

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

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(I), 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

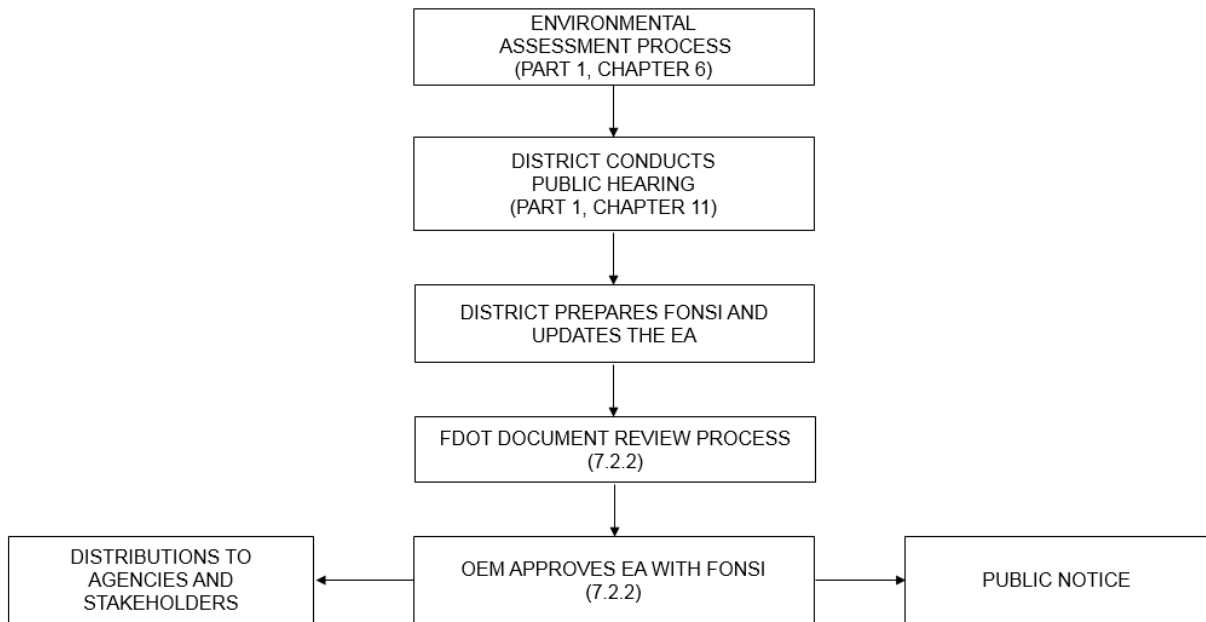


Figure 7-1 Finding of No Significant Impact Process

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**