

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**

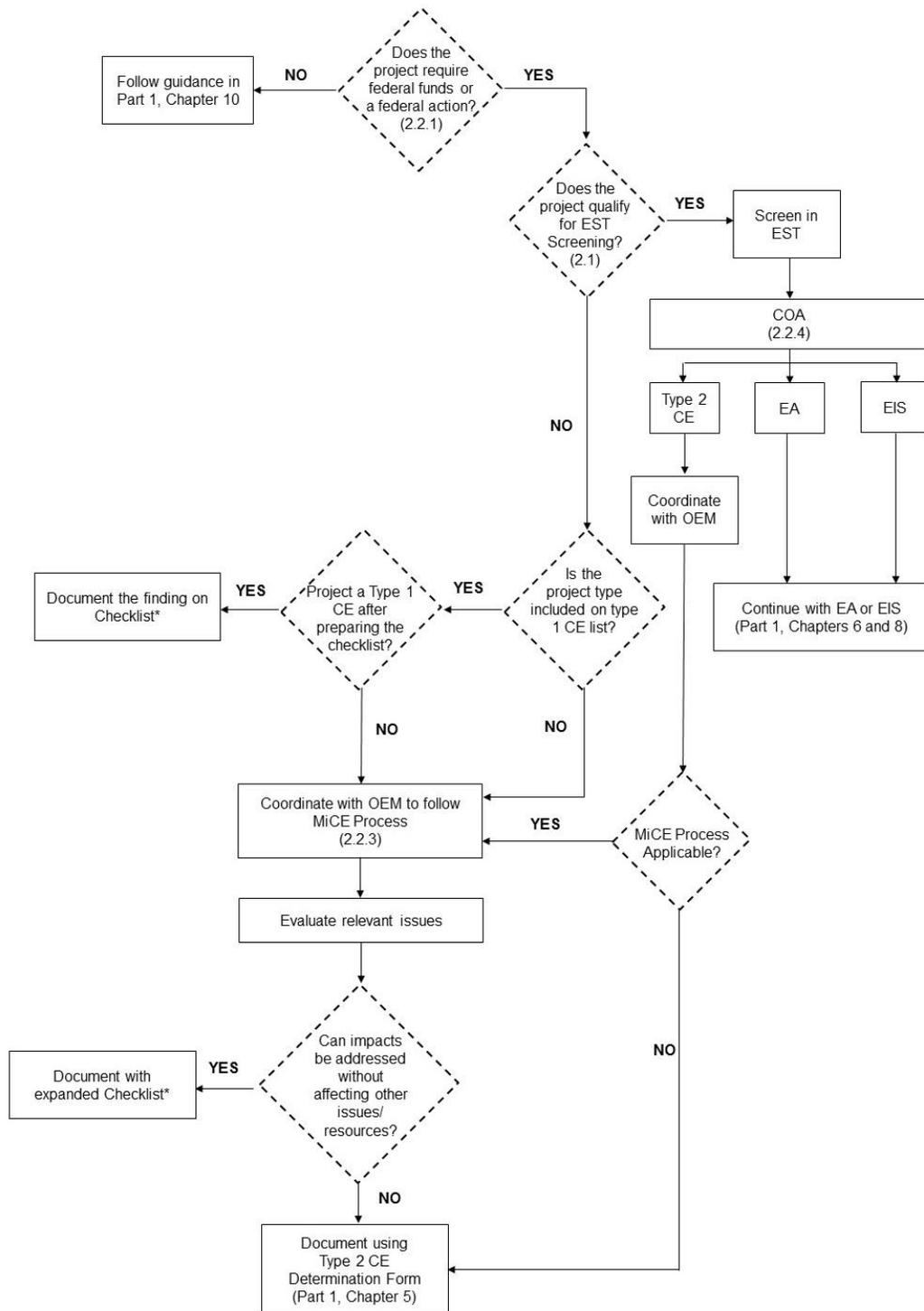
[Public Hearing Certification Form, Form No. 650-050-56](#)

## **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)

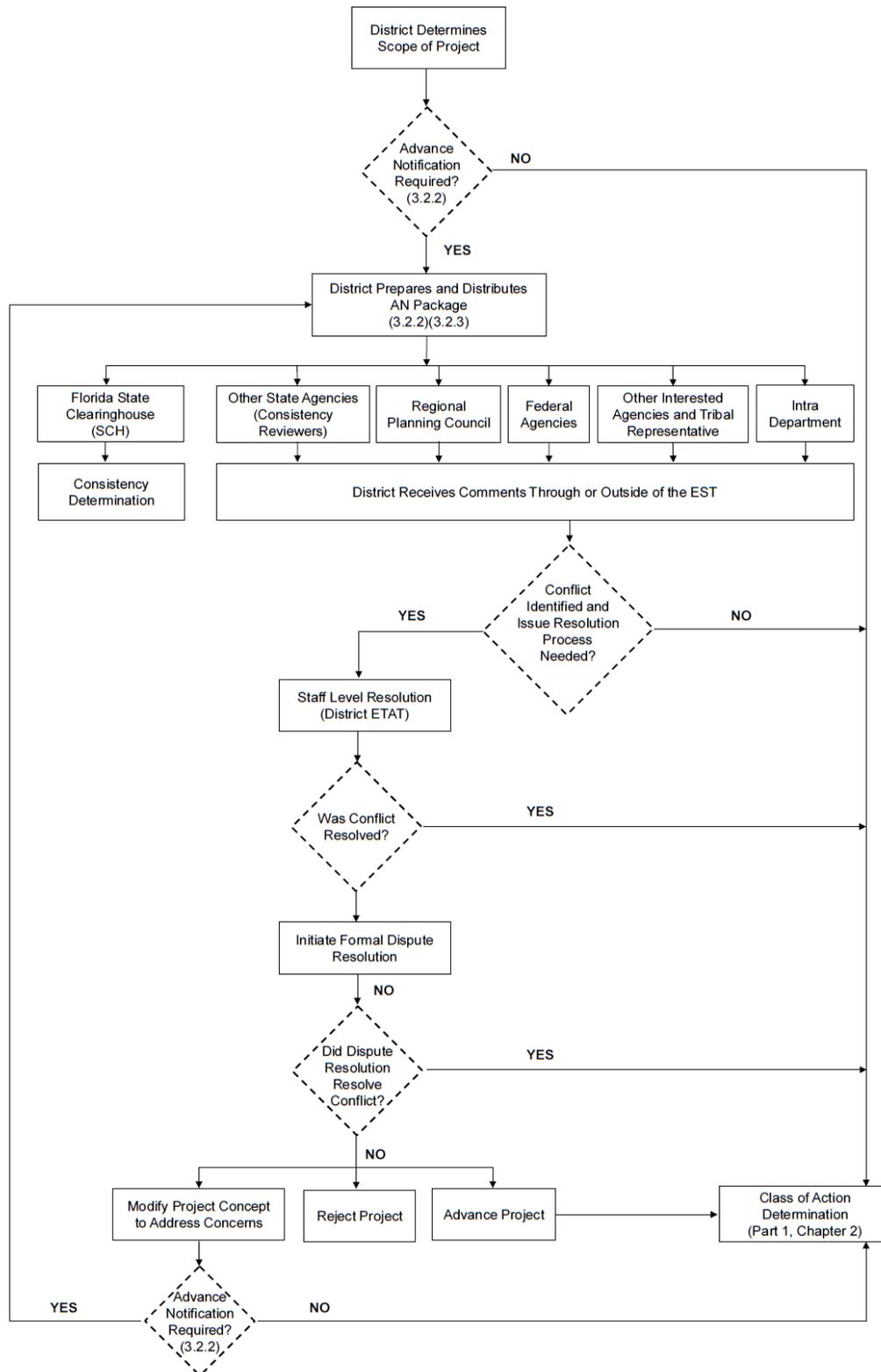
Title 23 U.S.C. Highways.

### **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

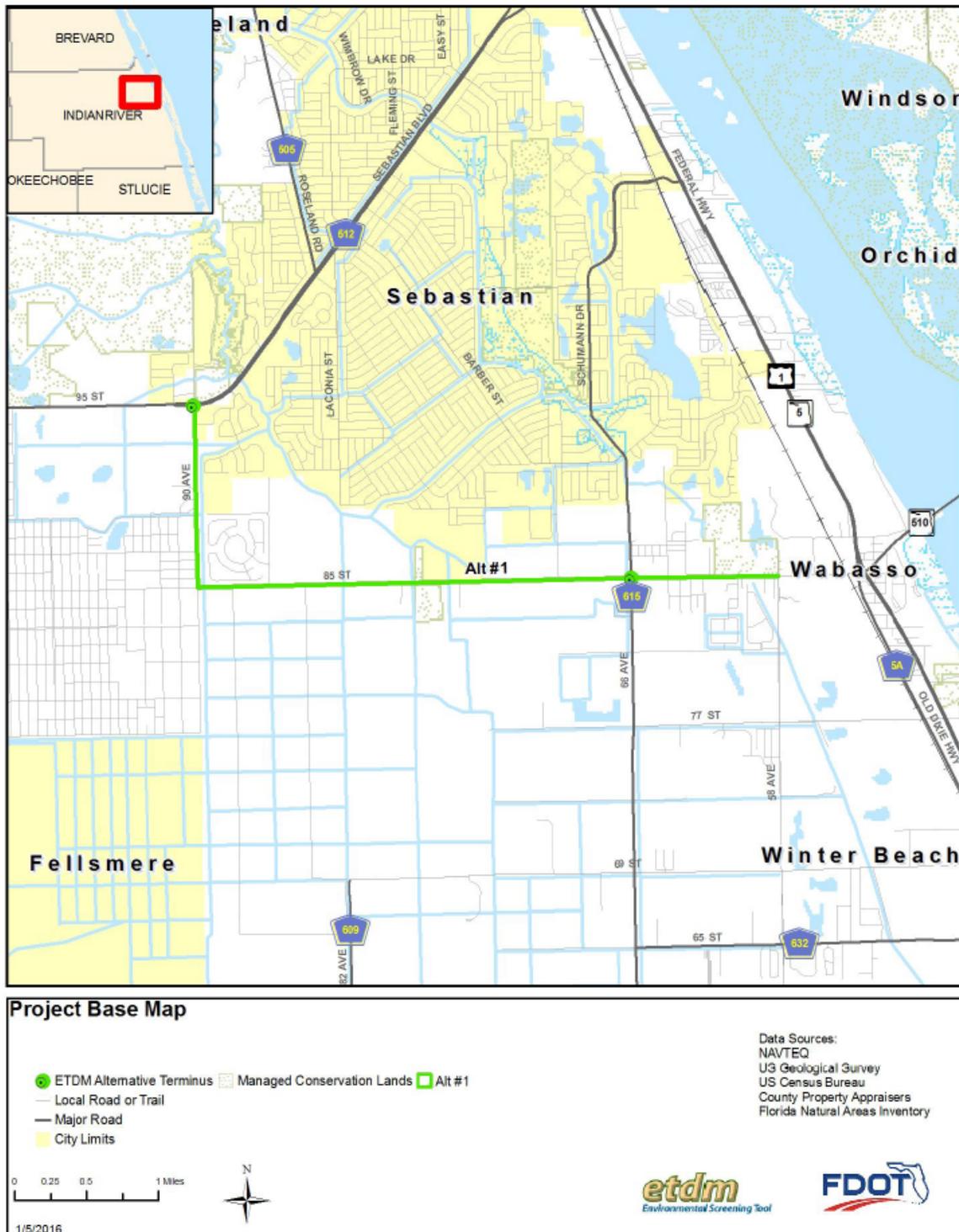
Sincerely,

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	[Redacted]
* b. Program/Project	[Redacted]
Attach an additional list of Program/Project Congressional Districts if needed.	
[Redacted]	<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:	[Redacted]
* b. End Date:	[Redacted]
<b>18. Estimated Funding (\$):</b>	
* a. Federal	[Redacted]
* b. Applicant	[Redacted]
* c. State	[Redacted]
* d. Local	[Redacted]
* e. Other	[Redacted]
* f. Program Income	[Redacted]
* g. TOTAL	[Redacted]
<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	[Redacted]
<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	
[Redacted]	<input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>
<p>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)</p>	
<input type="checkbox"/> ** I AGREE	
** 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:	[Redacted]
* First Name:	[Redacted]
Middle Name:	[Redacted]
* Last Name:	[Redacted]
Suffix:	[Redacted]
* Title:	[Redacted]
* Telephone Number:	[Redacted]
Fax Number:	[Redacted]
* Email:	[Redacted]
* Signature of Authorized Representative:	[Redacted]
* Date Signed:	[Redacted]

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.

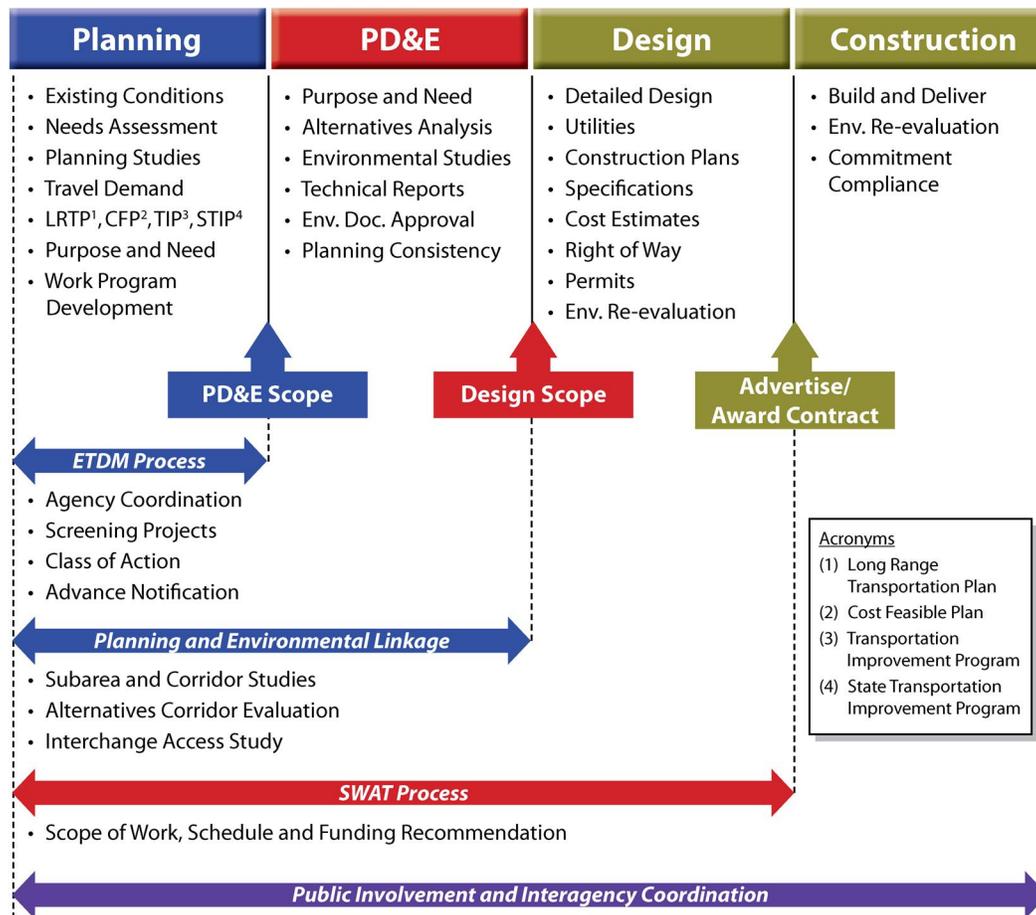
Communication among various offices involved in the project development and delivery process and transition of the project from one phase to another is critical to a project's success. Project Managers are responsible for establishing and maintaining communication and coordination throughout the project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

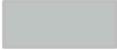
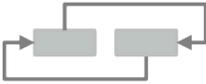
## **4.6 HISTORY**

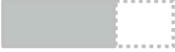
1/12/2000, 5/20/2008, 1/21/2011, 3/30/2015, 8/18/2016, 6/14/2017: NEPA Assignment, 1/14/2019



## 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**

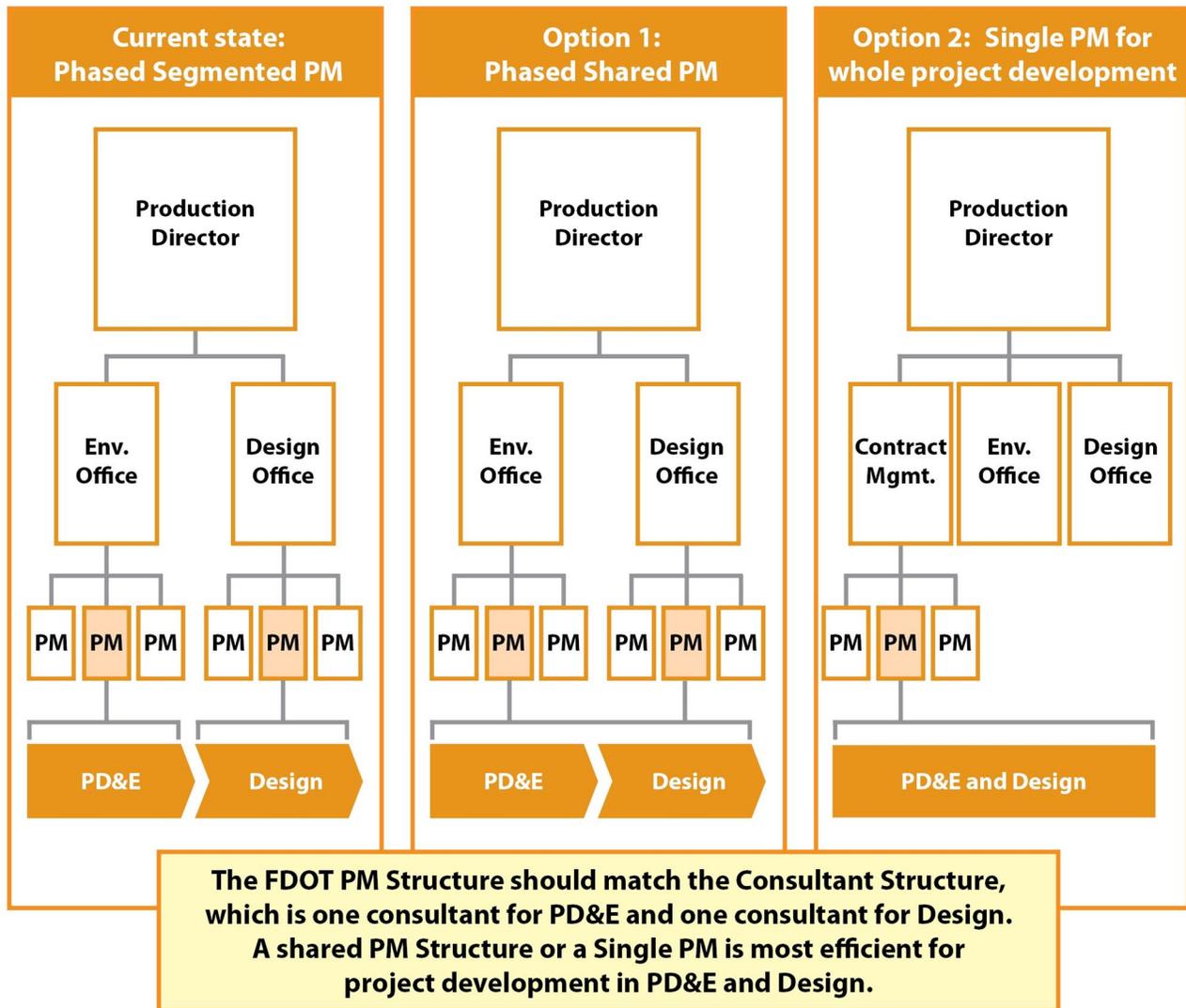
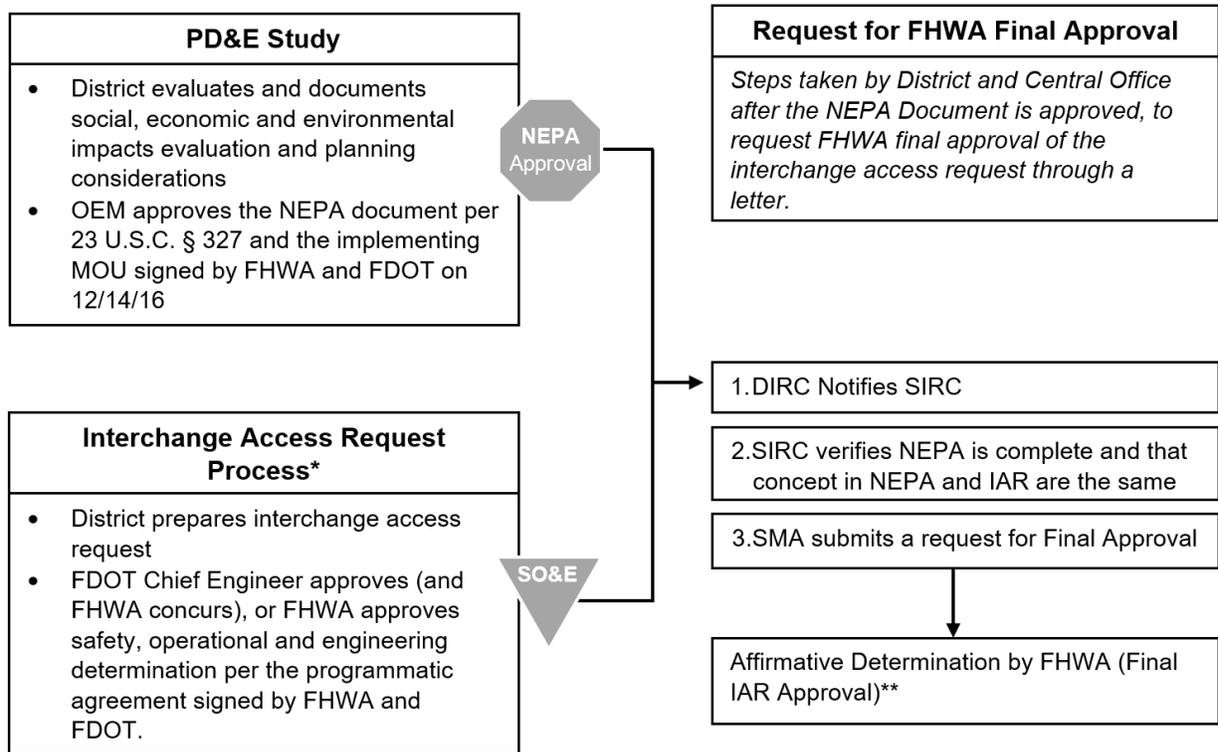


Figure 4-4 Project Management Structures



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)				
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)
<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**



## **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(l), Efficient Environmental Reviews for Project Decisionmaking

## **5.4 FORMS**

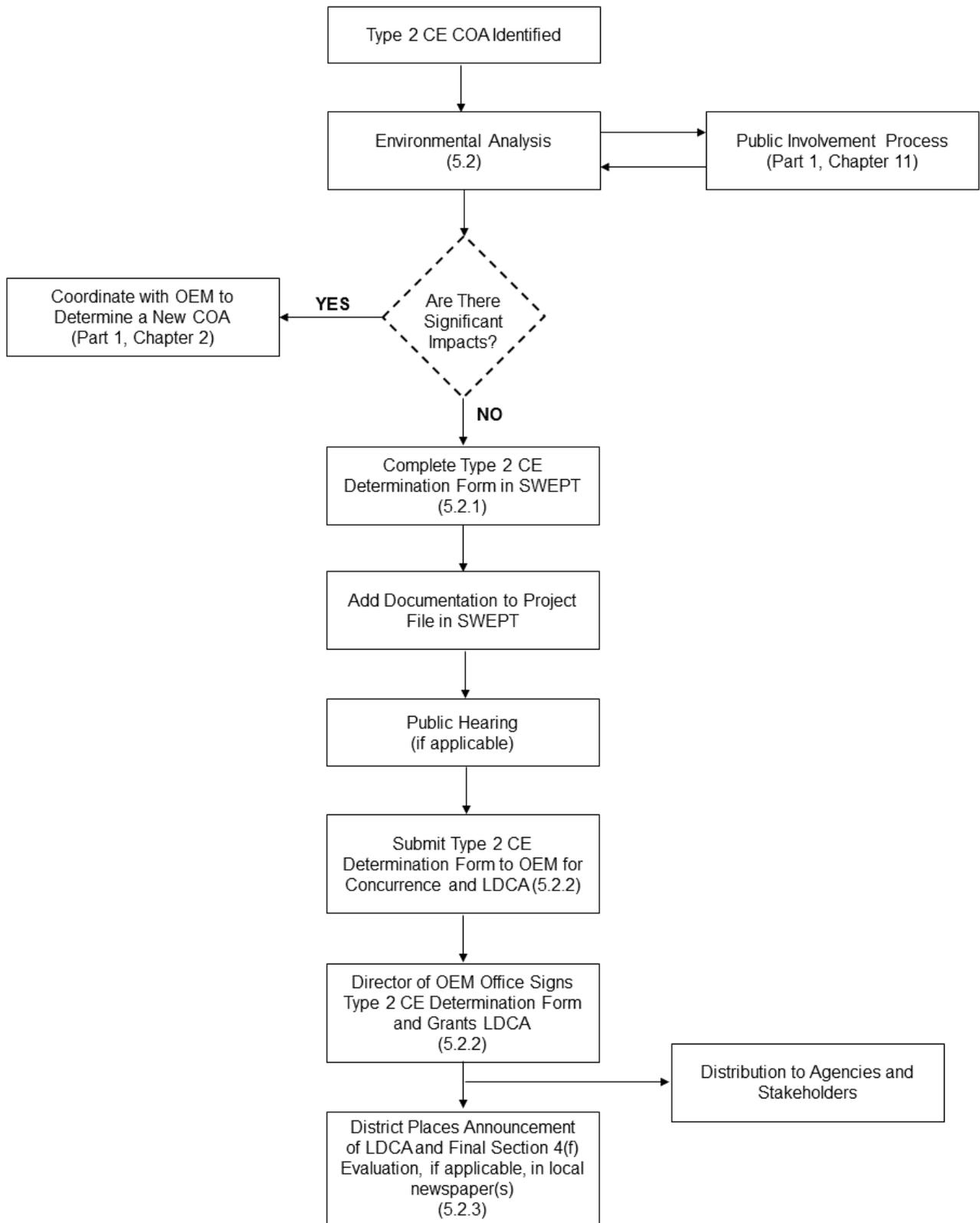
[Public Hearing Certification, Form No. 650-050-56](#)

[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)

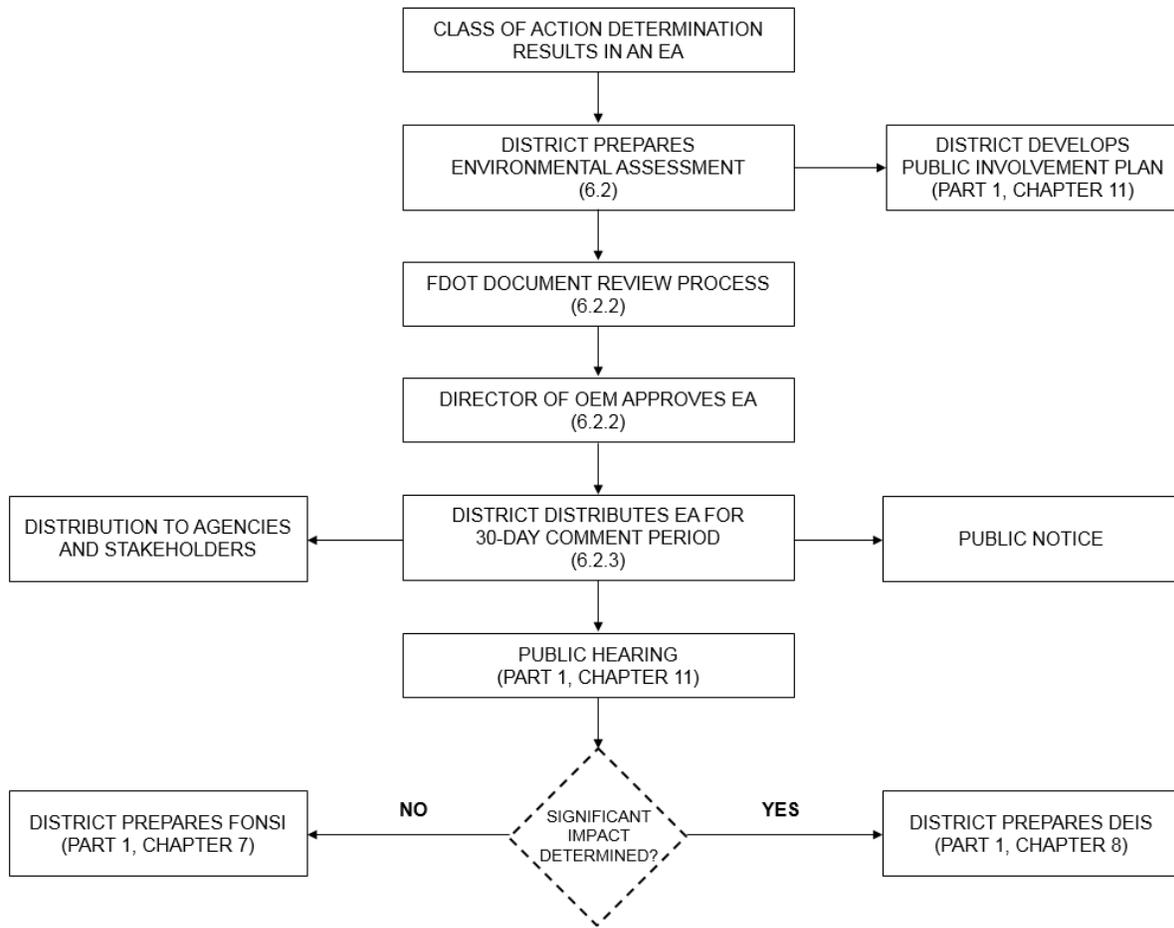
USDOT. Interim Policy on the Page Limits for NEPA Documents and Focused Analysis. August 23, 2019.  
<https://www.transportation.gov/sites/dot.gov/files/docs/mission/transportation-policy/permittingcenter/345206/nepa-page-limits-policy-081919.pdf>

## 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>		
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
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**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

**Figure 6-3 Environmental Assessment/Draft Section 4(f) Evaluation Sample Cover Page**

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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>

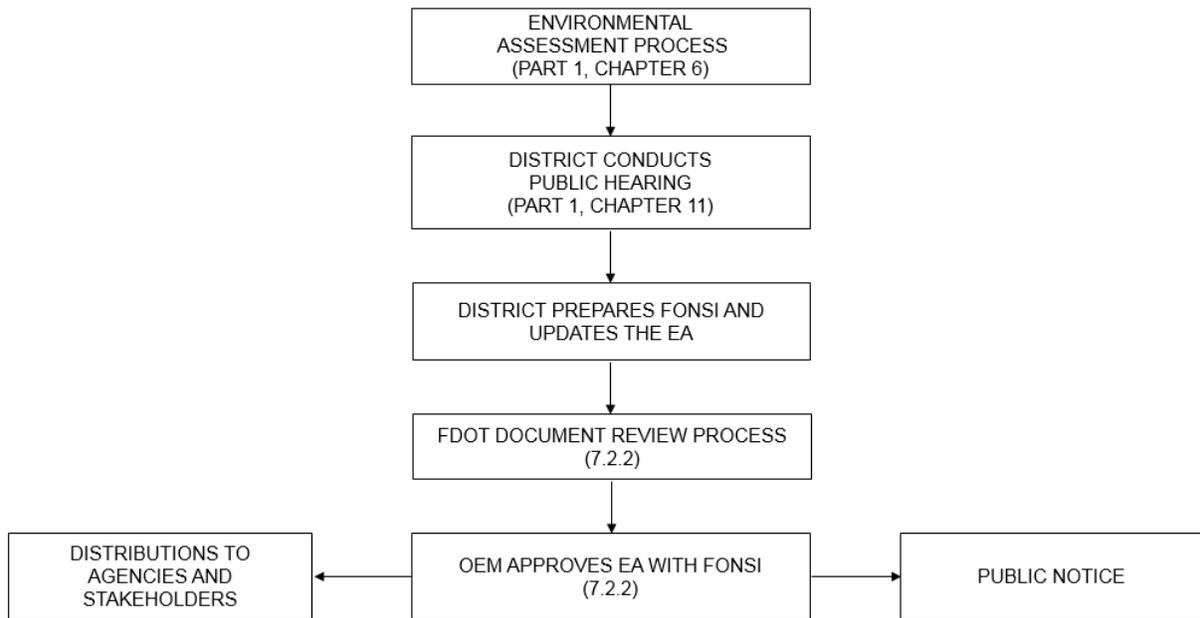
[C-prelim-title23-section139&num=0&saved=%7CKHRpdGxIOjlzIHNIY3Rpb246MTM3IGVkaXRpb246cHJlIGltKQ%3D%3D%7C%7C%7C0%7Cfalse%7Cprelim](#)

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.

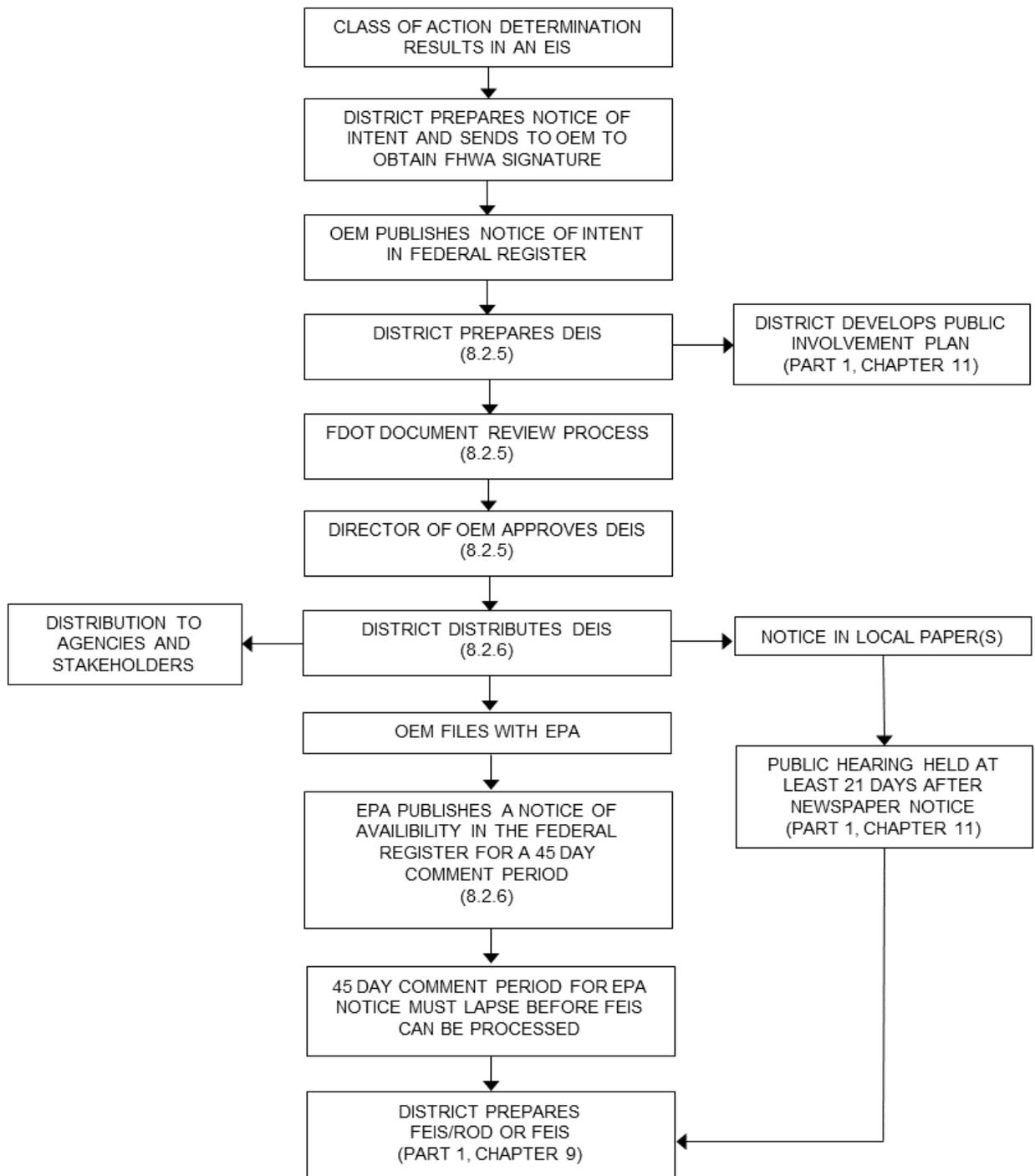
<https://www.transportation.gov/sites/dot.gov/files/docs/mission/transportation-policy/permittingcenter/345206/nepa-page-limits-policy-081919.pdf>

## 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](http://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. ( <i>Name</i> ) Transportation Policy Analyst	B.S. degree in Geography and ____ years experience in environmental analysis and environmental document preparation.
Mr./Ms. ( <i>Name</i> ) Archaeologist	M.S. degree in Anthropology and ____ years experience in site surveys, analysis and documentation.
Mr./Ms. ( <i>Name</i> ) Historian	M.S. degree in History and ____ years experience in site surveys, analysis and documentation.
Mr./Ms. ( <i>Name</i> )  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. ( <i>Name</i> ) Noise	M.S. in Environmental Science with years experience in environmental analysis and environmental document preparation.
Mr./Ms. ( <i>Name</i> ) Natural Resources Administrator	M.S. degree in Systems Ecology with ____ years experience in environmental analysis and environmental document preparation.

### (CONSULTING FIRM)

Mr./Ms. ( <i>Name</i> )	B.S. Degree in .....
-------------------------	----------------------

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**Figure 8-10 Sample Appendix**

(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>

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

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

Federal Permitting Dashboard. <https://www.permits.performance.gov/>

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

Memorandum of Understanding Between FHWA and FDOT Concerning the State of Florida's Participation in the Surface Transportation Project Delivery Program Pursuant to 23 U.S.C. 327, December 14, 2016.  
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Title 23 CFR Part 771, Environmental Impact and Related Procedures

Title 23 U.S.C. § 139(l), Efficient Environmental Reviews for Project Decision Making.  
<http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title23-section139&num=0&saved=%7CKHRpdGxIOjIzIHNIY3Rpb246MTM3IGVkaXRpb246cHJlbGltKQ%3D%3D%7C%7C%7C0%7Cfalse%7Cprelim>

Title 23 U.S.C. § 327. Surface Transportation Project Delivery Program.  
[http://uscode.house.gov/view.xhtml?req=\(title:23%20section:327%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title23-section327\)&f=treesort&edition=prelim&num=0&jumpTo=true](http://uscode.house.gov/view.xhtml?req=(title:23%20section:327%20edition:prelim)%20OR%20(granuleid:USC-prelim-title23-section327)&f=treesort&edition=prelim&num=0&jumpTo=true)

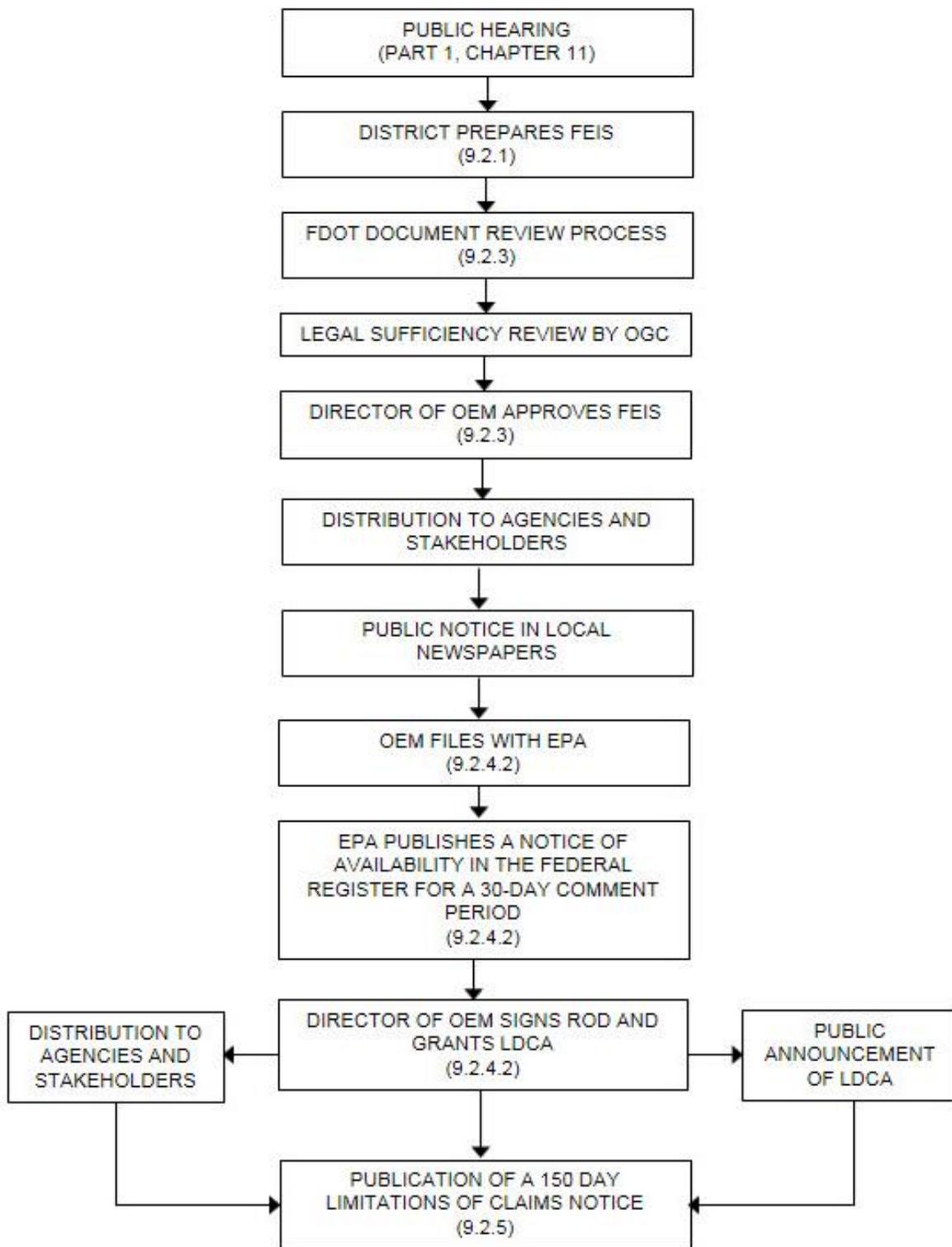
USDOT. 2019. Guidance on the Use of Combined Final Environmental Impact Statements/Records of Decision and Errata Sheets in National Environmental Policy Act Reviews.  
<https://www.transportation.gov/sites/dot.gov/files/docs/mission/transportation-policy/permittingcenter/337371/feis-rod-guidance-final-04302019.pdf>

USDOT. Interim Policy on the Page Limits for NEPA Documents and Focused Analysis.  
August 23, 2019.

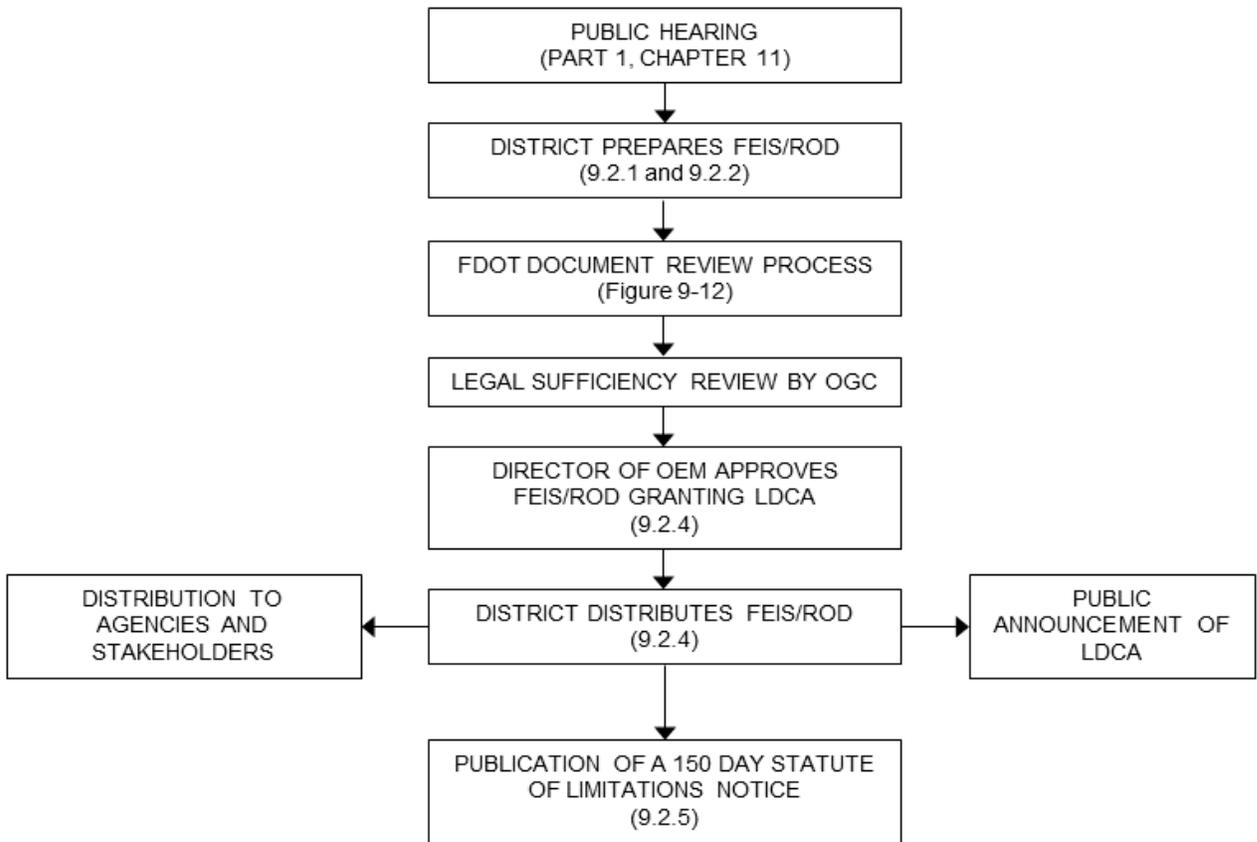
<https://www.transportation.gov/sites/dot.gov/files/docs/mission/transportation-policy/permittingcenter/345206/nepa-page-limits-policy-081919.pdf>

## **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  
Florida Department of Transportation  
605 Suwannee Street, MS 37  
Tallahassee, Florida 32399  
Phone: (xxx) xxx-xxxx  
Email address

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

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

ADMINISTRATIVE ACTION

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

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

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

XXXXXXXXXXXXXXXXXXXX(One paragraph abstract of the project)XXXXXXXXXXXXXXXXXXXX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

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

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  
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Email address

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OEM Contact Title  
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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/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  
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Email address

Comments must be received by the District contact person

By: \_\_\_\_\_(date)\_\_\_\_\_

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

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

ADMINISTRATIVE ACTION  
FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT

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

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

(One paragraph abstract of the project)

XX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

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

\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Date

\_\_\_\_\_  
Director, Office of Environmental Management  
Florida Department of Transportation

For additional information, contact:

Name  
District Contact Title  
Florida Department of Transportation  
Street address  
City, Florida, zip code  
Phone: (xxx) xxx-xxxx  
Email address

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

Comments must be received by the District contact person

By: \_\_\_\_\_(date)\_\_\_\_\_

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

ADMINISTRATIVE ACTION

RECORD OF DECISION

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

FLORIDA DEPARTMENT OF TRANSPORTATION

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

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by the Florida Department of Transportation (FDOT) pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by the Federal Highway Administration and FDOT.

Based 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  
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Tallahassee, Florida 32399  
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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 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**

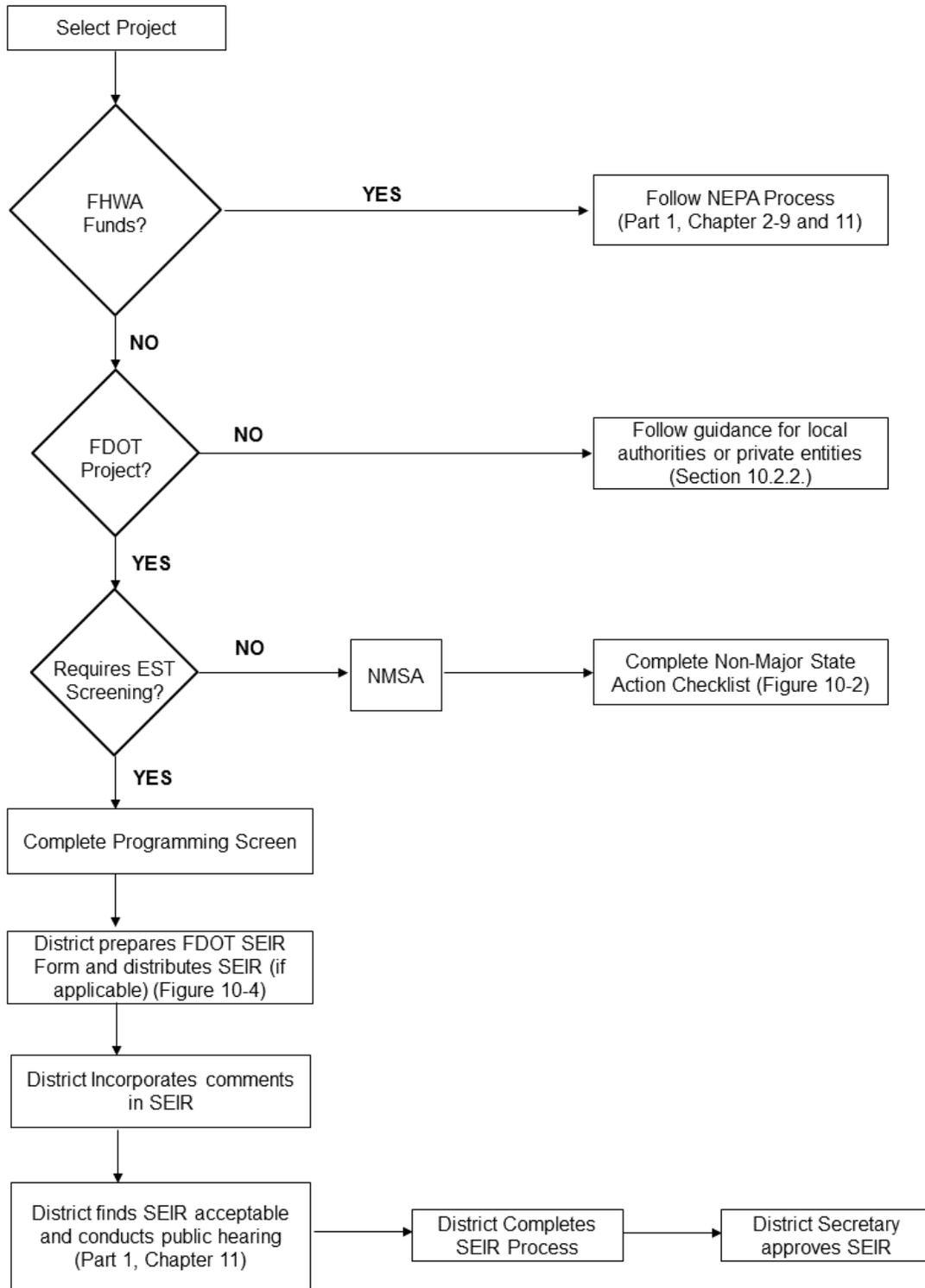
[FDOT Construction Agreement, Form No. 850-040-89](#)

[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

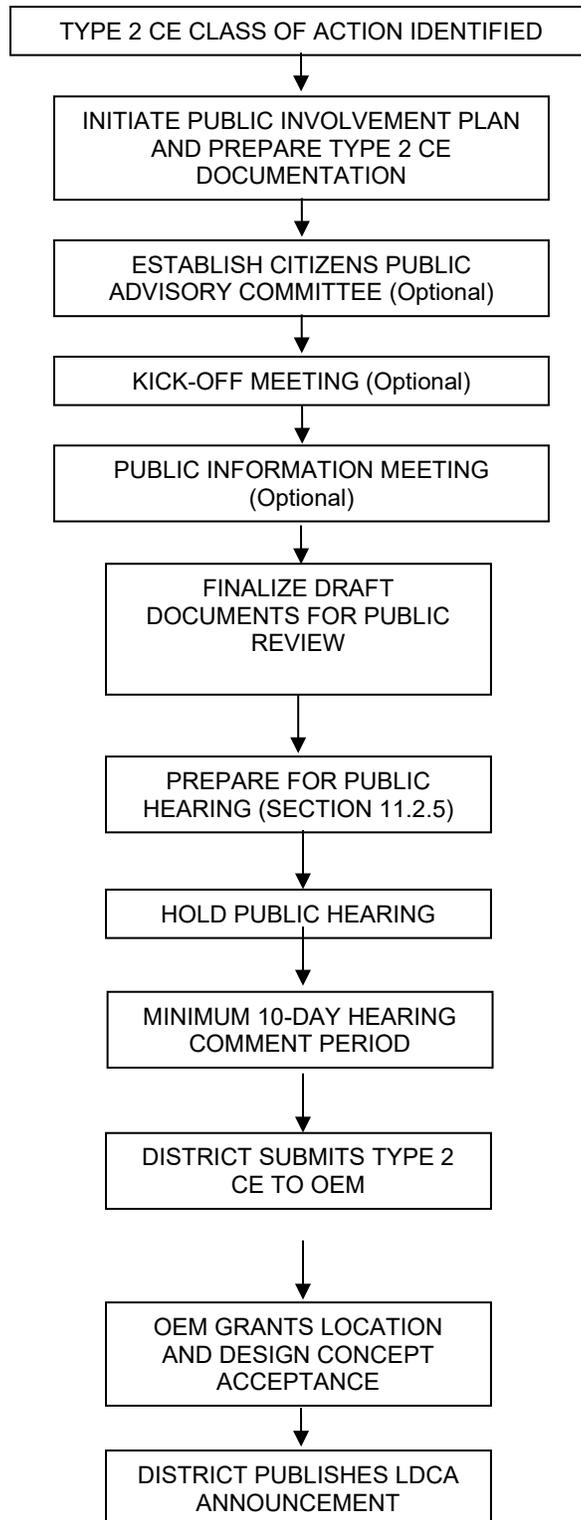
U.S. Department of Transportation, Federal Highway Administration, Public Involvement Techniques for Transportation Decision-Making, September 1996

## **11.4 FORMS**

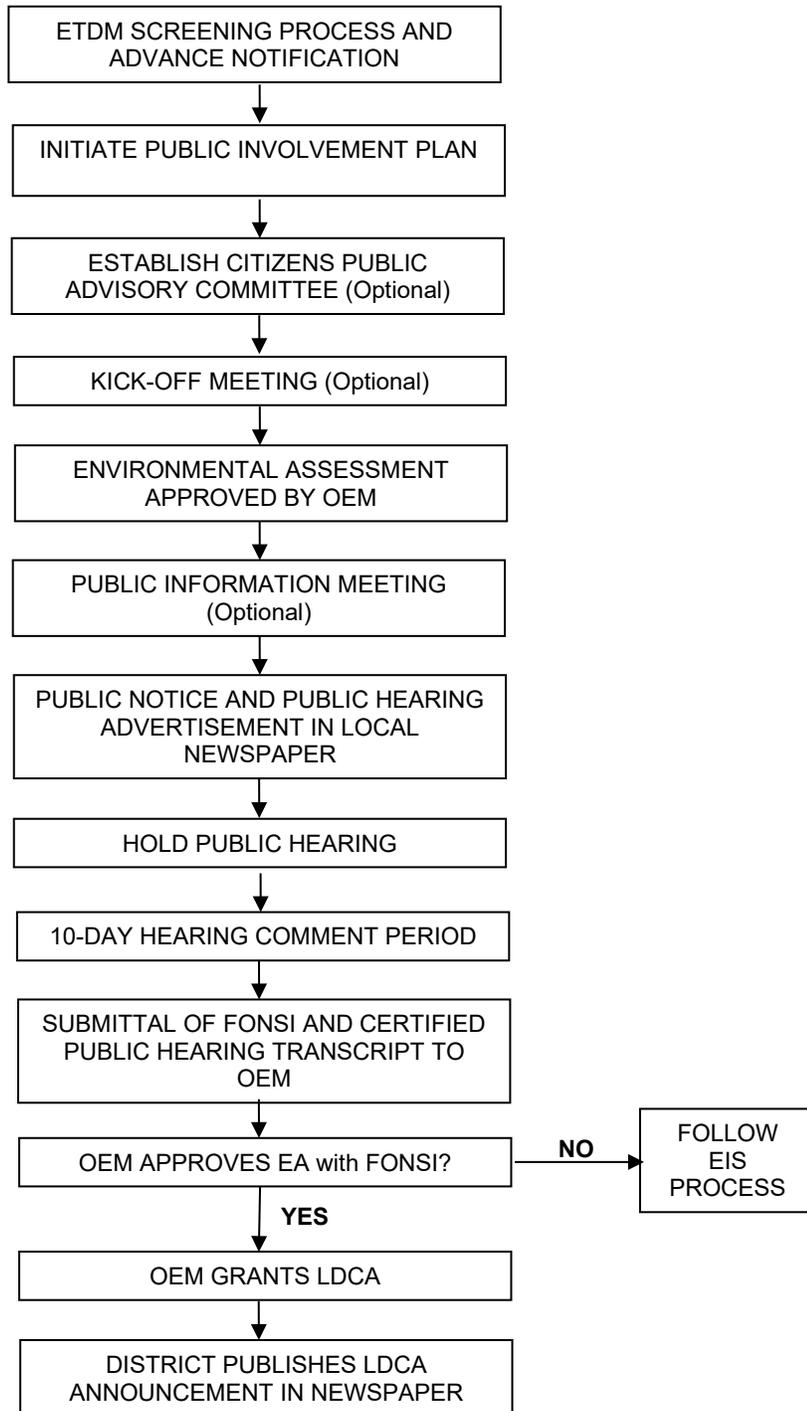
Public Hearing Certification Form, Form No. 650-050-56\*

## **11.5 HISTORY**

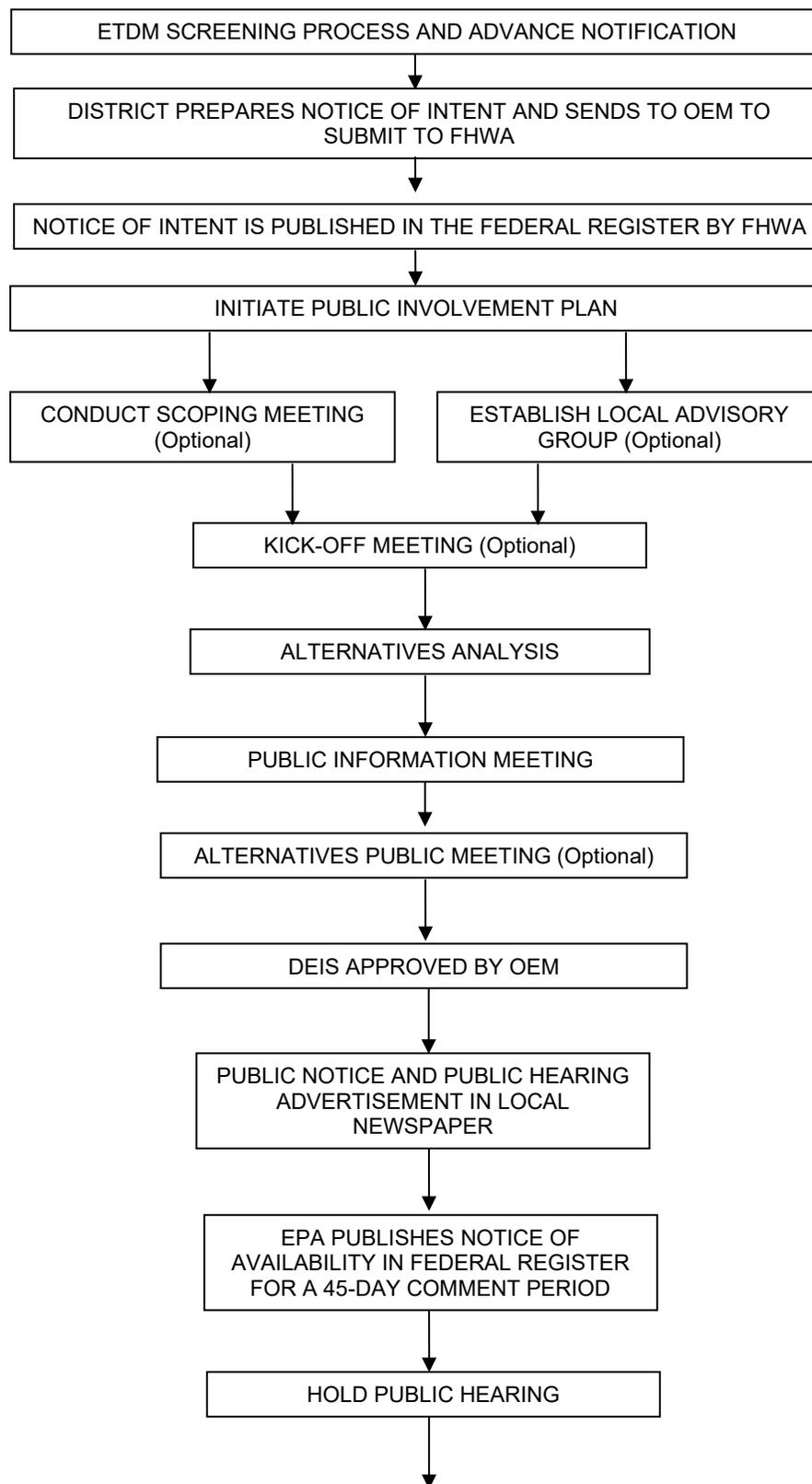
5/27/2003, 5/18/2009, 3/18/2010, 6/24/2010, 6/15/2012, 12/29/2015, 6/14/2017: NEPA Assignment, 1/14/2019



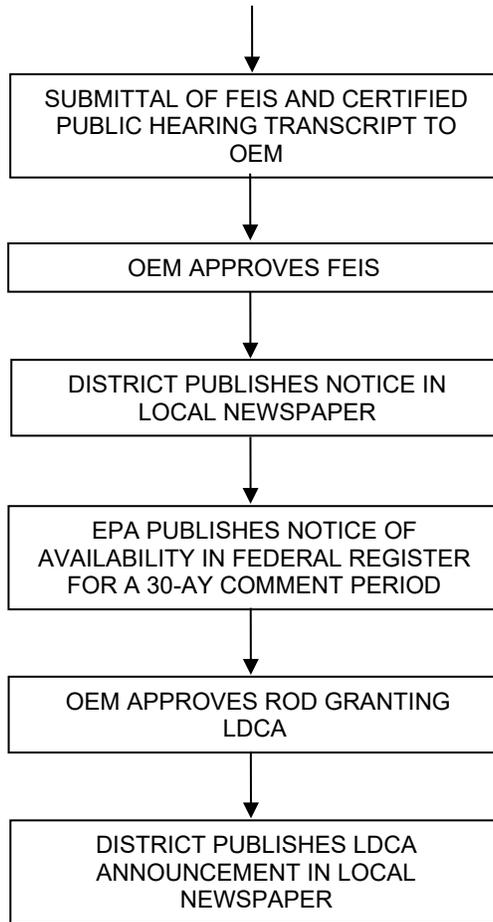
**Figure 11-1 Public Involvement Process for Type 2 Categorical Exclusions**



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

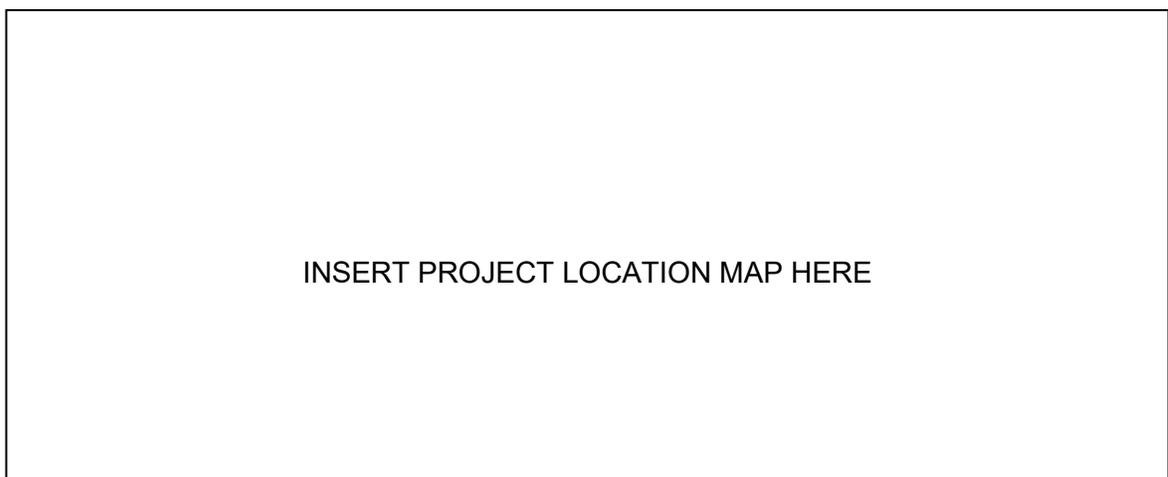
Federal Aid Project Number: \_\_\_\_\_

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	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**

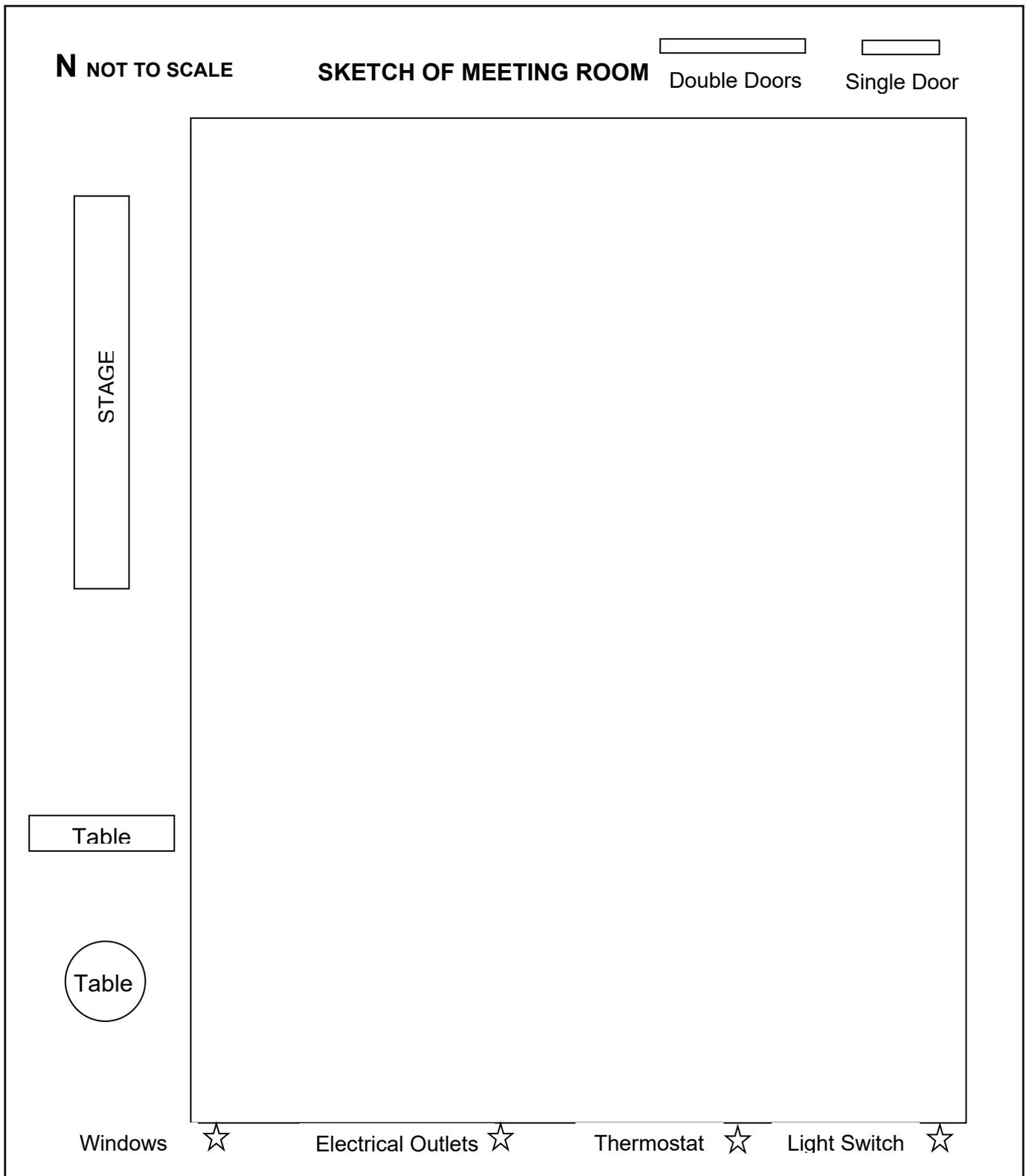
Project Name: \_\_\_\_\_ Project Number: \_\_\_\_\_  
 Facility Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
 Facility Address: \_\_\_\_\_ Contact Name: \_\_\_\_\_  
 \_\_\_\_\_ Date of Visit: \_\_\_\_\_  
 \_\_\_\_\_ Time of Visit: \_\_\_\_\_

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.fl-a-etat.org> 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:  <b>PUBLISH TWICE</b> 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)					<p>Newsletter (or Letter) to Property Owners</p> <p>Property Owners to receive notification no less than 20 calendar days prior to Public Hearing</p>
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					<p>Documents to be available for public review 21 days prior to the Public Hearing</p>
Facility Name/Address					
Facility Name/Address					
Facility Name/Address					
<b>Presentation/Hearing Materials</b>					
Engage Court Reporter for Public Hearing					<p>Meeting materials should be prepared well in advance of the Public Hearing to allow for reviews and revisions</p>
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					<p>Preparations for Briefing with FDOT</p>
PM Review of Meeting Materials					
PM Revisions to Meeting Materials					
First Briefing Meeting with FDOT - Public Hearing Preparation Review					<p>First Briefing Meeting with FDOT</p>
FDOT Review of Hearing Materials					
FDOT Revisions to Hearing Materials					
Second Briefing Meeting with FDOT					<p>Finalize Materials in Preparation for Public Hearing</p>
<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.					<p>Public involvement activities may be summarized in the Environmental Document. Environmental Document. Method used for documentation should be provided within the Public Involvement Plan.</p>
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**

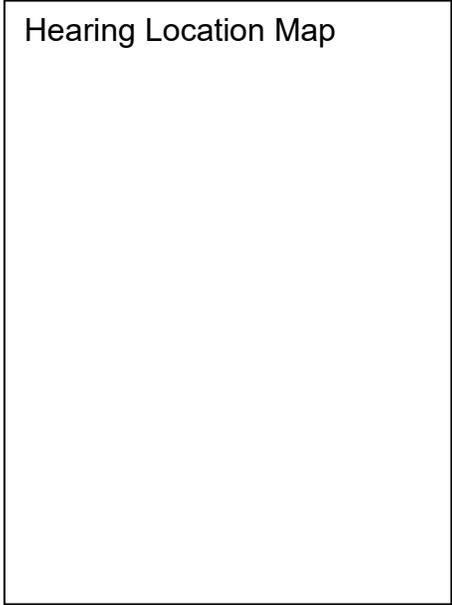
Financial Management #  
Federal Aid Project ID #  
Efficient Transportation Decision Making (ETDM) #

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**



<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.

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Chapter 62-624, F.A.C., Municipal Separate Storm Sewer Systems

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Rule 62-330.302(1), F.A.C.

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Rule 68A-9.002, F.A.C., Permits to Take Wildlife or Freshwater Fish for Justifiable Purposes

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## 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:

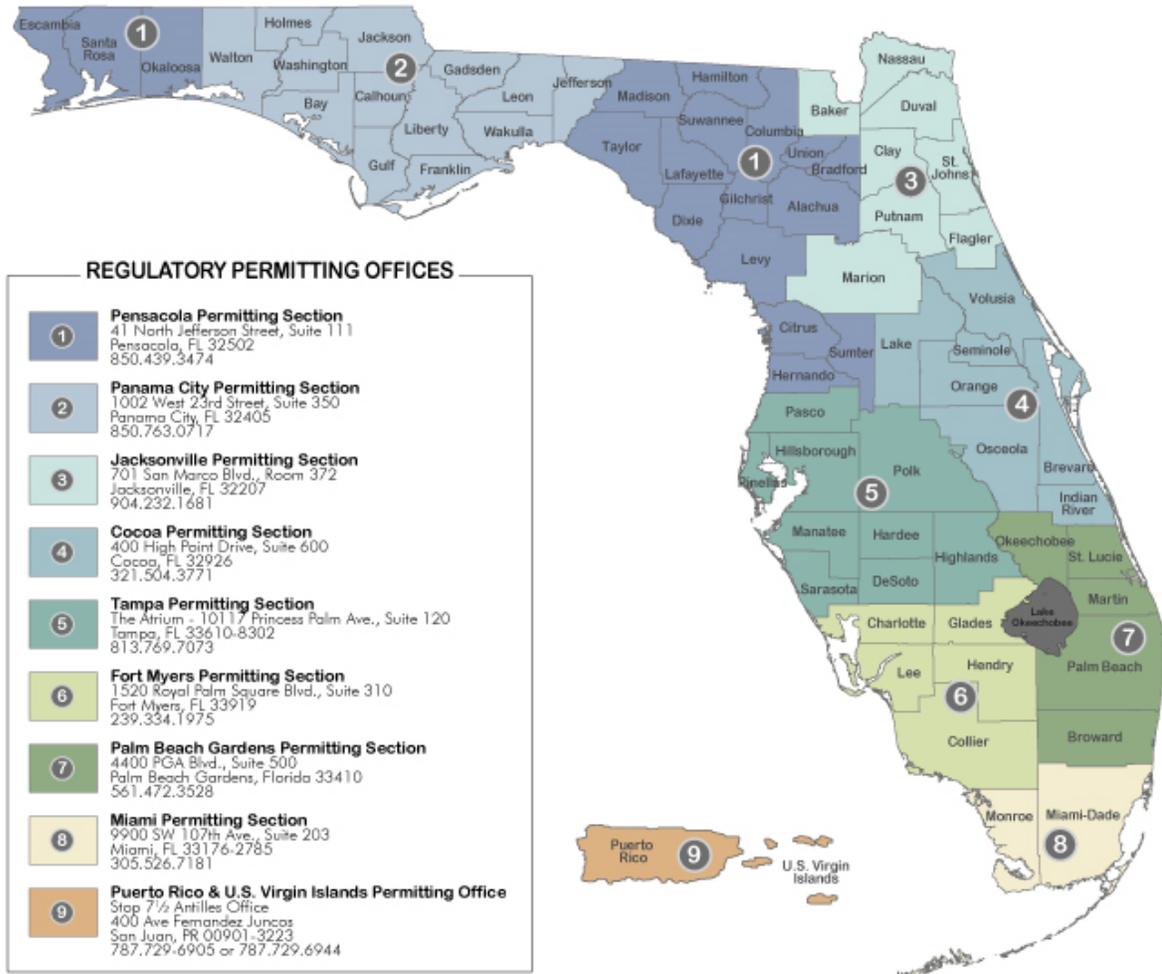
### *United States Coast Guard*

- 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

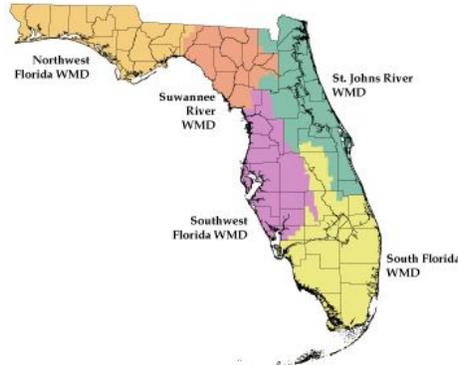
### **Figure 12-2 State Permitting Information Sources**

**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\\_ltr\\_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_ltr_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)

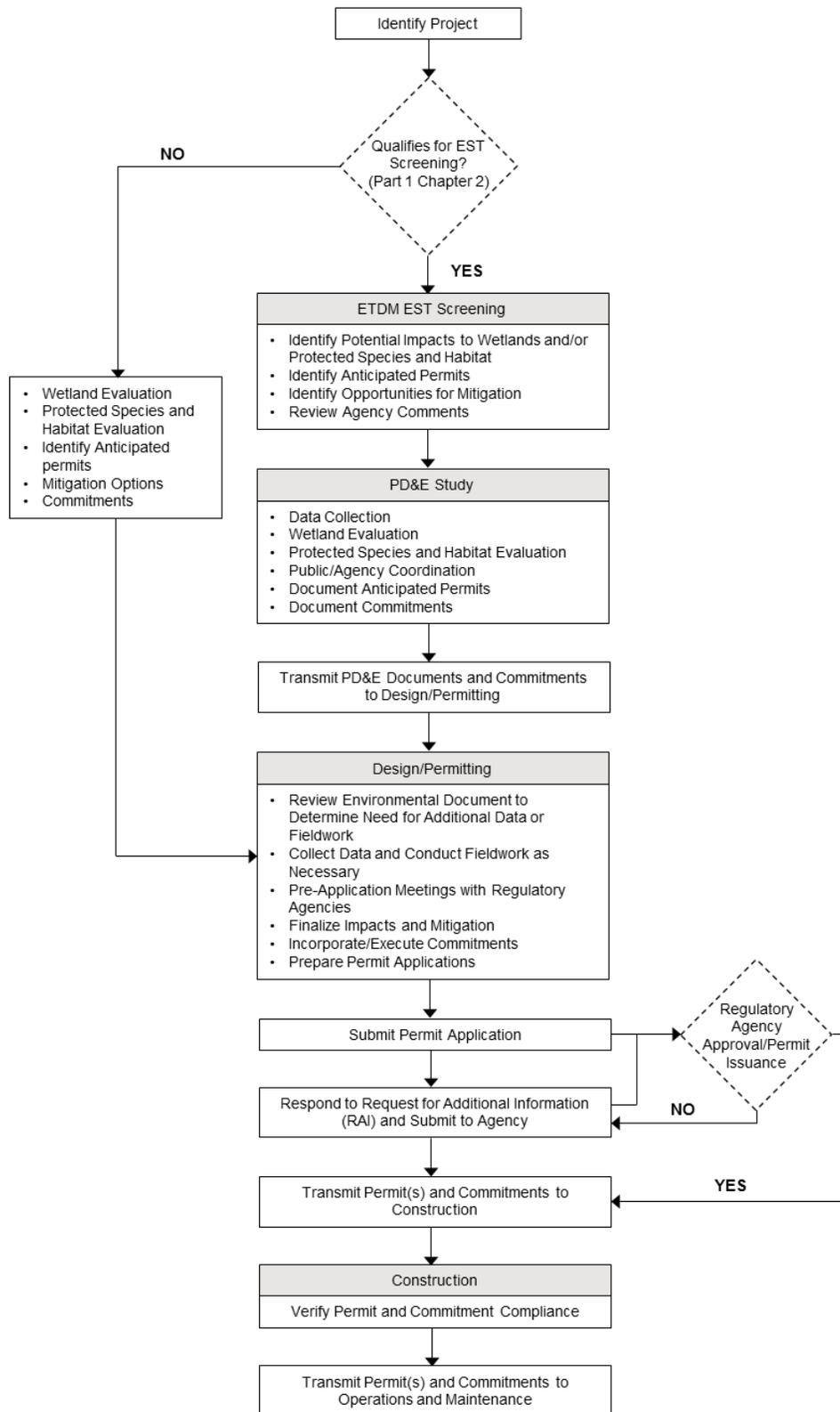
Wood Stork – Central and North Peninsular Florida:

[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>

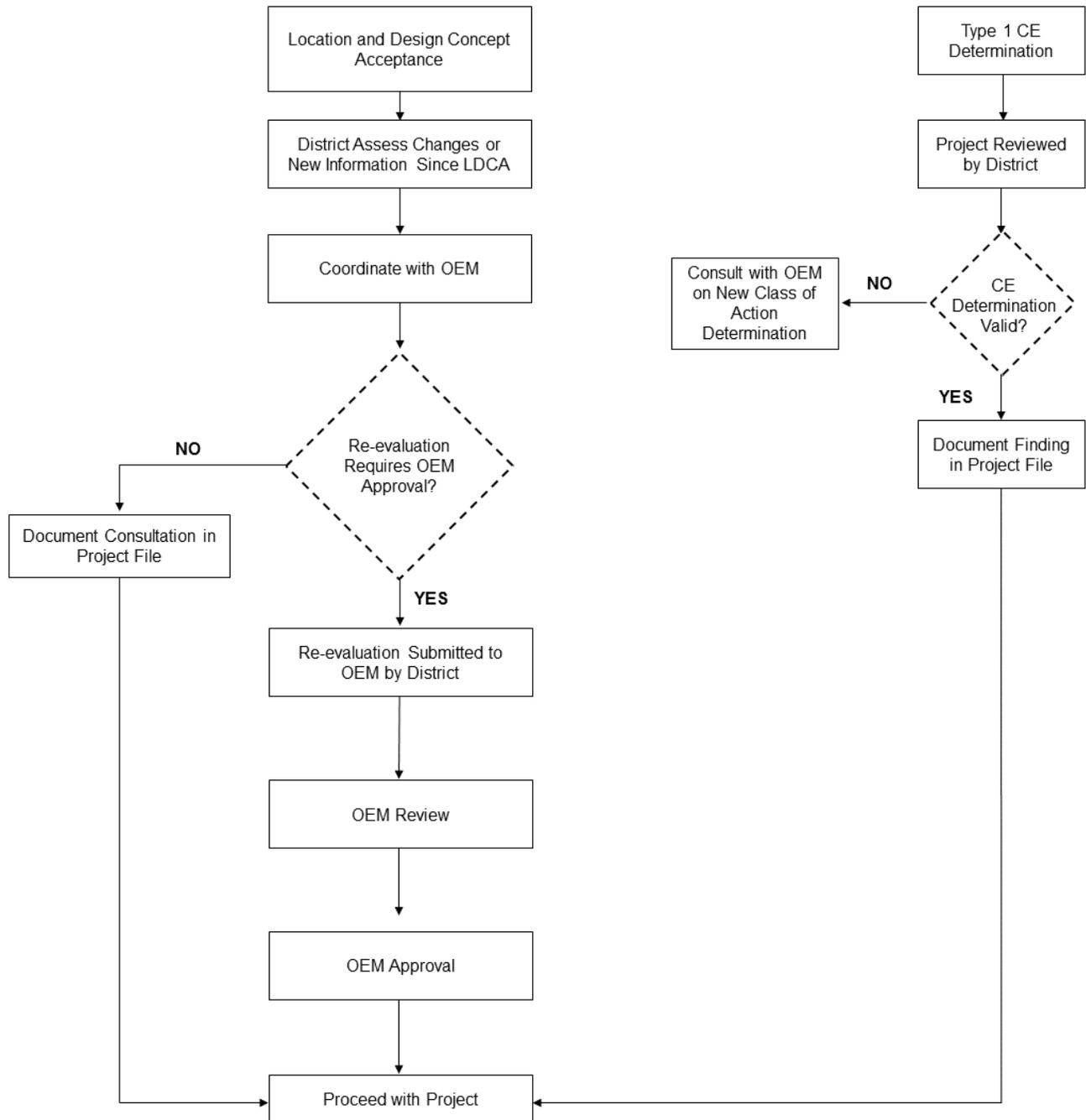
Title 23 CFR § 636, Design-Build Contracting

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 FDOT 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 FDOT 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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Title 23 U.S.C § 101, Definitions and declaration of policy

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Development Planning

Title 42 U.S.C § 5121, Congressional findings and declarations

Title 49 U.S.C § 5324, Public transportation emergency relief program

## **14.6 HISTORY**

7/10/2008, 9/01/2016, 6/14/2017: NEPA Assignment, 1/14/2019

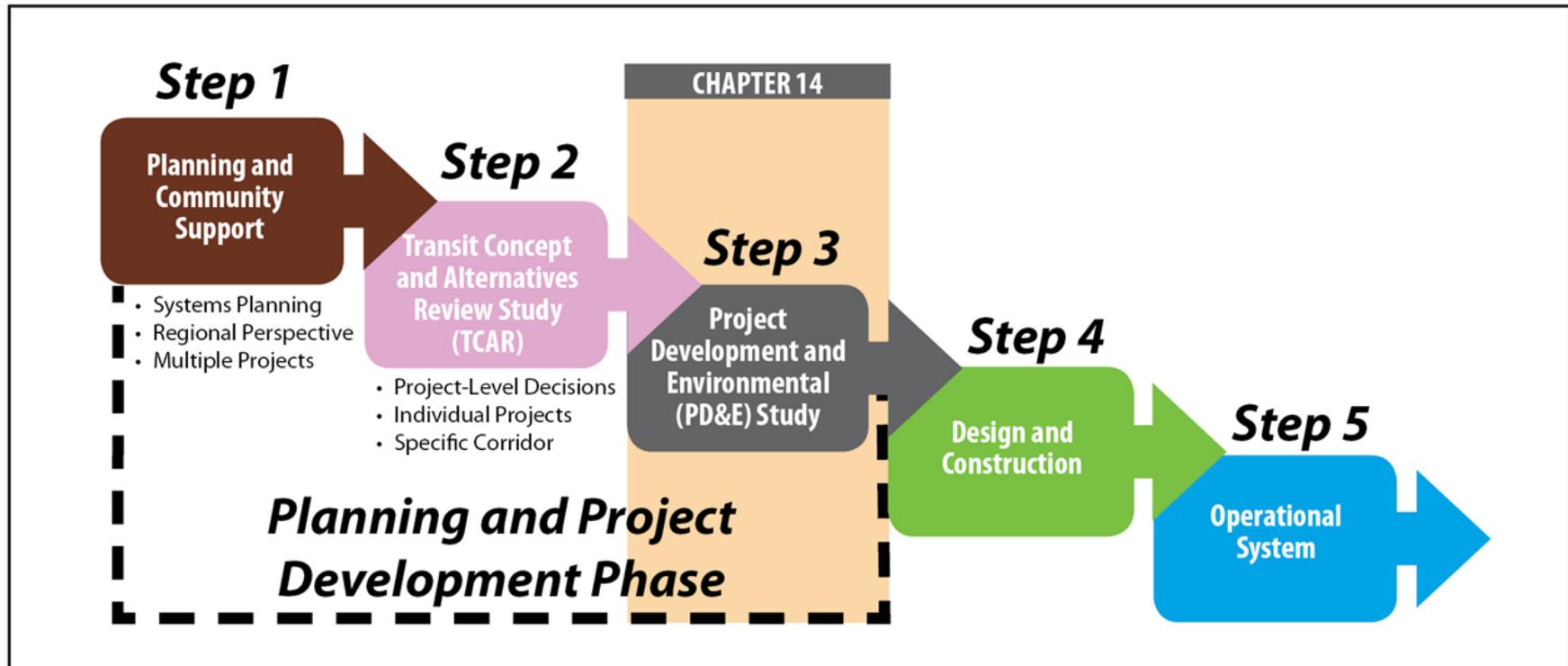
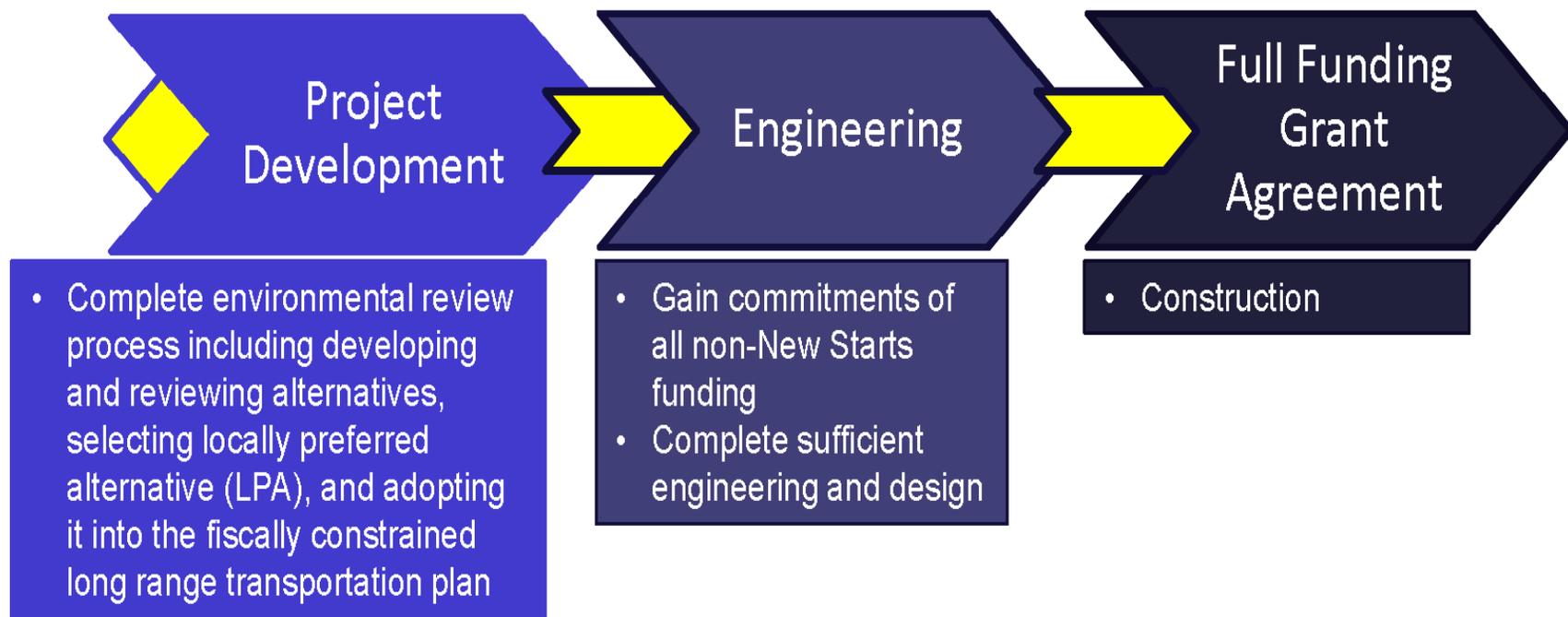


Figure 14-1 Transit Planning and Development Phase



**Legend**

 = FTA approval

 = FTA evaluation, rating, and approval

**Figure 14-2 New Starts Development Process**

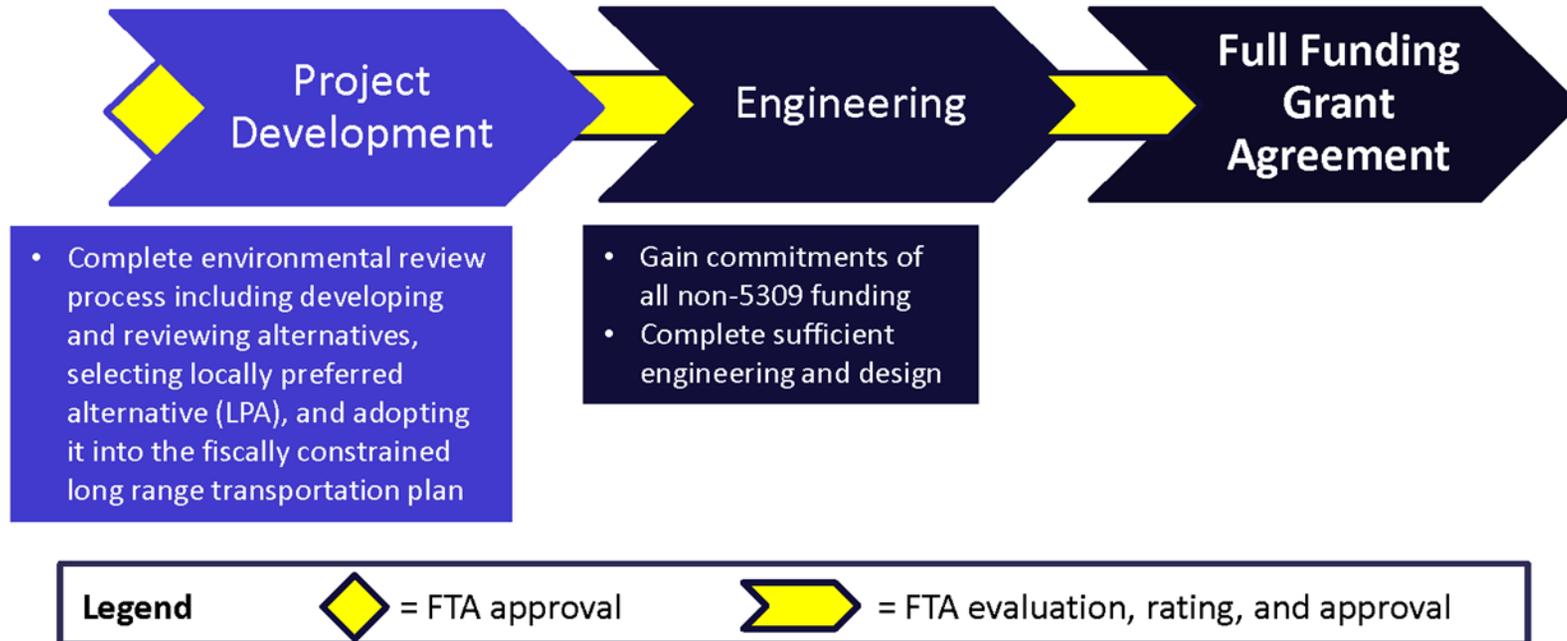


Figure 14-3 Core Capacity Development Process

# Small Starts Process

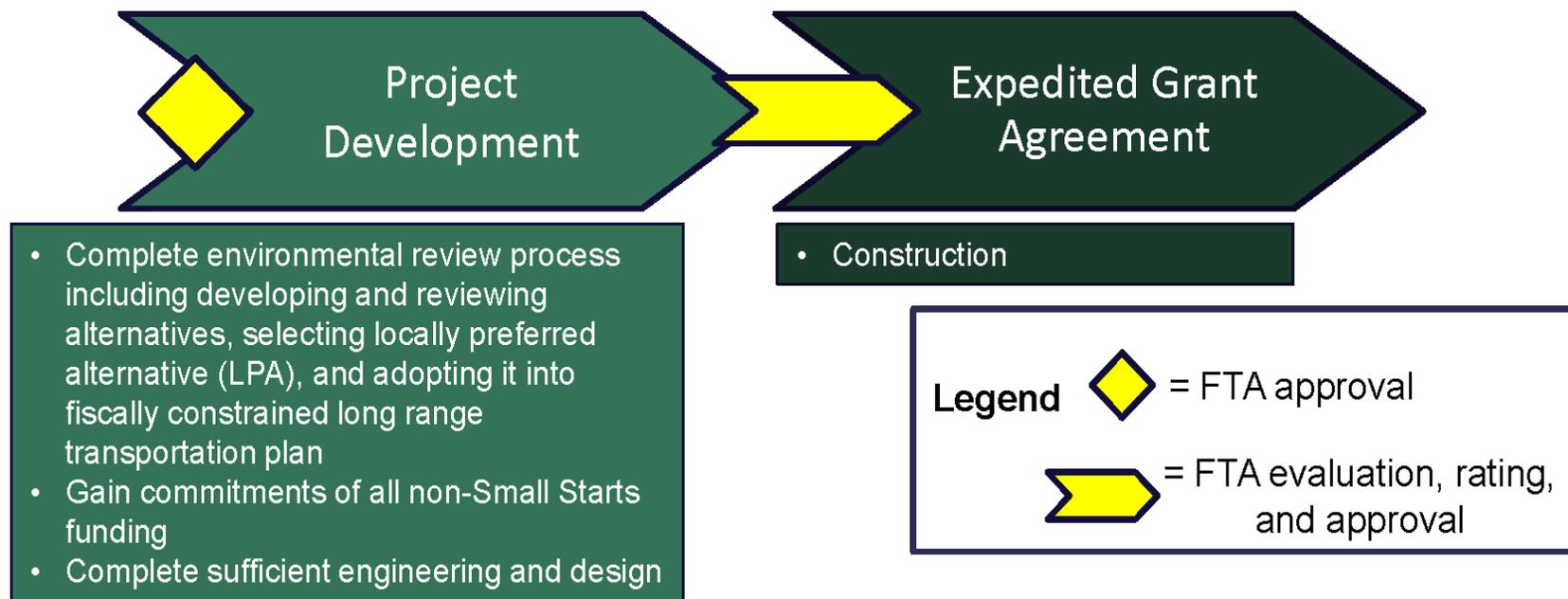


Figure 14-4 Small Starts Development Process

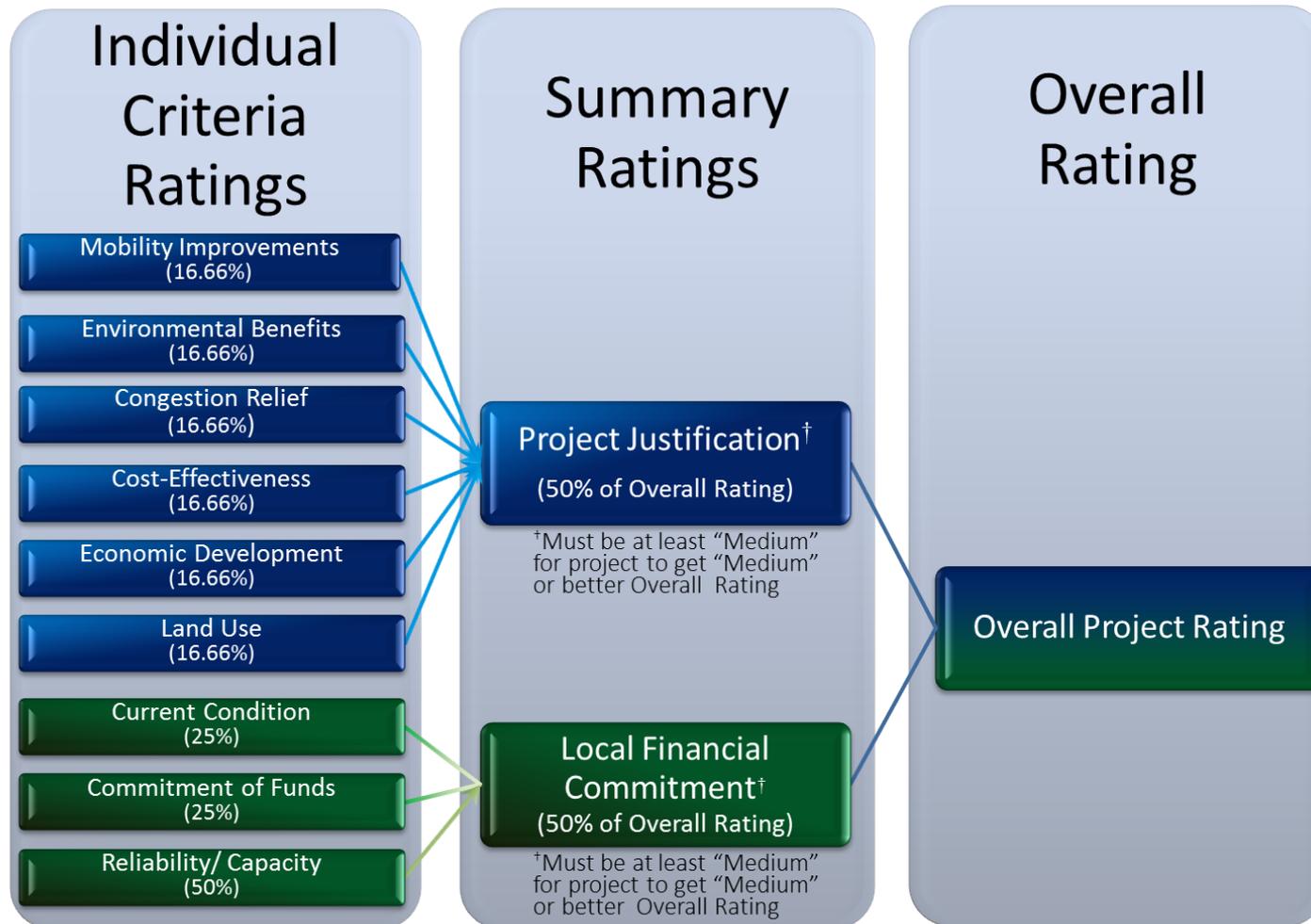


Figure 14-5 New Starts, Core Capacity, and Small Starts Project Evaluation and Rating

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**

Cover Page  
Signature Page  
Abstract  
Contact Information and Notice of Availability  
Table of Contents  
List of Tables  
List of Figures  
Glossary of Terms  
Acronyms  
Executive Summary

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- a) Project Study Area
- b) Project Background
- c) Project Purpose
- d) Project Need
- e) Need for Improvements
- f) Goals and Objectives

### Chapter 2 - Alternatives Considered

- a) Alternatives Development Process
- b) Draft EIS Scoping Process
- c) Alternatives Not Recommended for Further Study
- d) Alternatives Advanced for Further Study
- e) Locally Preferred Alternative Selection Process
- f) Description of Locally Preferred Alternative

### Chapter 3 - Transportation Analysis

- a) Transit Conditions
- b) Freight Rail Conditions
- c) Traffic Conditions
- d) Pedestrians and Bicycles
- e) Parking, Driveways, and Loading Zones
- f) Aviation
- g) Ports and Navigable Waterways

## **Figure 14-7 Environmental Impact Statement Outline**

#### Chapter 4 - Community and Social Analysis

- a) Land Use Plan Compatibility
- b) Community Facilities/Community Character and Cohesion
- c) Displacement of Residents and Businesses
- d) Cultural Resources (Historic and Archaeological Resources)
- e) Parks and Recreation Areas
- f) Visual/Aesthetics
- g) Economic Impacts
- h) Safety and Security

#### Chapter 5 - Physical and Environmental Analysis

- a) Utilities
- b) Floodplains
- c) Water Resources
- d) Water Quality and Stormwater
- e) Geology, Soils, and Topography
- f) Hazardous Materials and Contamination
- g) Noise
- h) Vibration and Ground Borne Noise
- i) Ecology (Habitat, Threatened and Endangered Species)
- j) Air Quality
- k) Energy

#### Chapter 6 - Indirect and Cumulative Impacts

- a) Introduction
- b) Methodology
- c) Reasonably Foreseeable Future Actions
- d) Potential Indirect Effects and Cumulative Impacts

#### Chapter 7 - Environmental Justice Analysis

- a) Introduction and Regulatory Overview
- b) Methodology
- c) Environmental Justice Context of Project Study Area
- d) Community Engagement
- e) Environmental Justice Impacts
- f) Environmental Justice Analysis Conclusions

### **Figure 14-7 Environmental Impact Statement Outline (Page 2 of 3)**

## Chapter 8 - Section 4(f) Evaluation

- a) Introduction and Regulatory Overview
- b) Alternatives Evaluation and Description of the Project
- c) Identification of Properties Protected by Section 4(f)
- d) Direct Use of Section 4(f) Properties
- e) Temporary Occupancy of Section 4(f) Properties
- f) Preliminary Determination of Section 4(f) Use

## Chapter 9 - Consultation and Coordination

- a) Community Engagement Approach
- b) Summary of Community Engagement Activities
- c) Agency Coordination
- d) Section 106 Consultation
- e) Other

## Chapter 10 - Financial Considerations

- a) Capital Cost Estimate
- b) Operations and Maintenance Costs
- 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.

## 16.3 REFERENCES

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<http://www.fdot.gov/environment/pubs/USCG-and-FDOT-Coordination-Guidance-2017-0203.pdf>

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General Bridge Act of 1946

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 (NEPA Assignment MOU).

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Rivers and Harbors Appropriations Act of 1899

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](https://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=2844df1cb4a3af5ebaa699f42d98a60f&mc=true&tpl=/ecfrbrowse/Title40/40chapterV.tpl)

Title 33 CFR § 115.70. Advance approval of bridges. [https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title33/33cfr115\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title33/33cfr115_main_02.tpl)

Title 23 CFR 650.805. Bridges not requiring a USCG permit. [https://ecfr.io/Title-23/pt23.1.650#se23.1.650\\_1805](https://ecfr.io/Title-23/pt23.1.650#se23.1.650_1805)

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[https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title23/23cfr771\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title23/23cfr771_main_02.tpl)

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USDOT Order 5610.1C. Procedures for Considering Environmental Impacts. <https://www.transportation.gov/office-policy/transportation-policy/procedures-considering-environmental-impacts-dot-order-56101c>

## **16.4 FORMS**

[State Environmental Impact Report Form, Form No. 650-050-43](#)

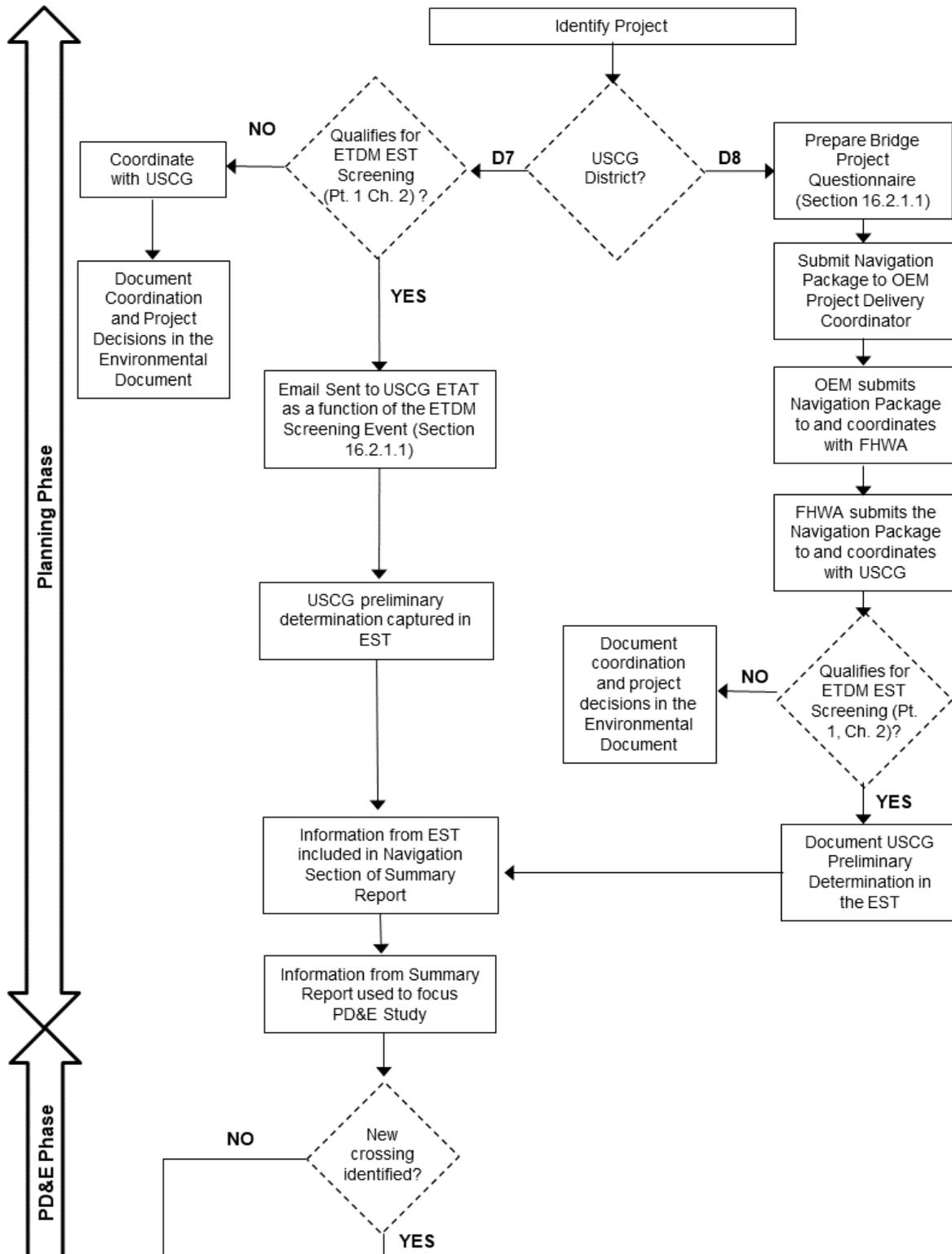


Figure 16-1 FDOT Federal Lead Process

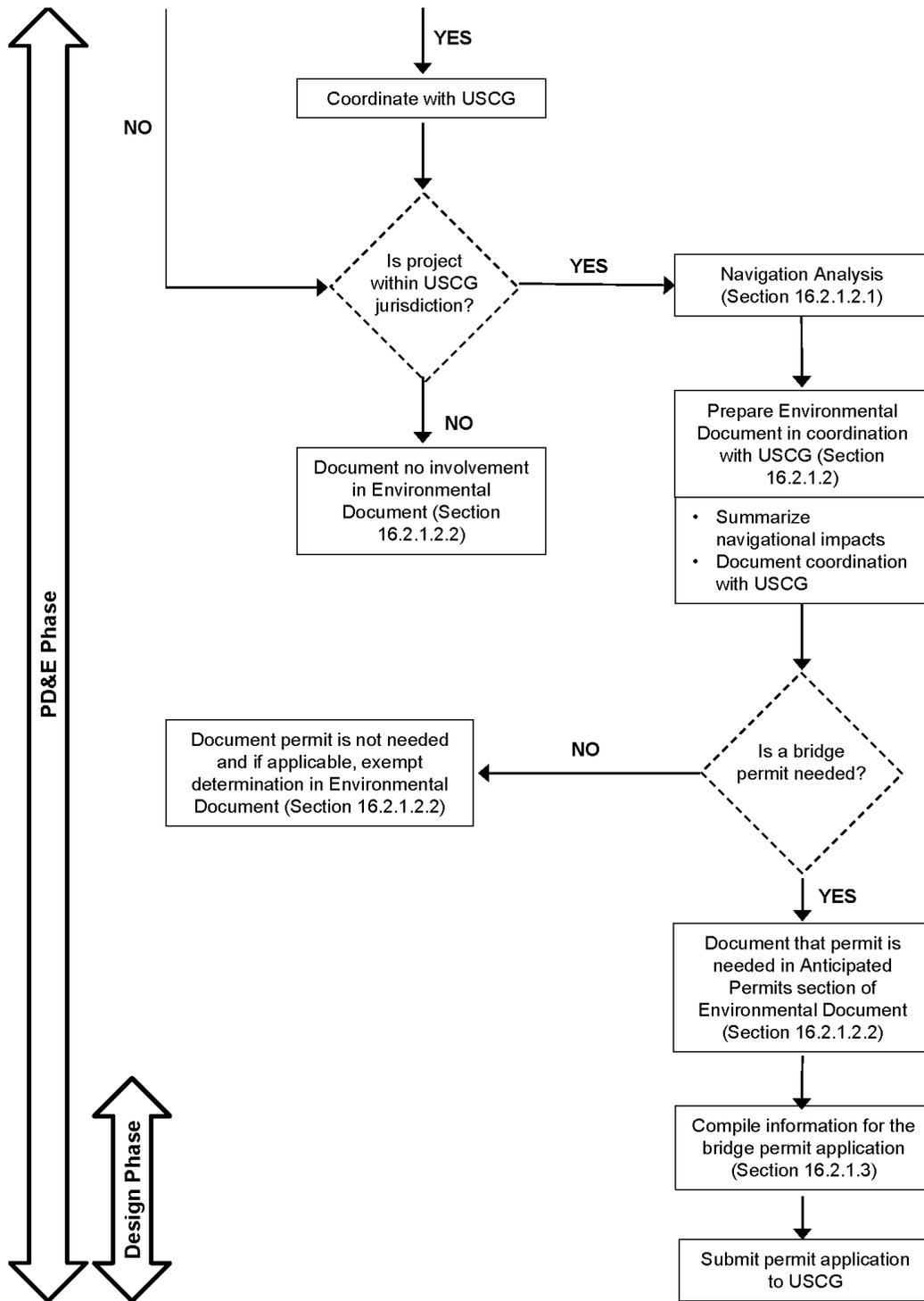


Figure 16-1 FDOT Federal Lead Process (page 2 of 2)



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: \_\_\_\_\_

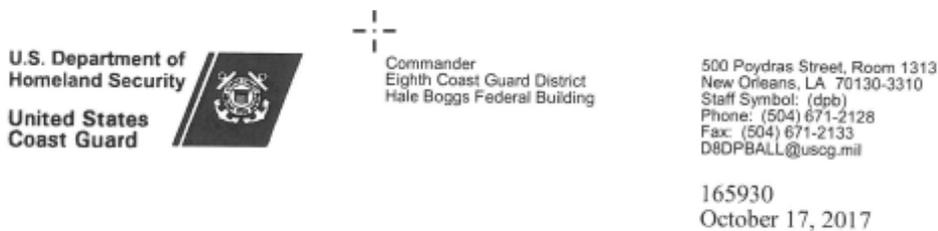
Applicant's telephone number: \_\_\_\_\_

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.

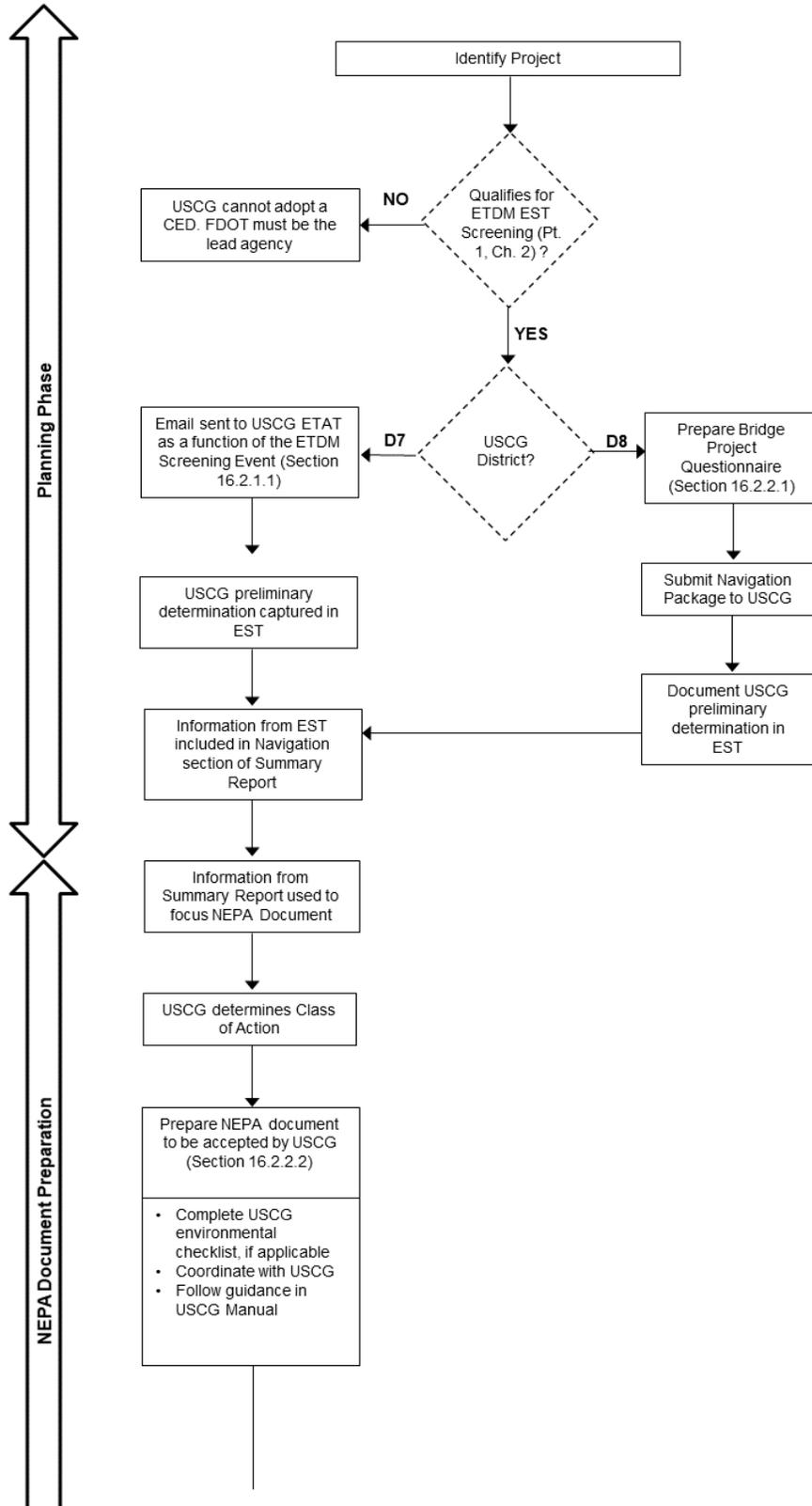
Please refer to the Coast Guard's Bridge Permit Application Guide located at [http://www.uscg.mil/hq/cg5/cg551/BPAG\\_Page.asp](http://www.uscg.mil/hq/cg5/cg551/BPAG_Page.asp) to make application for a Coast Guard bridge permit. Please contact Mr. Randall Overton, (305)415-6736, with any questions. We look forward to working with FDOT and moving this project forward.

Sincerely,

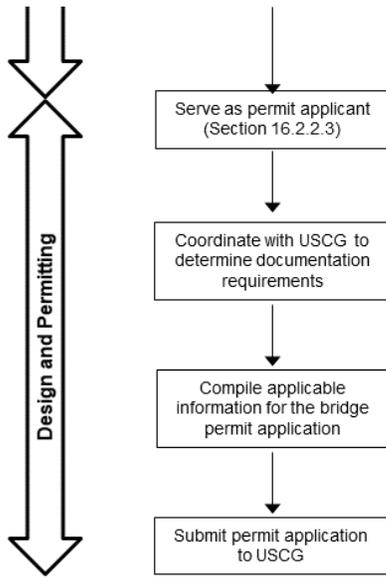
RANDALL D. OVERTON  
Bridge Management Specialist  
U.S. Coast Guard

eCopy: Lieutenant Ashley Holm ([Ashley.E.Holm@uscg.mil](mailto:Ashley.E.Holm@uscg.mil)), Captain of the Port Office, St. Petersburg, FL

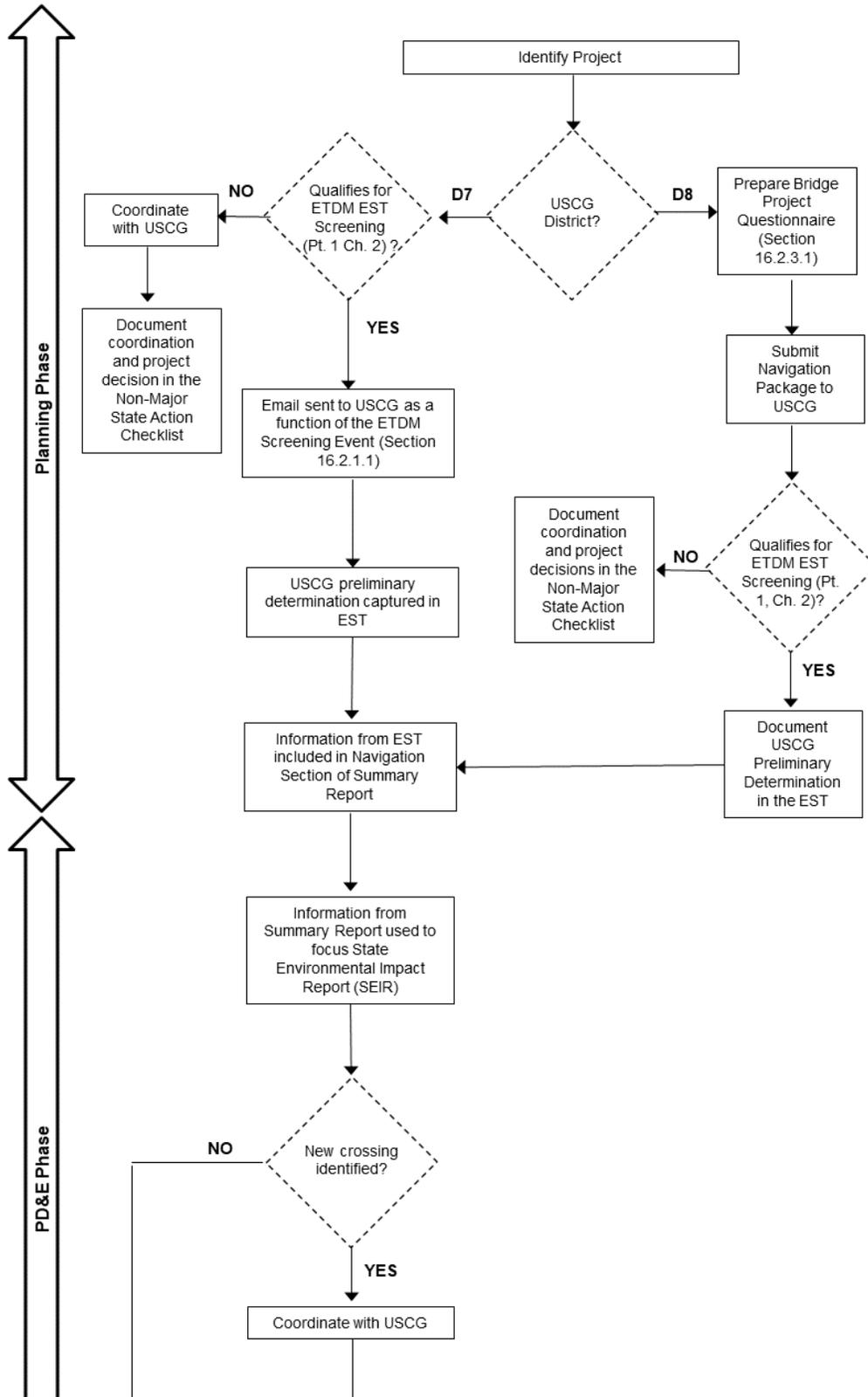
Figure 16-4 Sample Letter for Preliminary Determination of Navigational Clearance



**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**

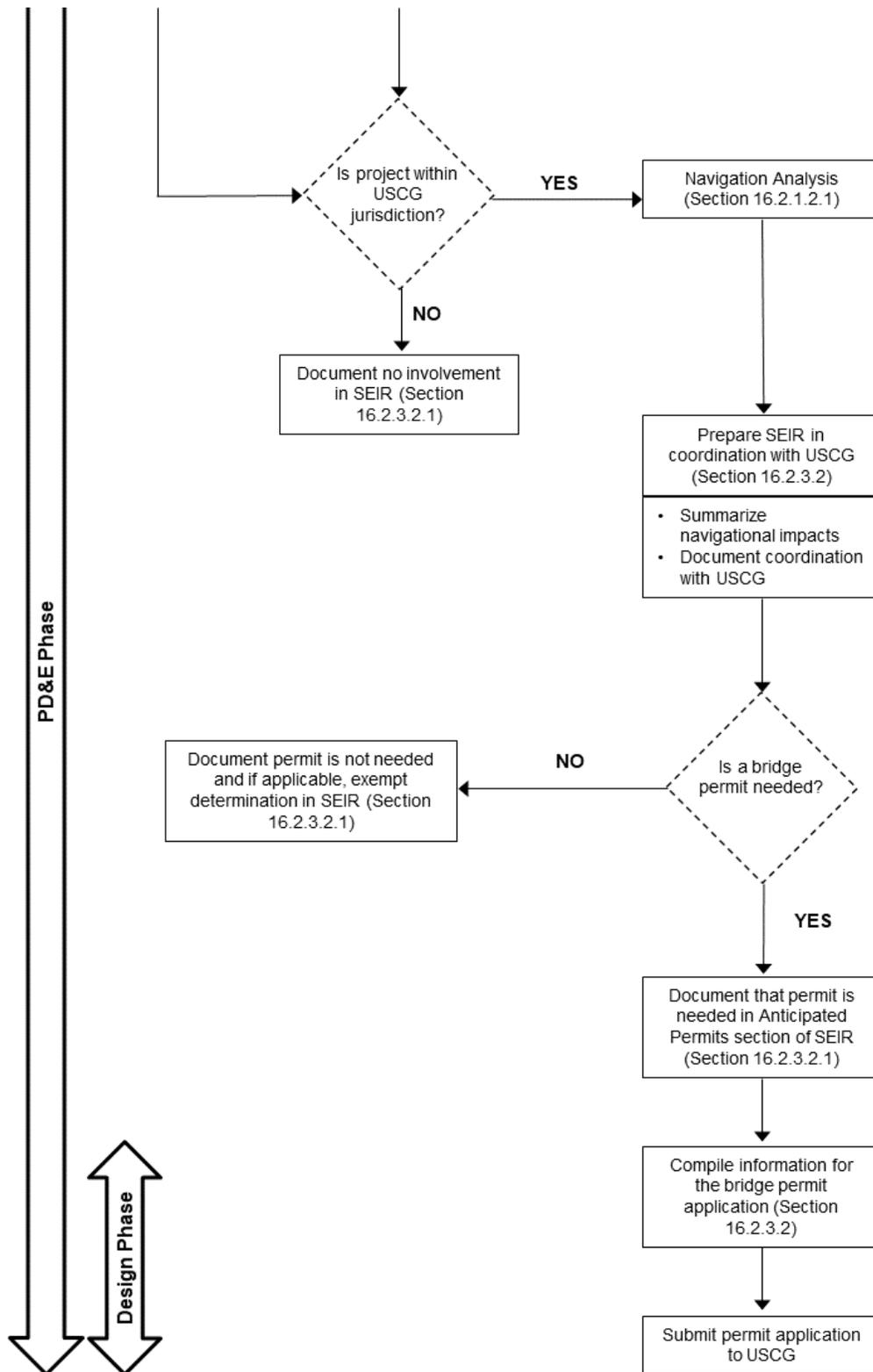


Figure 16-6 FDOT State Lead Process (page 2 of 2)