

PART 1, CHAPTER 9

FINAL ENVIRONMENTAL IMPACT STATEMENT

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PART 1, CHAPTER 9

FINAL ENVIRONMENTAL IMPACT STATEMENT

9.1 OVERVIEW

This chapter provides guidance on preparation and review of a Final Environmental Impact Statement (FEIS) and a Record of Decision (ROD). An FEIS is prepared after a Draft Environmental Impact Statement (DEIS) is circulated, published in the *Federal Register (FR)*, and comments received have been considered (see [Section 9.2.1](#)). A ROD is the *National Environmental Policy Act (NEPA)* decision document. See [Section 9.2.2](#) for guidance on preparing a ROD.

Title 23 United States Code (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 (see [Section 9.2.2.1](#)). 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.

According to **23 CFR § 771.138(a)**, Environmental Impact Statements (EISs) are required to be completed no later than two years from publication of the *Notice of Intent (NOI)* to the signature date of the FEIS/ROD or separate ROD. The District must coordinate with the Office of Environmental Management (OEM) if a longer time limit is necessary.

9.2 PROCEDURE

9.2.1 Preparation of the Final Environmental Impact Statement

After the public hearing and end of the 45-day public comment period for the DEIS (based on the publication of the *Notice of Availability* in the *FR*), the District considers the comments received and prepares the FEIS. Comments received at the public hearing, and other changes occurring since the approval of the DEIS are documented in the FEIS.

The FEIS may be prepared by completing an FEIS Errata Sheet ([Section 9.2.1.1](#)) or updating the DEIS ([Section 9.2.1.2](#)). Errata sheets may be prepared to describe the outcome of the public hearing, comments received, and Florida Department of Transportation (FDOT) responses, including preliminary design changes since the approval of the DEIS.

The document submitted to OEM is a FEIS/ROD or if conditions warrant, a FEIS. 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 Errata Sheets

Title 23 U.S.C. § 139 allows for the preparation of a 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 a 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 § 771.124** and **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 (SEIS); 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 **Federal Highway Administration (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. A list of commitments including mitigation measures for the preferred alternative;
5. A summary of comments received on the DEIS and in the public hearing and related responses.

6. Coordination activities that have taken place since issuance of the DEIS; and,
7. 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. 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.

According to **USDOT Order 5610.1D, 13.h**, the text of an EIS will not exceed 150 pages, not including citations or appendices. As soon as possible before the page limit is exceeded, the District must coordinate with OEM.

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 [Guidance for Part 1, Chapter 9](#) as well as sample cover pages for FEISs, both with and without **Section 4(f)** evaluations. A sample cover page for a FEIS is also provided as a visual in the [Guidance for Part 1, Chapter 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. The Executive Summary of a FEIS is different than that of a DEIS. Specific findings are documented as standard statements, as are commitments made during the course of project development. The Executive Summary normally will not exceed 15 pages. It should adequately and accurately summarize the FEIS, and highlight the major conclusions, areas of disputed issues raised by agencies and the public, 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 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. This section may remain the same as the DEIS.

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. Unresolved issues and areas of controversy and the steps taken to resolve them to date are described and disclosed.

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

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\(f\) Resources](#).

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 Planning Consistency and Alternatives Sections

In the Planning Consistency section, the applicable Planning Consistency Table should be updated and include information demonstrating the project's fulfillment of planning consistency requirements in *23 CFR § 450*. The relevant pages of the Cost Feasible Plan of the Long Range Transportation Plan (CFP LRTP), Transportation Improvement Program (TIP), and Current State Transportation Improvement Program (STIP) should

be included in the Appendix. Documentation of snapshots of the Work Program is not adequate documentation to demonstrate planning consistency. Planning consistency should be met prior to LDCA. See [Part 2, Chapter 1, Project Description, Purpose and Need, and Planning Consistency](#) for guidance on updating this section and the [FDOT/FHWA Consistency Guidance](#) and [Planning Consistency for NEPA Practitioners](#) for additional planning consistency guidance.

In the Alternatives section, the Preferred Alternative subsection is updated if needed. See [Part 2, Chapter 3, Engineering Analysis](#) and [Part 2, Chapter 3A, Alternatives Analysis](#) for more information on updating the Preferred Alternative section of the FEIS. The preferred alternative is not identified as the selected alternative until the ROD.

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. This section should 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 Commitments Section

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

9.2.1.2.6 Removing the Concluding Statement

The concluding statement section is deleted.

9.2.1.2.7 Post Public Hearing Appendix

A new Post Public Hearing Appendix is created and is added after the original DEIS Appendix. This Appendix should include any new materials since the DEIS was approved.

9.2.1.2.7.1 Comments and Coordination Appendix

The Comments and Coordination Appendix includes a summary of the public and agency comments and coordination since the DEIS was signed. This Appendix is divided up into subsections:

1. Agency Coordination and Consultation
2. Public Hearing

3. Other Coordination (included only when needed)

Agency Coordination and Consultation

This subsection summarizes coordination and consultation which occurred with agencies after the DEIS was signed and should incorporate any comments received that occurred with agencies (outside of the public hearing). It includes a summary of comments received during the 45-day public review period along with a response to each substantive comment. This includes documentation of additional resource agency coordination and consultation, if applicable. Any new concurrence and coordination letters should be included this Appendix.

Public Hearing

This subsection should include the date, time, and place of the public hearing; describe the format and include the start and end time; provide a summary of the comments received at the public hearing (written and oral) as well as written comments received during the public hearing comment period. This includes summarizing both positive and negative comments, the District's response to those comments, and including a reference to the comments and responses that are included in the updated **Summary of Public Involvement (SPI)**.

Other Coordination

If other coordination has occurred, it is summarized in this subsection with the actual coordination documents (e.g., correspondence) included in the Post Public Hearing Appendix. If there is no other coordination, then this subsection is not to be included in the FEIS.

9.2.2 Preparation of the Record of Decision

The ROD is a concise public decision document that 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.

See **Guidance Sheet** for a sample ROD. This format is used for preparing a combined FEIS/ROD (see [Section 9.2.2.1](#)) or a separate ROD (see [Section 9.2.2.2](#)).

9.2.2.1 Combined Final Environmental Impact Statement/Record of Decision

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 relevant to environmental or safety concerns; or
2. There are significant new circumstances or information relevant to environmental concerns that bear on the proposed action or the reasonably foreseeable 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***.

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.

When combined, the document must include the content of a FEIS and present the basis for the decision, 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.

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.

See [Section 9.2.3](#) for details on OEM review and approval of a FEIS/ROD.

9.2.2.2 Separate Record of Decision

If a project does not meet the conditions for a combined FEIS/ROD, then the District prepares a DROD using the ***Record of Decision Cover Page*** in SWEPT. A sample cover page is provided in [Guidance for Part 1, Chapter 9](#).

The DROD is prepared and is generally submitted to OEM for review at the same time the FEIS is submitted for approval. See [Section 9.2.3](#) for guidance on the review and approval of the FEIS. The FEIS is approved first and the ROD can only be approved

following a 30-day public **Notice of Availability** of the FEIS in the **Federal Register (FR)** (see [Section 9.2.4.2.1](#))

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 ensures the **Public Hearing Transcript** and **Public Hearing Certification** and new materials are incorporated by reference and uploaded into SWEPT. The District should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

The District uses the SWEPT application to complete the **Environmental Document Submittal Form** for Initial OEM review and uploads the FEIS/ROD or FEIS with DROD into the FDOT's Electronic Review and Comment (ERC) application. Upon submittal, the District should also discuss timing of publication of a **Limitations on Claims Notice** with OEM (See [Section 9.2.5](#)).

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 have 30 days to review the documents. OEM provides comments in the ERC.

The District addresses OEM comments and provides responses in the ERC. The OEM project review team has 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 schedules 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 Final review and 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 Administrators review.

The OEM Environmental 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.

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

9.2.4.1 Final Environmental Impact Statement/Record of Decision

Once the FEIS/ROD is approved by OEM, the District provides notification that LDCA has been granted. By practice the FEIS/ROD is distributed to agencies, stakeholders, and the public before the request for publication of the **Notice of Availability** in the **FR** is sent to EPA. This is to ensure FDOT meets the distribution requirements in **23 CFR § 771.125(f)**. For projects with a **Noise Study Report (NSR)**, see [Part 2, Chapter 18, Highway Traffic Noise](#) on how to coordinate the **NSR** with the local government after LDCA.

Distribution to Agencies and Stakeholders

The District shares the approved document with the recipients of the DEIS. An electronic copy of the document is sent to the Florida State Clearinghouse and the Environmental Technical Advisory Team (ETAT) agencies, which include the Cooperating Agencies and Participating Agencies through the EST. 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 Tribes according to their requested method of communication as established on FDOT's [Native American Tribal Consultation Website](#). Others should be sent an electronic link to the document, unless a paper copy is requested.

Making the FEIS/ROD Available to the Public

The FEIS/ROD is made available:

- At the District office
- At institutions such as local government offices, libraries, and schools, as appropriate
- On project websites or other publicly accessible electronic means

Public Announcement of LDCA

The District must publish an Announcement of LDCA in the same local newspaper(s) used to advertise the public hearing(or a newspaper of general circulation), informing the public that the project has received LDCA and is being advanced. The announcement must also notify the public of the availability of the FEIS/ROD. Proof of publication or an **Affidavit of Publication** is included in the **Final Notifications Package**. Other recommended notifications and information on the **Final Notifications Package** is provided in [Part 1, Chapter 11, Public Involvement](#).

Notice of Availability in the FR

The **Notice of Availability** is initiated when the FEIS/ROD is filed with EPA. FEIS/RODs must be electronically submitted to EPA as PDF documents using its e-NEPA online tool.

Only the Environmental Document is submitted, as technical reports are included only by reference. The District should coordinate with OEM on the content of the **Notice of Availability**.

The **Notice of Availability** may be combined with a **Limitations on Claims Notice** or it may be published separately in the **FR**. See [Section 9.2.5](#) for guidance on the **Limitations on Claims Notice**.

The PDF documents must meet specific requirements for submittal to EPA. These are available on EPA's **Environmental Impact Statement Filing Guidance Website**.

The **FR** public availability notice will not establish a waiting period or period of time for the return of comments on a FEIS/ROD. When a FEIS/ROD is submitted in e-NEPA, the EIS Comment Due/Review Period Date is left blank and the following statement is 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.

After the District formats the document for e-NEPA, the District sends it to OEM. The District also provides a link to the project website where readers can find the FEIS/ROD. OEM coordinates with FHWA on publication.

EPA publishes the **Notice of Availability** of the FEIS/ROD in the **FR**. The District must monitor the **FR** for publication and proof of publication or an **Affidavit of Publication** is uploaded to the project file.

Re-evaluations may be needed as the project progresses per [Part 1, Chapter 13, Re-evaluations](#).

9.2.4.2 Final Environmental Impact Statement with Separate Record of Decision

9.2.4.2.1 Final Environmental Impact Statement

By practice the FEIS is distributed to agencies, stakeholders, and the public before the request for publication of the **Notice of Availability** in the **FR** is sent to EPA. This is to ensure FDOT meets the distribution requirements in **23 CFR § 771.125(f)** to make the FEIS available to the public and transmitted to agencies for comment no later than the time the document is filed with EPA.

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 Tribes according to their

requested method of communication as established on FDOT's the [Native American Tribal Consultation Website](#). Others should be sent an electronic link to the document, unless a paper copy is needed. A sample transmittal letter is provided in [Guidance for Part 1, Chapter 9](#).

Making the FEIS Available to the Public

The FEIS is made available:

- At the District office
- At institutions such as local government offices, libraries, and schools, as appropriate
- On project websites or other publicly accessible electronic means

Public Notice of Availability

The District places a notice in the same local newspaper(s) used to advertise the public hearing. This notice advises the public of the availability of the FEIS for public review. Proof of publication or an **Affidavit of Publication** is included in the **Final Notifications Package** (see [Part 1, Chapter 11, Public Involvement](#)).

Notice of Availability in the FR

The **Notice of Availability** is initiated when the FEIS is filed with EPA. All FEISs must be electronically submitted to EPA as PDF documents using its e-NEPA online tool. Only the Environmental Document should be submitted, as technical reports are included only by reference. The District should coordinate with OEM on the content of the **Notice of Availability**.

The PDF documents must meet specific requirements for submittal to EPA. These are available on EPA's **Environmental Impact Statement Filing Guidance Website**. After the District formats the document for e-NEPA, the District sends it to OEM. The District also provides the link to the project website where readers can find the FEIS. OEM submits the document to FHWA to submit to EPA.

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 and proof of publication or an **Affidavit of Publication** is uploaded to the project file.

9.2.4.2.2 Record of Decision

Approval of the ROD

OEM may approve the ROD no sooner than 30 days after publication of the FEIS **Notice of Availability** in the **FR** or 90 days after publication of a notice for the DEIS, whichever is later. 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. For projects with a **NSR**, see [Part 2, Chapter 18, Highway Traffic Noise](#) on how to coordinate the **NSR** with the local government after LDCA.

Distribution to Agencies and Stakeholders

The District shares the ROD with the recipients of the FEIS. An electronic copy of the document is sent to the Florida State Clearinghouse and ETAT agencies, which includes the Cooperating Agencies and Participating Agencies through the EST. 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 Tribes according to their requested method of communication as established on FDOT's [Native American Tribal Consultation Website](#). Others should be sent an electronic link to the document, unless a paper copy is requested.

Making the ROD Available to the Public

The ROD is made available:

- Upon request by the public
- On project websites or other publicly accessible electronic means

Public Announcement of LDCA

The District must publish an Announcement of LDCA in the same local newspaper(s) used to advertise the public hearing (or a newspaper of general circulation), informing the public that the project has received LDCA and is being advanced. The announcement must also notify the public of the availability of the ROD. Proof of publication or an **Affidavit of Publication** is included in the **Final Notifications Package**. Other recommended notifications and information on the **Final Notifications Package** is included in [Part 1, Chapter 11, Public Involvement](#).

The District submits a **Limitations on Claims Notice** to OEM to coordinate publication in the **FR** (see [Section 9.2.5](#)).

Re-evaluations may be needed per [Part 1, Chapter 13, Re-evaluations](#).

9.2.5 Limitations on 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).

FEIS/ROD and ROD documents require preparation of a **Limitations on Claims Notice**. This notice may be combined with the **Notice of Availability** of a FEIS/ROD. See [Part](#)

1, Chapter 11, Public Involvement for guidance on preparing ***Limitations on Claims Notice***. A copy of the notice is included in the ***Final Notifications Package***.

9.3 REFERENCES

EPA, Environmental Impact Statement Filing Guidance Website.

<https://www.epa.gov/nepa/environmental-impact-statement-filing-guidance>

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June 1, 2017

FHWA, Technical Advisory T6640.8A. Guidance for Preparing and Processing
Environmental and Section 4(f) Documents. October 30, 1987.

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FDOT, Project Commitment Tracking, Procedure No. 650-000-003. <https://pdl.fdot.gov/>

Title 23 CFR Part 771, Environmental Impact and Related Procedures

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<http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title23-section139&num=0&saved=%7CKHRpdGxIOjIzIHNIY3Rpb246MTM3IGVkaXRpb246cHJlIGtKQ%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, Order 5610.1D, Procedures for Considering Environmental Impacts.

<https://www.transportation.gov/mission/dots-procedures-considering-environmental-impacts>

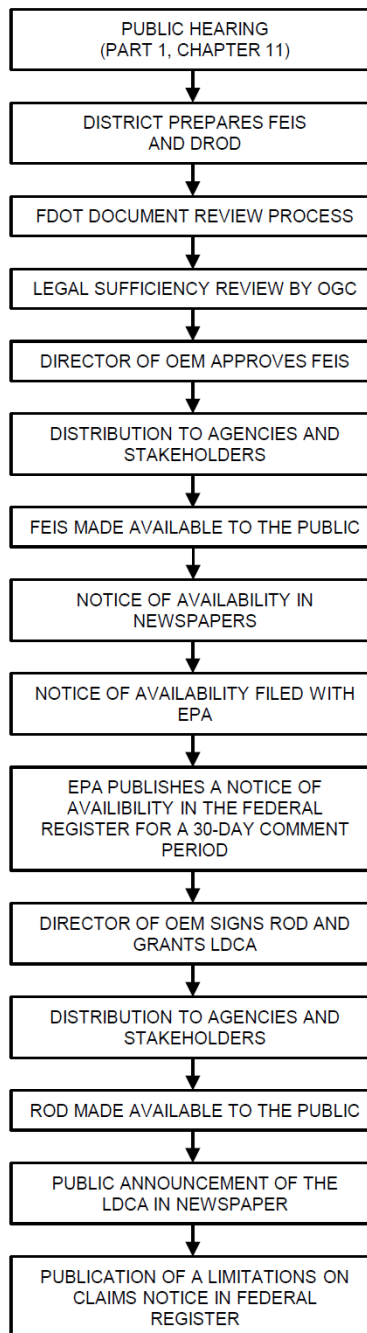


Figure 9-1 Final Environmental Impact Statement Process

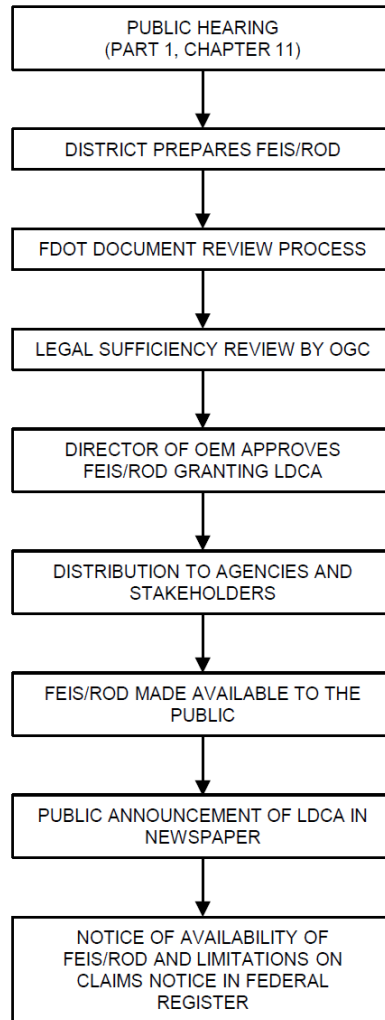


Figure 9-2 FEIS/ROD Process