 REFERENCES

BOT of IITF, Policy; Use of State Natural Resource Lands by Linear Facilities, January 23, 1996

FDEP. Acquisition and Restoration Council Website:

<https://floridadep.gov/lands/environmental-services/content/acquisition-and-restoration-council-arc>

FDEP. Upland Easement Application (Land Lease Application).

<https://floridadep.gov/lands/bureau-public-land-administration/content/uplands-management>

FDOT. Project Commitment Tracking, Procedure No. 650-000-003.

<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=650-000-003>

Florida Rule: 18-21. Sovereignty Submerged Lands Management

Florida Rule: 18-24. Florida Forever Land Acquisition and Management

Florida Rule: 62-330. Environmental Resource Permitting

Florida Rule: 62-818. Florida Forever Program

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>

Policy for Incompatible use of State Conservation Lands. August 9, 1988

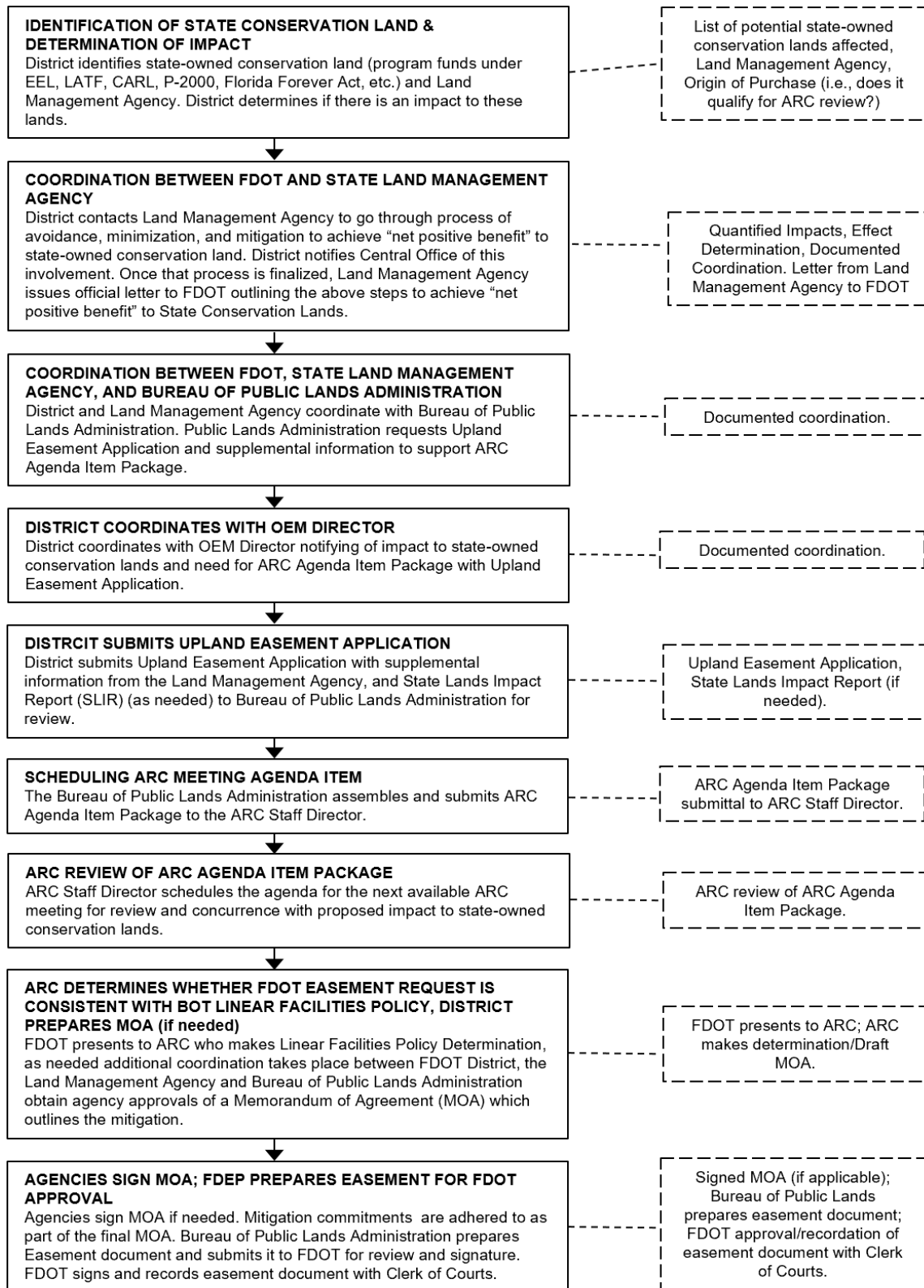
Section 253, F.S., State Lands

Section 253.77, F.S., State lands, state agency authorization for use prohibited without consent of agency in which title vested; concurrent processing requirements

Section 259, F.S., Land Acquisitions for Conservation or Recreation

## 23.6 FORMS

State Environmental Impact Report Form, Form No. 650-050-43



**Figure 23-1 FDOT Coordination Process: Acquisition and Restoration Council (ARC)**

## LIST OF ACRONYMS

AADT	Average Annual Daily Traffic
AASHTO	American Association of State Highway and Transportation Officials
ACE	Alternative Corridor Evaluation
ACEC	American Council of Engineering Companies
ACER	Alternative Corridor Evaluation Report
ACF	Axle Correction Factor
ACHP	Advisory Council on Historic Preservation
ACM	Asbestos Containing Materials
ACT	Aerial Cable Transit
ADA	Americans with Disabilities Act
ADT	Average Daily Traffic
AE	Aesthetic Effects
AIRFA	American Indian Religious Freedom Act
AMRC	Access Management Review Committee
AN	Advance Notification
AOA	Agency Operating Agreements
AOA	Air Operations Area
AOI	Area of Interest
APE	Area of Potential Effect
AR	Administrative Record
ARC	Acquisition and Restoration Council
ARPA	Archaeological Resources Protection Act of 1979
AST	Above Ground Storage Tank
BA	Biological Assessment
BAR	Bureau of Archaeological Research
BDR	Bridge Development Report
BEBR	Bureau of Economic and Business Research
BHR	Bridge Hydraulic Report
BIA	U. S. Bureau of Indian Affairs
BIR	Bridge Inspection Report
BLM	Bureau of Land Management
BMAP	Basin Management Action Plan
BMP	Best Management Practices
BMP	Byway Management Plan
BO	Biological Opinion
BOT	Board of Trustees
PBAG	Bridge Permit Application Guide
BPLA	Bureau of Public Lands Administration
BRT	Bus Rapid Transit

B.S.	Bachelor of Science
C-D	Collector-Distributor Road
CAA	Clean Air Act
CADD	Computer Aided Drafting and Design
CAM	Community Awareness Memorandum
CAP	Community Awareness Plan
CAR	Contamination Assessment and Remediation
CAR	Crash Analysis Reporting
CARL	Conservation and Recreation Lands
CBIA	Coastal Barrier Improvement Act
CBRA	Coastal Barrier Resources Act
CBRS	Coastal Barrier Resource System
CCCL	Coastal Construction Control Line
CCEI	Consultant Construction Engineering and Inspection
CE	Categorical Exclusion
CED	Categorical Exclusion Determination
CEE	Cumulative Effects Evaluation
CEI	Construction Engineering and Inspection
CEQ	Council on Environmental Quality
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFA	Coordinated Freeways and Arterials
CFP	Cost Feasible Plan
CFR	Code of Federal Regulations
CGAA	Coast Guard Authorization Act
CGP	NPDES Construction Generic Permit
CIG	Capital Investment Grant
CIGP	County Incentive Grant Program
CLC	Community Liaison Coordinator
CMAQ	Congestion Management and Air Quality
CMF	Crash Modification Factor
CO	Carbon Monoxide
COA	Class of Action
ConOps	Concept of Operations
CPA	Conservation Planning and Assistance
CPA	Construction Project Administrator
CPAM	Construction Project Administration Manual
CPAC	Citizens Public Advisory Committee
CR	County Road
CRAS	Cultural Resources Assessment Survey
CRC	Cultural Resource Coordinator

CRM	Cultural Resource Management
CSER	Contamination Screening Evaluation Report
CSRP	Conceptual Stage Relocation Plan
CSS	Context Sensitive Solutions
CTL	Cleanup Target Levels
CWA	Clean Water Act
CZC	Coastal Zone Consistency
CZMA	Coastal Zone Management Act
CZMP	Coastal Zone Management Program
D Factor	Directional Distribution
dB	Decibels
DB	Design Build
dBA	Decibels (A-Weighting)
DBF	Design-Build Firm
DCIC	District Contamination Impact Coordinator
DDHV	Directional Design Hourly Volume
DDIR	Detailed Damage Inspection Report
DEIS	Draft Environmental Impact Statement
DEMO	District Environmental Management Office
DEO	Department of Economic Opportunity
DHR	Division of Historical Resources
DHT	Design Hour Truck Factor
DHV	Design Hour Volume
DIRC	District Interchange Review Coordinator
DOA	Determination of Section 4(f) Applicability
DOE	Degree of Effect
DOT	Department of Transportation
DRC	District Railroad Coordinators
DROD	Draft Record of Decision
DSHC	District Scenic Highway Coordinator
DUO	District Utility Offices
DVD	Digital Video Disc
EA	Environmental Assessment
EDMS	Electronic Document Management System
EEDMS	Enterprise Electronic Document Management System
EEL	Environmentally Endangered Lands
EFH	Essential Fish Habitat
EIS	Environmental Impact Statement
ELA	Environmental Look Around
EMS	Emergency Management Services
EO	Executive Order

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EOR	Engineer of Record
EPA	Environmental Protection Agency
ERP	Environmental Resource Permit
ERC	Electronic Review and Comment
ESA	Endangered Species Act
ESAL	Equivalent Single Axle Load
EST	Environmental Screening Tool
ETAT	Environmental Technical Advisory Team
ETDM	Efficient Transportation Decision Making
FAA	Federal Aviation Administration
F.A.C.	Florida Administrative Code
FAP	Federal Aid Project
FAQ	Frequently Asked Questions
FAR	Florida Administrative Register
FAST	Fixing America's Surface Transportation Act
FCMP	Florida Coastal Management Program
FCT	Florida Communities Trust
FDACS	Florida Department of Agriculture and Consumer Services
FDEP	Florida Department of Environmental Protection
FDM	FDOT Design Manual
FDOS	Florida Department of State
FDOT	Florida Department of Transportation
FEIS	Final Environmental Impact Statement
FEIS/ROD	Final Environmental Impact Statement/Record of Decision
FEMA	Federal Emergency Management Agency
FF	Florida Forever
FFGA	Full Funding Grant Agreement
FFS	Florida Forest Service
FGDL	Florida Geographic Data Library
FGT	Florida Gas Transmission
FHRA	Florida Historical Resources Act
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Maps
FIS	Flood Insurance Study
FLUCCS	Florida Land Use, Cover and Forms Classification System, may also be FLUCFCS
FM	Financial Management
FMC	Fishery Management Council
FMP	Fishery Management Plan
FMSF	Florida Master Site File
FNAI	Florida Natural Areas Inventory



FONSI	Finding of No Significant Impact
FPC	Floodplain Compensation Area
FPPA	Farmland Protection Policy Act
FR	Federal Register
FRA	Federal Railroad Administration
F.S.	Florida Statute
FSHP	Florida Scenic Highway Program
FSU	Florida State University
FSUTMS	Florida Standard Urban Transportation Model Structure
FTA	Federal Transit Administration
FTE	Florida's Turnpike Enterprise
FTI	Florida Transportation Information
FTO	Florida Traffic Online
FTP	Florida Transportation Plan
FWC	Florida Fish and Wildlife Conservation Commission
FWRA	Florida Watershed Restoration Act
FY	Fiscal Year
GBN	Ground-Borne Noise
GIS	Geographic Information System
GPS	Global Positioning System
HAPC	Habitat Areas of Particular Concern
HCM	Highway Capacity Manual
HCP	Habitat Conservation Plan
HHS	U.S. Department of Health and Human Services
HOA	Homeowners Association
HOT	High Occupancy Toll
HOV	High Occupancy Vehicle
HQ	Headquarters
HRT	Heavy Rail Transit
HSM	Highway Safety Manual
HSWA	Hazardous and Solid Waste Amendments
HUD	Housing and Urban Development
IAR	Interchange Access Request
ICA	Impact to Construction Assessment
ICE	Intersection Control Evaluation
ICWW	Intercoastal Waterway
ID	Identification
IHSDM	Interactive Highway Safety Design Model
IJR	Interchange Justification Report
IMR	Interchange Modification Report
IOAR	Interchange Operational Analysis Report

IPaC	Information, Planning, and Conservation Decision Support System
IRC	Interchange Review Coordinator
ISATe	Enhanced Interchange Safety Analysis Tool
ISD	Intermodal Systems Development
ISMP	Florida Imperiled Species Management Plan
ITS	Intelligent Transportation Systems
IWR	Impaired Waters Rule
JARC	Job Access and Reverse Commute
JPA	Joint Participation Agreement
K Factor	Ratio of Peak Hour Traffic to Daily Traffic
LAP	Local Agency Program
LATF	Land Acquisition Trust Fund
LBP	Lead-Based Paint
LDCA	Location and Design Concept Acceptance
LEP	Limited English Proficiency
Leq(h)	Level Equivalent for 1 Hour
LESA	Land Evaluation Site Assessment
LGCP	Local Government Comprehensive Plan
LHR	Location Hydraulics Report
LOP	Letter of Permission
LOS	Level of Service
LOSPLAN	Florida's LOS Planning Software
LPA	Locally Preferred Alternative
LRE	Long Range Estimate
LRT	Light Rail Transit
L RTP	Long Range Transportation Plan
LSM	Land Suitability Mapping
LWCFA	Land and Water Conservation Fund Act
MAP-21	Moving Ahead for Progress in the 21 <sup>st</sup> Century
MBC	Metal-Based Coatings
MBTA	Migratory Bird Treaty Act
MEMA	Motor and Equipment Manufacturers Association
MHW	Mean High Water Line
MiCE	Minor Categorical Exclusion
MIP	Major infrastructure Project
MM	Methodology Memorandum
MOA	Memorandum of Agreement
MOCF	Model Output Conversion Factor
MOE	Measure of Effectiveness
MOU	Memorandum of Understanding
MOVES	Motor Vehicle Emission Simulator

MPO	Metropolitan Planning Organization
M.S.	Master of Science
MS4	Municipal Separate Storm Sewer System
MSAA	Mobility Services for All Americans
MSAT	Mobile Source Air Toxics
MSE	Mechanically Stabilized Earth
MSFCMA	Magnuson-Stevens Fishery Conservation Management Act
MSP	Modified Special Provision
MUTCD	Manual on Uniform Traffic Control Devices
MUTS	Manual on Uniform Traffic Studies
N/A	Not Applicable
NAAQS	National Ambient Air Quality Standards
NAC	Noise Abatement Criterion
NAD	North American Datum
NAGPRA	Native American Graves Protection and Repatriation Act
NATA	National Air Toxics Assessment
NCHRP	National Cooperative Highway Research Program
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
NHL	National Historic Landmark
NHPA	National Historic Preservation Act
NHS	National Highway System
NIRA	National Industrial Recovery Act
NMFS	National Marine Fisheries Service
NMSA	Non-Major State Action
NNC	Numeric Nutrient Criteria
NO <sub>2</sub>	Nitrogen Dioxide
NOA	Notice of Availability
NOAA	National Oceanic and Atmospheric Administration
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
NPL	National Priorities List
NPS	National Park Service
NRCS	National Resource Conservation Service
NRE	Natural Resource Evaluation
NRHP	National Register of Historic Places
NRI	Nationwide Rivers Inventory
NSR	Noise Study Report
NSRA	Noise Study Report Addendum
NTD	National Transit Database
NWFWMD	Northwest Florida Water Management District

NWI	National Wetlands Inventory
NWP	Nationwide Permit
O <sub>3</sub>	Ozone
OAD	FDOT's Outdoor Advertising Office
OD	Origin-Destination
ODA	Outdoor Advertising
OEM	Office of Environmental Management
OFD	One Federal Decision
OFW	Outstanding Florida Waters
OGC	Office of General Counsel
OMB	Office of Management and Budget
ONRW	Outstanding National Resource Water
OPA	Otherwise Protected Area
ORV	Outstanding River Value
OSHA	Occupational Safety and Health Administration
OWJ	Official with Jurisdiction
P-2000	Preservation 2000
P3	Public-Private Partnership
PA	Programmatic Agreement
PACM	Presumed Asbestos Containing Materials
P <sub>B</sub>	Lead
PCB	Polychlorinated Biphenyl
PCR	Project Commitment Record
PCTS	Public Consultation Tracking System
PDC	Project Delivery Coordinator
PD&E	Project Development and Environment
PE	Preliminary Engineering
PED	Preliminary Environmental Discussion
PEIR	Project Environmental Impact Report
PEL	Planning and Environmental Linkages
PER	Preliminary Engineering Report
PHF	Peak Hour Factor
PIO	Public Information Office
PIP	Public Involvement Plan
PLEMO	Planning and Environmental Management Office
PM	Particulate Matter
PM	Project Manager
PMP	Project Management Plan
PN	Public Notice
PS&E	Plans, Specifications, and Estimates
PSEE	Project Suite Enterprise Edition

PSEMP	Preliminary System Engineering Management Plan
PSM	FDOT Project Schedule and Management
PSR	Pond Siting Report
PSWADT	Peak Season Weekday Average Daily Traffic
PTMS	Portable Traffic Monitoring Site
QA	Quality Assurance
QC	Quality Control
RACM	Regulated Asbestos Containing Materials
RAP	Reasonable Assurance Plan
RCI	Roadway Characteristics Inventory
RCNM	Roadway Construction Noise Model
RCRA	Resource Conservation and Recovery Act
RITIS	Regional Integrated Transportation Information System
RMSE	Root Mean Square Error
ROD	Record of Decision
ROW	Right of Way
RSA	Road Safety Audit
RSP	Rail System Plan
RV	Recreational Vehicle
RWMS	Right of Way Management System
SAFETEA-LU	Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users
SARA	Superfund Amendments and Reauthorization Act of 1986
SCE	Sociocultural Effects
SCH	State Clearinghouse
SCOP	Small County Outreach Program
SCRAP	Small County Road Assistance Program
SCS	Soil Conservation Service
SDOE	Summary Degree of Effect
SDR	Sociocultural Data Report
SDWA	Safe Drinking Water Act
SEFSC	Southeast Fisheries Science Center
SEIR	State Environmental Impact Report
SEIS	Supplemental Environmental Impact Statement
SEMS	Superfund Enterprise Management System
SERO	NOAA Fisheries Science Center Southeast Regional Office
SF	Seasonal Factor
SFHA	Special Flood Hazard Areas
SFO	State Funds Only
SFWMD	South Florida Water Management District
SHCA	Strategic Habitat Conservation Area
SHPO	State Historic Preservation Officer
SHS	State Highway System

SIB	State Infrastructure Bank
SIP	State Implementation Plan
SIRC	Statewide Interchange Review Coordinator
SIS	Strategic Intermodal System
SLIR	State Lands Impact Report
SJRWMD	St. Johns River Water Management District
SMF	Stormwater Management Facility
SO <sub>2</sub>	Sulfur Dioxide
SO&E	Safety, Operational, and Engineering
SOC	Save Our Coast
SOGR	State of Good Repair Grants
SOR	Save Our Rivers
SPF	Safety Performance Function
SPGP	State Programmatic General Permits
SR	State Road
SRWMD	Suwannee River Water Management District
SSA	Sole Source Aquifer
SSAC	Site Specific Alternative Criteria
SSGA	Small Starts Construction Grant Agreement
SSWMP	Statewide Stormwater Management Plan
STA	Surface Transportation Act
STIP	State Transportation Improvement Program
STOPS	Simplified Trips-on-Project Software
SUE	Subsurface Utility Engineering
SWAT	Statewide Acceleration Transformation
SWEPT	StateWide Environmental Project Tracker
SWERP	Statewide Environmental Resource Permitting
SWFWMD	Southwest Florida Water Management District
SWIM	Surface Water Improvement and Management Program
SWMP	Stormwater Management Program
SWPPP	Stormwater Pollution Prevention Plan
T <sub>24</sub>	Truck Factor
TA	Transportation Alternatives
TAC	Technical Advisory Committee
TAMP	Transportation Asset Management Plan
TCAR	Transit Concept and Alternatives Review Study
TCI	Traffic Characteristic Inventory
TCP	Traditional Cultural Places
TCQSM	Transit Capacity and Quality of Service Manual
TDP	Transit Development Plan
TEM	Traffic Engineering Manual
THPO	Tribal Historic Preservation Office
TIITF	Trustees of the Internal Improvement Trust Fund

TIP	Transportation Improvement Program
TMA	Transportation Management Area
TMDL	Total Maximum Daily Load
TMP	Transportation Management Plan
TNM	Traffic Noise Model
TOD	Time of Day
TPO	Transportation Planning Organization
TRB	Transportation Research Board
TSM&O	Transportation System Management and Operations
TSP	Technical Special Provisions
TSP	Transit Signal Priority
TTMS	Telemetered Traffic Monitoring Site
UAM	Utility Accommodation Manual
UAO	Utility Agency/Owner
UF	University of Florida
UIC	Underground Injection Control
UMAM	Uniform Mitigation Assessment Method
USACE	U.S. Army Corps of Engineers
U.S.C.	United States Code
USCG	U.S. Coast Guard
USDA	U.S. Department of Agriculture
USDHS	U.S. Department of Homeland Security
USDOI	U.S. Department of the Interior
USDOT	U.S. Department of Transportation
USFS	U.S. Forest Service
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
UST	Underground Storage Tank
UWHCA	Utility Work by Highway Contractor Agreement
UZA	Urbanized Area
VE	Value Engineering
VPH	Vehicles Per Hour
VMT	Vehicle Miles Traveled
VOC	Volatile Organic Compound
WBID	Waterbody Identification Number
WBS	Work Breakdown Structure
WMD	Water Management District
WQIE	Water Quality Impact Evaluation
WRAP	Wetland Rapid Assessment Procedure
WSRA	Wild and Scenic Rivers Act