

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 other federal and state laws and regulations. This *Manual* provides project analysts and Project Managers (users) a framework for the consistent development of environmental and engineering analysis, technical reports, and Environmental Documents for transportation projects.

For transportation projects that require funding or other Federal Highway Administration (FHWA) action, FDOT has assumed, and FHWA has assigned its responsibilities under *NEPA*. This includes all State Highway System (SHS) and Local Agency Program (LAP) projects. This assumption is referred to as *NEPA* Assignment throughout this *Manual*.

Pursuant to **23 U.S.C. § 327** and the implementing Memorandum of Understanding (MOU) executed on December 14, 2016, and renewed on May 26, 2022, *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 is the Lead Federal Agency for highway projects with approval authority residing 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

First Renewal of the 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, May 26, 2022.  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/nepa\\_assign/florida-327-mou---signed\\_.pdf?sfvrsn=dbb7bb2b\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/nepa_assign/florida-327-mou---signed_.pdf?sfvrsn=dbb7bb2b_1)

National Environmental Policy Act of 1969 (Title 42 U.S.C. § 4321, et seq.).  
<https://www.govinfo.gov/content/pkg/COMPS-10352/pdf/COMPS-10352.pdf>

Title 23 CFR Part 771, Environmental Impact and Related Procedures.  
<https://www.ecfr.gov/current/title-23/chapter-I/subchapter-H/part-771>

Title 23 U.S.C. § 327, Surface transportation project delivery program.  
<https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title23-section327&num=0&edition=prelim>

## 1.4 SCOPE

The principal users of this **Manual** are FDOT personnel and consultants who prepare and review technical reports and Environmental Documents for FDOT.

## 1.5 GENERAL

This **Manual** is designed to work in conjunction with FDOT handbooks, guidance documents and design criteria that are used in FDOT's project delivery process. This **Manual** contains the process for environmental review which occurs throughout the Planning, PD&E, Design, and Construction phases. This **Manual** also provides support and direction in various technical areas, including engineering analysis and environmental documentation, permitting, and public involvement.

## 1.6 DISTRIBUTION

The **PD&E Manual** is available online through the **OEM Website**:  
<https://www.fdot.gov/environment/pde-manual/pdeman-current>.

**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

OEM is responsible for maintaining this **Manual**. On behalf of FDOT, OEM regularly evaluates and updates this **Manual** consistent with the procedures established by FDOT's Policy and Process Management Unit.

Revisions may be the result of District-identified issues or suggested modifications, changes in other FDOT manuals or procedures, updated standards, or changes in federal or state law, rule, policy or guidance.

Updates that require immediate implementation are made with an OEM Bulletin. **Bulletins** affecting this **Manual** remain valid until the **Manual** is revised.

## 1.8 TRAINING

Information on training courses pertaining to topics in this **Manual** is provided on OEM's **Training Program Website**. It is recommended that staff preparing technical reports or Environmental Documents or performing environmental review tasks take these training

courses. PD&E Process Training is required for local agencies pursuing delivery of environmental or right of way activities under LAP. See the [Local Programs Manual, Topic No. 525-010-300](#) for more information.

## 1.9 FORMS

Forms required by this *Manual* are identified in applicable chapters. Links are provided in manual chapters where applicable, for electronic forms that are available in FDOT's [Procedural Document Library](#).

## **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

The Class of Action (COA) Determination identifies the type of Environmental Document to be prepared for a Federal Project. The Office of Environmental Management (OEM) has assumed the role and responsibility of the Federal Highway Administration (FHWA) in determining the COA for Florida Department of Transportation (FDOT) Federal Projects and serves as the Lead Federal Agency, through **National Environmental Policy Act (NEPA)** Assignment ([Part 1, Chapter 1, Introduction](#)).

OEM has also assumed the role of FHWA for Local Agency Program (LAP) projects. The District Environmental Offices provide oversight during the environmental review process. LAP projects must follow the process in this Manual for the preparation of FDOT Federal Projects. Funding for LAP projects must 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 to administer FHWA federal-aid projects (per FDOT's [Local Programs Manual, Topic No. 525-010-300](#)). LAP agencies cannot make COA Determinations.

This chapter outlines the COA Determination for these projects. The process for FDOT State Projects such as a State Environmental Impact Report (SEIRs) or Non-Major State Action (NMSA) is provided in [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

#### 2.1.1 Definitions

**Categorical Exclusion (CE)** - Actions that normally do not have a significant environmental effect and are excluded from the requirement to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS).

**Class of Action (COA)** - Prescribes the level of documentation required in the **NEPA** process. There are three COAs described in **23 Code of Federal Regulations (CFR) § 771.115, Classes of actions**, and discussed in [Section 2.1.2](#).

**District-** Term generally referring to an FDOT District. This includes FDOT Districts 1-7 and the Florida Turnpike Enterprise.

**District Environmental Office** – General term used for either the District Environmental Management Office (DEMO) or Planning and Environmental Management Offices (PLEMO), depending on the District's organizational structure.

**Environmental Assessment (EA)** – The Environmental Document (or document type) prepared for actions in which the significance of the environmental impact is not clearly established.

**Environmental Document**- The document prepared by FDOT for a Type 1 CE, Type 2 CE, EA, EIS, SEIR or NMSA. This term is broader than the definition provided in **NEPA** and does not include re-evaluations.

**Environmental Impact Statement (EIS)**- The Environmental Document (or document type) prepared for actions that have a reasonably foreseeable significant effect on the environment.

**Environmental Impacts-** (*U.S. Department of Transportation (USDOT) Order 5610.1D, 26.e.*) changes to the human environment from the proposed action or alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives. Impacts include ecological (such as the impacts on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic (such as the impacts on employment), social, or health impacts. Impacts appropriate for analysis under **NEPA** may be either beneficial or adverse, or both, with respect to these values.

**FDOT Federal Project**- A Federal Project with FDOT as the Lead Agency due to **NEPA** Assignment. These projects involve FHWA funds and/or affect the interstate during any phase of project development or implementation.

**FDOT State Project**- A project advanced through the FDOT Work Program using only state funding and/or does not affect the interstate during any phase of project development or implementation. See [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

**Federal Action** –Federal funding or other assistance, federal permit, or other federal approval [e.g., change in Interstate access control, use of Interstate Right of Way (ROW)]

**Federal Project** - A project with a Federal Action and therefore must comply with **NEPA**.

**Local Agency Program (LAP)** – Federal-aid subrecipient project delivery program and procedure established by FDOT in the [FDOT/FHWA Stewardship and Oversight Agreement, Topic No. 700-000-005](#). LAP is administered by the State and District Local Program Administrators.

**NEPA document**- The environmental document prepared for Federal Projects to comply with **NEPA**.

**Project Development and Environment (PD&E) Study**- The FDOT process of preparing an Environmental Document, including a Type 2 CE, EA, EIS, or SEIR once the Class of Action Form is approved. Type 1 CEs and NMSAs are not PD&E Studies, as they do not have a PD&E phase and are prepared during the Design phase.

**Type 1 Categorical Exclusion-** A checklist prepared as the Environmental Document (or document type) for FDOT Federal Projects with actions listed in **23 CFR § 771.117(c)** or specifically identified as an example in **23 CFR § 771.117(d)** that do not have a significant environmental effect.

**Type 2 Categorical Exclusion-** The Environmental Document (or document type) prepared for FDOT Federal Projects that do not have significant environmental effects but are **not** listed in **23 CFR § 771.117(c)** or specifically identified as an example in **23 CFR § 771.117(d)**.

## 2.1.2 Legislative and Regulatory Framework

**Title 23 Code of Federal Regulations (CFR) § 771** sets forth U.S. Department of Transportation (USDOT) requirements under **NEPA** for the processing of highway, public transportation, and railroad actions. This regulation prescribes the policies and procedures of the FHWA, the Federal Railroad Administration (FRA), and the Federal Transit Administration (FTA), for implementing **NEPA**. The necessary review and analysis are contained in a **NEPA** document.

The three COAs are described in **23 CFR § 771.115**:

1. Environmental Impact Statement (EIS) - The types of actions which normally require an EIS are:
  - a. A new controlled-access freeway (limited access highway);
  - b. A highway project of four or more lanes on a 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 ROW; or
  - d. New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing transportation ROW.
2. Categorical Exclusion (CE)- This COA applies to actions that normally do not have a significant environmental effect and are excluded from the requirement to prepare an Environmental Assessment (EA) or EIS. FHWA actions that are normally CEs are listed in **23 CFR § 771.117(c)** ([Section 2.2.1.1.1](#)). When appropriately documented, additional projects may also qualify as CEs pursuant to **23 CFR § 771.117(d)** ([Section 2.2.1.1.2](#)).
3. Environmental Assessment (EA) - All actions that are not an EIS or CE require the preparation of an EA to determine the appropriate environmental documentation required.

When considering whether the reasonably foreseeable impacts of the proposed action are significant, FDOT analyzes the potentially affected environment and degree of the impacts of the proposed action according to ***USDOT Order 5610.1D, Procedures for Considering Environmental Impacts***.

1. The potentially affected environment should encompass the geographic scale, the physical resources and the socioeconomic characteristics appropriate for the specific action.
2. Level of significance is determined by examining the difference between the impacts of the proposed action compared to the no action alternative. Whether an impact rises to the level of “significant” is a matter of FDOTs expert judgment. FDOT considers the degree of impacts for each of the following, as appropriate, with respect to the difference between the no action alternative and the proposed action:
  - a. Both short- and long-term environmental impacts
  - b. Both beneficial and adverse environmental impacts
  - c. Impacts on public health and safety
  - d. Economic impacts
  - e. Impacts on the quality of life of the American people

## 2.2 PROCEDURE

Early communication and collaboration within District offices is beneficial when projects are evaluated for inclusion in the Tentative Work Program, prior to development of the Scope of Services, to ensure that project decisions get broad input and early support. See [Part 1, Chapter 4, Project Development Process](#) for more details. During this coordination it is determined if the project may have a Federal Action, and if so, it is then determined if it proceeds as an FDOT Federal Project or an FDOT State Project.

COA considerations are also facilitated through early internal coordination, with the review of Efficient Transportation Decision Making (ETDM) Screening results (if applicable) and other information, as available. The potential significance of project effects ([Section 2.1.2](#)) is considered in consultation with District environmental staff, specific resource agencies, and OEM, as appropriate.

Qualifying projects are screened through FDOT’s ETDM process according to the [ETDM Manual, Topic No. 650-000-002](#) to engage other agencies and the public early in project development and facilitate project scoping. The decision of whether a project is entered into the ETDM 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](#).

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 or bridge replacements (i.e., non-Type 1 CE).

These project types are further analyzed and reviewed through the ETDM process to help identify the COA. For information on determining the COA for projects that qualify for EST screening see [Section 2.2.2](#).

If the project does not qualify for screening in the EST, see [Section 2.2.1.1](#) for more information on determining if a project is a Type 1 CE.

### 2.2.1 Categorical Exclusions

According to **23 CFR § 771.117(a)**, *FHWA categorical exclusions*, CEs are based on FHWA's past experience with similar actions, and do not normally involve significant environmental impacts.

They are actions that:

- Do not induce significant impacts to planned growth or land use for the area;
- Do not require the relocation of significant numbers of people;
- Do not have a significant impact on any natural, cultural, recreational, historic, or other resource;
- Do not involve significant air, noise, or water quality impacts;
- Do not have significant impacts on travel patterns; or
- Do not otherwise have any significant environmental impacts.

As provided in **23 CFR § 771.117(b)**, a project normally classified as a CE may require coordination with OEM to determine if the CE classification is appropriate. FDOT may

decide or OEM may require additional analysis or agency coordination take place prior to approval of a CE in circumstances that include:

1. Significant environmental impacts;
2. Substantial controversy on environmental grounds;
3. Significant impact on properties protected by **Section 4(f)** of the **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.

Dependent on the scope of the CE action, the level of documentation will vary based on amount of coordination and information needed to support the determination that an EA or EIS is not needed. The level of detail required to support the determination depends upon the specific action and the magnitude of environmental impacts.

FDOT prepares two types of CEs, Type 1 CEs ([Section 2.2.1.1](#)) and Type 2 CEs ([Section 2.2.1.2](#)).

### 2.2.1.1 Type 1 Categorical Exclusions

The District is authorized to determine whether an FDOT Federal Project is a Type 1 CE. OEM may assist with this determination, but it is typically made by the District without OEM assistance.

The District looks at the actions listed in **23 CFR § 771.117(c)**([Section 2.2.1.1.1](#)) to see if project activities fall under one of these numbered actions. These are called C-list projects. If the project does not match an action on the C-list, the District looks at the actions specifically identified as examples in **23 CFR § 771.117(d)** ([Section 2.2.1.1.2](#)) to see if project activities fall under one of these numbered examples. These are called D-list projects. C-list and D-list projects are both assumed to be Type 1 CEs, so if an action is on either of these lists a **Type 1 Categorical Exclusion Checklist** is prepared in the StateWide Environmental Project Tracker (SWEPT).

As the checklist is completed, certain selections may trigger pop ups that identify when coordination with OEM is required. This occurs for actions listed in **23 CFR § 771.117(c)(26), (c)(27) and (c)(28)**, because they must also meet the constraints in **23 CFR § 771.117(e)** ([Section 2.2.1.1.3](#)) to be considered a C-list action. Through OEM coordination it is determined if the project remains a Type 1 CE and is documented as CE number **(d)(13)** or if a Type 2 CE is needed. This is further explained in [Part 1, Chapter 5, Categorical Exclusion](#).

If the project can be verified to meet the criteria of a CE by completing the checklist, the project is documented as a Type 1 CE and the checklist serves as the **NEPA** document. The checklist demonstrates that the specific conditions or criteria for these CEs are

satisfied and it is signed by the District Environmental Manager or designee. Details on Type 1 CEs and guidance on preparing them is provided in [Part 1, Chapter 5, Categorical Exclusion](#).

### 2.2.1.1.1 Actions listed in 23 CFR § 771.117(c) - C-List

The following actions are listed in **23 CFR § 771.117(c)** and meet the criteria for CEs in **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 establishing 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 United States Code (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 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), in operation or under construction when damaged and the action:
  - i. Occurs within the existing Right of Way (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 two-year period beginning on the date of the declaration.

Note, the procedure for documenting emergency relief efforts is outlined in [Part 1, Chapter 4, Project Development Process](#). Guidance on emergency relief projects can also be found in the [FDOT Environmental Review Guidance for Emergency Relief Projects](#).

- 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. Receiving 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) not requiring 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.

### **2.2.1.1.2 Actions listed in 23 CFR § 771.117(d) - D-List**

Title **23 CFR § 771.117(d)** includes additional actions that meet the criteria for a CE in **23 CFR § 771.117(a)**. Several examples of these actions are included below, but they are not limited to those on this list. They require documentation that demonstrates the specific conditions or criteria for these CEs are satisfied, and that significant environmental effects will not result.

- 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. This CE requires FHWA approval.
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 completion of the **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 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.

### **2.2.1.1.3 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 would result in any residential or non-residential displacements;
2. An action that needs a bridge permit from the U.S. Coast Guard (USCG), or an action that does not meet the terms and conditions of a U.S. Army Corps of Engineers (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 facilitating 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.

#### **2.2.1.1.4 Categorical Exclusions Adopted from other Agencies**

The Department of Energy's (DOE's) Electric Vehicle Charging Stations CE [codified in DOE's **NEPA** procedures as CE B5.23 of **10 CFR § 1021(D), Appendix B**] was adopted by the USDOT to use in programs and funding opportunities administered by USDOT and its modal administrations [**88 Federal Register (FR) 64972**].

FDOT may also utilize CEs identified in FTA's **NEPA** regulations (**23 CFR § 771.118**) or FRA's **NEPA** regulations (**23 CFR § 771.116**). Coordination with OEM is needed before using another agency's CE.

#### **2.2.1.2 Type 2 Categorical Exclusions**

Type 2 CEs fall under **23 CFR § 771.117(d)** ([Section 2.2.1.1.2](#)) but are not specifically listed as examples in the regulation. As discussed in [Section 2.2.1.1](#), if the project is an activity listed in **23 CFR § 771.117(c)26, (c)27 and (c)28**, that does not satisfy the criteria of **23 CFR § 771.117(e)** (listed in [Section 2.2.1.3](#)) consultation is required with OEM and the project may proceed as a **d(13)** using the Type 1 CE Checklist or may be prepared as a Type 2 CE.

Projects that are anticipated to become Type 2 CEs are typically screened in the EST in the early stages of project development. See [Section 2.2.2](#) for further guidance on

determining the COA for these projects. On occasion, projects screened in the EST may result in a Type 1 CE based on the screening results and consultation with OEM.

Later, in the PD&E phase, the Type 2 CE is prepared using the ***Type 2 Categorical Exclusion Determination Form*** in SWEPT. Details on Type 2 CEs and guidance on preparing them is provided in [Part 1, Chapter 5, Categorical Exclusion](#). Type 2 CEs must be approved by OEM.

## 2.2.2 Projects Qualifying for Efficient Transportation Decision Screening

Projects that qualify for ETDM screening ([Section 2.2](#)) undergo a Programming Screen review in which 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](#)). During the screening, ETAT members use the EST to review project information, identify potential project effects, and submit comments to FDOT. The EST provides access to project information and data about social, cultural, natural, and physical topics/resources in the project area. After reviewing this information, the ETAT members provide input about potential project effects specific to their area of expertise. The results of the screening are published in a ***Preliminary Programming Screen Summary Report*** and reviewed by the District to assist in determining appropriate topics/resources for additional information-gathering and analysis.

Based upon the ***Preliminary Programming Screen Summary Report*** and other known information, the District develops an "assumed COA" that guides the District in performing additional studies and other efforts to analyze the potential impacts of the project per topic/resource. Once sufficient analysis has occurred, the District completes the ***Class of Action Form*** in the EST to recommend a COA to OEM for acceptance. If it is anticipated that a project may be an EA or EIS, the District reviews the project with OEM before proceeding with the recommendation.

The ***Class of Action Form*** is submitted to OEM for review and acceptance before the scheduled public hearing. If there is no public hearing scheduled, the ***Class of Action Form*** is submitted to OEM for review and acceptance before the notice of opportunity to request a public hearing is published in the ***Florida Administrative Register (FAR)***. For more information on the public hearing, or opportunity to request a public hearing see [Part 1, Chapter 11, Public Involvement](#).

Instructions on completing the ***Class of Action Form*** and a sample form are provided in the [Guidance for Part 1, Chapter 2](#). After completing the form, the District submits it to the Project Delivery Coordinator (PDC). When the District submits the form, the lead and backup PDC and Engineers are copied on the notification and may use the link in the notification to view the form. Either the PDC or OEM Director uses the EST to respond, depending on the assumed COA. OEM responds to the recommendation in the EST as Accepted, Not Accepted, or Returned to the District to Revise and Resubmit.

After OEM and the District have agreed on the COA, OEM accepts it in the EST. The accepted form documents the COA Determination for the project, and it becomes part of the project record, and is published in the **Final Programming Screen Summary Report**. The resulting COA Determination for an FDOT Federal Project will be a Type 2 CE (see [Part 1, Chapter 5, Categorical Exclusion](#)), an EA (see [Part 1, Chapter 6, Environmental Assessment](#)), or an EIS (see [Part 1, Chapter 8, Draft Environmental Impact Statement](#)). If it is an FDOT State Project, the Environmental Document will be a SEIR see [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

### 2.2.3 Change of Class of Action

At any time during the PD&E Study, changes in the COA could arise if there are changes in the project's scope or changes in impact status of topics/resources. If a project is an EA changing to an EIS, a **Notice of Intent (NOI)** in the **FR** is required.

The decision to downgrade from an EIS 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. If an EIS is cancelled it is announced in 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 COA Determination to obtain approval for the proposed change.

## 2.3 REFERENCES

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

<https://www.fdot.gov/environment/oem-divisions/qa-qc/etdm-manual>

FDOT, FDOT Environmental Review Guidance for Emergency Relief Projects.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/2023-fdot-environmental-emergency-guidance.pdf?sfvrsn=b2f81969\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/2023-fdot-environmental-emergency-guidance.pdf?sfvrsn=b2f81969_2)

FDOT, Local Programs Manual, Topic No. 525-010-300. <https://pdl.fdot.gov/>

FDOT/FHWA Stewardship and Oversight Agreement, Topic No. 700-000-005.

<https://pdl.fdot.gov/>

FHWA, Environmental Review Toolkit. <https://www.environment.fhwa.dot.gov/>

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

FHWA, Memorandum: Additional Flexibilities In Categorical Exclusions, May 22, 2017.  
[https://www.environment.fhwa.dot.gov/legislation/nepa/memo\\_additional-flex.aspx](https://www.environment.fhwa.dot.gov/legislation/nepa/memo_additional-flex.aspx)

FHWA, Memorandum: Additional Flexibilities In Categorical Exclusions, June 12, 2018.  
[https://environment.fhwa.dot.gov/legislation/nepa/memo\\_additional-flex\\_6-2018.aspx](https://environment.fhwa.dot.gov/legislation/nepa/memo_additional-flex_6-2018.aspx)

National Environmental Policy Act of 1969 (NEPA) as amended (42 U.S.C. § 4321 et seq.), <https://www.govinfo.gov/content/pkg/COMPS-10352/pdf/COMPS-10352.pdf>

Title 10 CFR § 1021(D), Appendix B. <https://www.ecfr.gov/current/title-10/chapter-X/part-1021>

Title 23 CFR § 771, Environmental Impact and Related Procedures.  
<https://www.ecfr.gov/current/title-23/chapter-I/subchapter-H/part-771>

USDOT, Notice of Adoption of Electric Vehicle Charging Stations Categorical Exclusion Under the National Environmental Policy Act. Federal Register, Volume 88, Number 181, Pages 64972-64973 (September 20, 2023).  
<https://www.federalregister.gov/documents/2023/09/20/2023-20238/notice-of-adoption-of-electric-vehicle-charging-stations-categorical-exclusion-under-the-national>

USDOT, Order 5610.1D, Procedures for Considering Environmental Impacts.  
<https://www.transportation.gov/mission/dots-procedures-considering-environmental-impacts>

<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	YES	FDOT	YES
	Local	FDOT Lead	Local and FDOT	Local Option	Local and FDOT	Local Option
Highways on the SHS but not on the SIS	FDOT	YES	FDOT	YES	FDOT	YES
	Local	FDOT Lead	Local and FDOT	Local Option	Local and FDOT	Local Option
Highways not on SHS but on the SIS	FDOT	YES	FDOT	YES	FDOT	YES
	Local	FDOT Lead	Local and FDOT	Local Option	Local and FDOT	Local Option
Highways not on SHS nor on the SIS	FDOT	YES	FDOT	YES	Local	N/A
	Local	FDOT Lead	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**

## **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

The Florida Department of Transportation (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 ETDM topics reviewed by the ETAT during an ETDM screening event and is required for each screened project. These topics are identified in [Section 3.2.2.3](#).

The PED is consistent with ***Title 23 United States Code (U.S.C.), Highways*** 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 subject matters [within the Environmental Screening Tool (EST) these evaluation groups are identified as topics] and the District's plans to address environmental considerations as the project advances to further study. This could include identification of avoidance, minimization, or mitigation options. The District 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) phase. 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 Federal Highway Administration (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 Determination after receiving comments from appropriate state and local agencies, also known as consistency reviewers. For detailed information on FCMP and Federal Consistency Determination see [Part 2, Chapter 14, Coastal Zone Consistency](#). Additionally, the AN alerts the Florida Department of Commerce to provide comments regarding a project's compatibility with the Local Government Comprehensive Plans [[Chapter 163, Florida Statutes \(F.S.\)](#)].

FDOT uses the EST to distribute the AN package electronically. 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 and AN is made at the District's discretion based on when the PD&E phase 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](#)). See [Figure 3-1](#) for an outline of the AN process.

Qualifying transportation projects should be entered into the EST as described in 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 an environmental topic, 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 Federal Consistency Review.

Comments from consistency reviewers are reviewed by the SCH, which makes a Federal Consistency Determination as required by [Section 380.23, F.S.](#), and [15 Code of Federal Regulations \(CFR\) Part 930](#). The final Federal 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 phase, 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 to support 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 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 topics in a project study area. The PED also discusses the process FDOT plans to use to address or evaluate topics 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\*\*](#).

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, and 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 the Office of Environmental Management (OEM) for the official OEM Pre-Screening Review. During the OEM Pre-Screening Review, the OEM Project Delivery Coordinator (PDC) and Engineer 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. PDCs and Engineer Leads have up to 14 days to provide comments and may also include subject matter experts. OEM must provide an approval of the pre-screening in order to proceed with the release of the AN.

### **3.2.2 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 FDOT State Projects which may require an AN and qualify for

screening through the EST are prepared as a State Environmental Impact Report (SEIR) ([Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)).

FDOT Federal Projects that qualify for screening will receive a Federal Consistency Determination through the AN package distribution. Federal Consistency Reviews take place when the AN Package is distributed. SEIRs may require a Federal Consistency Determination because they often involve a federal permit. For projects requiring a federal permit, coordination with the permitting agency may be needed to determine whether the Environmental Document prepared by the state will provide sufficient information to serve as the agency's **National Environmental Policy Act (NEPA)** document [e.g., U.S. Coast Guard (USCG) bridge permits, U.S. Army Corps of Engineers (USACE) **Section 404** and **Section 10** permits].

The AN package is prepared through the EST. See FDOT's [EST User Handbook](#) for guidance about using the EST. The AN package consists of a cover letter ([Section 3.2.2.1](#)), location map(s) ([Section 3.2.2.2](#)), Fact Sheet ([Section 3.2.2.3](#)), [Application for Federal Assistance \(SF-424\)](#) (if appropriate) ([Section 3.2.2.4](#)), and a transmittal list ([Section 3.2.2.5](#)).

### 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, 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 topics. 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 topic 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 desktop 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, Purpose and Need, and Planning Consistency](#) provides guidance on preparing the project's purpose and need.

The status of planning consistency should be summarized in this section and state whether the proposed project is consistent with the Local Government Comprehensive Plan(s) through the Florida Department of Commerce's review of FDOT's Five Year Work Program pursuant to **Section 339.135(4)(f), F.S.** Consistency with the adopted Long Range Transportation Plan (LRTP) should be identified for projects within MPO areas. This section identifies that the project is documented in the adopted Transportation Improvement Program (TIP) and the Current State Transportation Improvement Program (STIP). For projects in non-MPO areas, identify consistency with the Local Government Comprehensive Plan(s), Current 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 FDOT's [EST User Handbook](#)). The requested information should follow guidance provided in [Part 2, Chapter 1, Project Description, Purpose and Need, and Planning Consistency, FDOT/FHWA Consistency Guidance](#), and [Planning Consistency for NEPA Practitioners](#).

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, Purpose and Need, and Planning Consistency](#).

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 topics including community features, a description of potential involvement, 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 potential impacts associated with the topics below.

- a. **Community Effects**

1. **Social** - Consider the community demographics (e.g., age, income, minority populations), various users (such as older residents, people with disabilities, and children), community cohesion, safety/emergency response, community character and features, community goals, and describe the project's potential involvement with them as appropriate. Reference whether a **Sociocultural Data Report** has been run and if so, describe pertinent results if available. See [Part 2, Chapter 4, Community Impact Assessment](#).
2. **Economic** - Describe the known economic condition of the area (e.g., major employers, tax base, business access), ongoing or planned economic development efforts, and the project's potential involvement. See [Part 2, Chapter 4, Community Impact Assessment](#).
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, Community Impact Assessment](#).
4. **Mobility** - Describe existing traffic conditions/traffic circulation/connectivity, travel modes, existing and planned transit routes as well as pedestrian and bicycle facilities in the area, transportation services, and the movement of people, goods (e.g., freight), and services. Describe the project's involvement with these mobility aspects. See [Part 2, Chapter 4, Community Impact Assessment](#).
5. **Aesthetic Effects** - Describe the area's existing aesthetic features (including vistas/viewsheds) and summarize the project's potential involvement. Identify, by formal name, designated or candidate Scenic Highways in the project vicinity and potential for involvement with these features. 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, Community Impact Assessment](#).
  7. **Farmland** - Describe any prime and/or unique farmlands in the project area and summarize the project's potential involvement with these resources. See [Part 2, Chapter 6, Farmland](#).
- b. **Cultural and Tribal** - see *Part 2* of this [Manual](#)
1. **Section 4(f) Potential** - Identify those properties or features potentially protected by **Section 4(f) of the U.S. Department of Transportation Act of 1966, as amended**. Identify any public parks, publicly-owned recreation areas, wildlife or waterfowl refuges, and **National Register of Historic Places (NRHP)** eligible resources located within the vicinity of the proposed project. Describe the project's potential involvement and how these resources 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, including those listed or eligible for listing on the **NRHP**. This includes, but is not limited to historic districts, objects, archaeological remains, and historic standing structures, including bridges (or other **Section 106** resources). Describe the project's potential involvement and how cultural resources will be evaluated. See [Part 2, Chapter 8, Archaeological and Historical Resources](#).
  3. **Recreational and Protected Lands** - Identify any recreation areas, the project's potential involvement, and how they may be evaluated. It should be noted that for FDOT Federal Projects these properties may be potentially protected by **Section 4(f)**. Identify a project's potential **Section 6(f)** involvement according to [Part 2, Chapter 7, Section 4\(f\) Resources](#). Identify any state-owned conservation lands subject to review and approval by the Acquisition and Restoration Council (ARC). See [Part 2, Chapter 23, State-owned Upland Conservation Land Coordination](#).
- c. **Natural** - see *Part 2* of this [Manual](#)
1. **Wetlands and Surface Waters** - Discuss the project's potential involvement with wetland and other surface water resources. If known, identify the location of potential jurisdictional wetlands and other surface waters as determined by the FDEP, Florida Water Management Districts (WMDs), and/or the USACE. Describe how wetlands and other surface waters may be evaluated. (The PED must not draw any conclusions regarding the significance of the wetland involvement since that would

- constitute a Wetland Finding.) See [Part 2, Chapter 9, Wetlands and Other Surface Waters](#).
2. **Water Resources** - Provide a brief description of existing water features and stormwater treatment including the possible options for treatment and describe the project's potential involvement with these elements, as well as how they will be evaluated. See [Part 2, Chapter 11, Water Resources](#).
  3. **Floodplains** - State whether 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](#).
  4. **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 with these species/species' habitat and how they may be evaluated. Identify areas where reduction in wildlife vehicle collisions, or improved wildlife connectivity using wildlife crossings may be considered. See [Part 2, Chapter 16, Protected Species and Habitat](#).
  5. **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 (MSA)**. Identify possible involvement with Habitat Areas of Particular Concern (HAPCs). Describe the project's potential involvement, and how it may be evaluated. See [Part 2, Chapter 17, Essential Fish Habitat](#). Identify whether the project is located in the vicinity of, or is located within, a coastal barrier resource as defined by the **Coastal Barrier Resources Act (CBRA)**. See [Part 2, Chapter 15, Coastal Barrier Resources](#).
- 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. State if an air quality screening will occur. 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 whether the project intersects a potentially navigable waterway, the project's potential involvement, and how it may be evaluated. Describe the anticipated level of USCG involvement. See [Part 1, Chapter 16, Navigation](#).

e. **Special Designations**

1. **Outstanding Florida Waters** - Identify potential involvement with Outstanding Florida Waters. See [Part 2, Chapter 11, Water Resources](#).
  2. **Aquatic Preserves** - Identify potential involvement with Aquatic Preserves. See [Part 2, Chapter 11, Water Resources](#).
  3. **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](#).
  4. **Sole Source Aquifers** - Identify potential involvement with Sole Source Aquifers as defined by the Environmental Protection Agency (EPA). Recharge zones should also be identified. See [Part 2, Chapter 11, Water Resources](#).
4. **Coastal Zone Consistency** - Identify if Coastal Zone Consistency is required. See [Part 2, Chapter 14, Coastal Zone Consistency](#).
  5. **Anticipated Permits** - Identify any anticipated permits.
  6. **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 Native American Tribes (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 FDOT's [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 and Engineer Leads 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 Site](#)
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

Tribes that are not ETAT members receive an email initiating cultural resources identification and the evaluation process for the project ([Figure 3-7](#)) with a link to the AN package through the EST and consistent with FDOT's [Native American Tribal Consultation Website](#).

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 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 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 Federal 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. See [Section 3.2.6](#) for guidance on the ETDM Issue Resolution process for inconsistency determinations.

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, 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 Phase, and assist with the **Class of Action Form** as discussed in [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#). The **Preliminary Programming Screen Summary Report** is followed by a **Final Programming Screen Summary Report** that contains the same information as the **Preliminary Programming Screening Summary Report** with the addition of an OEM approved **Class of Action Form**.

### 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. These designations describe various levels of involvement in the environmental review process.

1. **Lead Agency** - The Lead Agency is the agency proposing the action and 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 FDOT State 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)**, FDOT serves as the joint lead agency. FDOT identifies whether a project will be processed as an FDOT Federal Project or FDOT State Project prior to the ETDM screening events (see [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)).
2. **Cooperating Agency** - According to **42 U.S.C. § 4336a(a)(3)** a cooperating agency is any federal, state, tribal, or local agency with jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal that has been designated by the lead 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. The Cooperating Agencies have legal/jurisdiction requirements tied to the preparation of the Environmental Document. Cooperating Agencies must be included when establishing the schedule, determining the purpose and need, and determining alternatives. Cooperating agencies consult with the lead agency in developing and updating the schedule, meet the schedule, and elevate, as soon as practicable, to the Director

of OEM issues relating to purpose and need, alternatives, or other issues that may affect the ability to meet the schedule.

The **23 CFR § 771.113** and **42 U.S.C. § 4336a** allow a Cooperating Agency by request of the Lead Agency, assume responsibility for developing information and preparing environmental analyses, including portions of the environmental impact statement or environmental assessment concerning which the cooperating agency has special expertise. Cooperating Agencies may be determined during the Programming Screen or during the PD&E phase.

3. **Participating Agency** - Other agencies that are invited by the Lead Agency [pursuant to **23 U.S.C. § 139(d)**] to serve as a Participating Agency respond to requests for technical assistance, attend scoping and coordination meetings, attend joint field reviews, provide substantive and early input on topics of concern, scope agreements to address concerns 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 for **NEPA** documents. 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 concerns regarding the project's potential environmental, socioeconomic, 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 issues an inconsistency determination during the AN review, the project will go through the ETDM Issue Resolution process (see 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 concern on a topic (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 ETDM Issue Resolution process will be documented in the EST and the Environmental Document. FDOT's [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 FDOT Federal Projects undergoing **NEPA** review, then the "issue resolution" process set out in **23 U.S.C. § 139(h)(6)** 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 four 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 managed lanes, change in Purpose and Need).

If the project **has not** entered the PD&E phase, the AN must be reprocessed and will include an updated Programming Screen.

An updated AN package is prepared in accordance with [Section 3.2.2](#). For FDOT Federal 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, coordination with OEM is needed to determine whether the District should 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)

FDOT, EST User Handbook. <https://etdmpub.fla-etat.org/est/pub/EstHandbook.do>

FDEP, Florida Coastal Management Program website. <https://floridadep.gov/rcp/fcmp>

FDEP, Florida State Clearinghouse website.  
<https://floridadep.gov/oip/oip/content/clearinghouse>

FDOT, Efficient Transportation Decision Making Manual Topic No. 650-000-002.  
<https://www.fdot.gov/environment/oem-divisions/qa-qc/etdm-manual>

FDOT, Planning Consistency for NEPA Practitioners.  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/planning-consistency-for-nepa-practitioners.pdf?sfvrsn=895090ea\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/planning-consistency-for-nepa-practitioners.pdf?sfvrsn=895090ea_1)

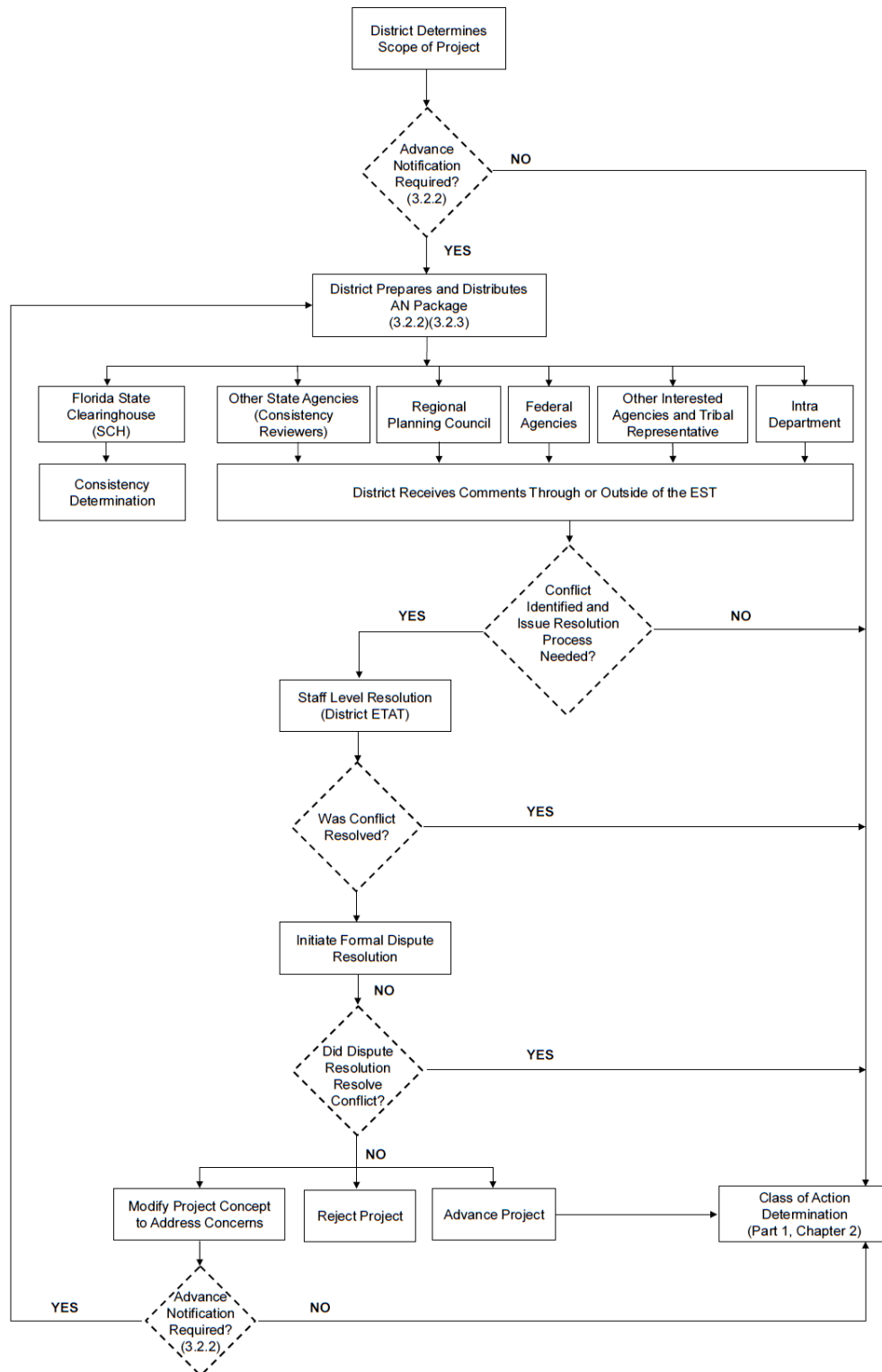
Federal Register, 1982, Presidential Executive Order 12372. FR Vol. 47, No. 137

Section 380.23, F.S.  
[https://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=380.23&URL=0300-0399/0380/Sections/0380.23.html](https://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=380.23&URL=0300-0399/0380/Sections/0380.23.html)

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

Title 15 CFR § 930, Federal Consistency with Approved Coastal Management Programs (Subpart F). <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-IX/subchapter-B/part-930>

Title 23 U.S.C. Highways <https://www.ecfr.gov/current/title-23>



**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.

(FDOT Federal Projects that qualify for screening in the EST require a Federal Consistency Determination and should include 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 May 26, 2022 and executed by the Federal Highway Administration and FDOT.*

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

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

(DATE)  
Page 2

*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."*

(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/>.*

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

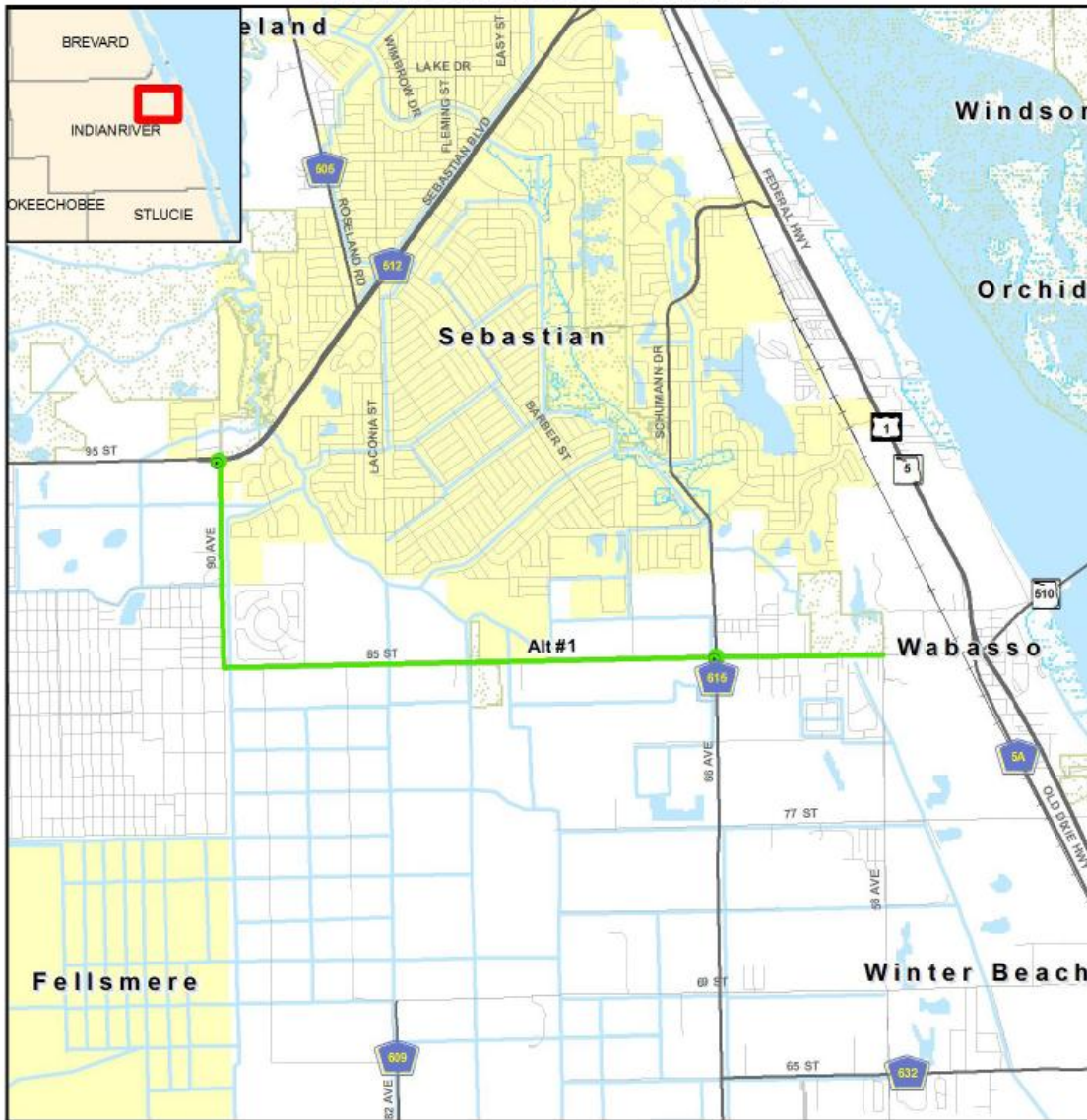
Sincerely,

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: 03/31/2029
<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
* If Revision, select appropriate letter(s): <input type="text"/> * Other (Specify): <input type="text"/>		
* 3. Date Received: <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. UEI: <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: 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. Assistance Listing Number:</b> <input type="text"/>	
Assistance Listing 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)**

<b>Application for Federal Assistance SF-424</b>	
<b>16. Congressional Districts Of:</b>	
* a. Applicant <input type="text"/>	* b. Program/Project <input type="text"/>
Attach an additional list of Program/Project Congressional Districts if needed.	
<input type="text"/>	<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: <input type="text"/>	* b. End Date: <input type="text"/>
<b>18. Estimated Funding (\$):</b>	
* a. Federal	<input type="text"/>
* b. Applicant	<input type="text"/>
* c. State	<input type="text"/>
* d. Local	<input type="text"/>
* e. Other	<input type="text"/>
* f. Program Income	<input type="text"/>
* g. TOTAL	<input type="text"/>
<b>* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?</b>	
<input type="checkbox"/> a. This application was made available to the State under the Executive Order 12372 Process for review on <input type="text"/> . <input type="checkbox"/> b. Program is subject to E.O. 12372 but has not been selected by the State for review. <input type="checkbox"/> c. Program is not covered by E.O. 12372.	
<b>* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)</b>	
<input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", provide explanation and attach <input type="text"/> <input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>	
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 18, Section 1001)	
<b>** I AGREE</b>	
** The list of certifications and assurances, or an Internet site where you may obtain this list, is contained in the announcement or agency specific instructions.	
<b>Authorized Representative:</b>	
Prefix: <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"/>	
* Telephone Number: <input type="text"/>	Fax Number: <input type="text"/>
* Email: <input type="text"/>	
* Signature of Authorized Representative: <input type="text"/>	* Date Signed: <input type="text"/>

**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  
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 Commerce – **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 has begun for ETDM Project #xxxxx (Project Name) - Project Sponsor: FDOT District x

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:

<https://www.fla-etat.org/est/secure/>

ETDM #: \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_

FINANCIAL #: \_\_\_\_\_

FEDERAL INVOLVEMENT: \_\_\_\_\_

ALTERNATIVE: \_\_\_\_\_

MODES: \_\_\_\_\_

SIS: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

COUNTY: \_\_\_\_\_

PLANNING ORGANIZATION: \_\_\_\_\_

SCREEN: \_\_\_\_\_

REVIEW START: \_\_\_\_\_

REVIEW END: \_\_\_\_\_

ETDM COORDINATOR: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

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

POTENTIAL LEAD AGENCIES: \_\_\_\_\_

ANTICIPATED CLASS OF ACTION (COA);

<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 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 Review 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 and Acknowledge Project Description and Purpose and Need
- \* Review and comment on potential project effects (direct, indirect and secondary effect considerations). Consider:
  - Preliminary Environmental Discussions (PEDs)
  - Your professional knowledge about potential effects in the area
  - Standardized GIS analyses provided in the EST or other accessible systems
  - Studies and other data about the area
- \* Assign potential of degree of effect
- \* Provide scoping recommendations for future project development phase:
  - Suggest technical studies necessary to evaluate potential project effects
  - Identify critical topics for analysis during PD&E

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

If you have any technical questions, need assistance, or require additional training with the EST, contact the ETDM Help Desk at 850-414-5334 or [help@fla-etat.org](mailto:help@fla-etat.org)

If you have any project-specific questions contact xxx at xxxx (ETDM Coordinator or 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.

=====

Thank you,

ETDM Coordinator and CLC

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

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

FROM: (FDOT ETDM Coordinator)  
TO: Title and name of preservation official (generated in the EST)  
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 as an initial notification that FDOT is initiating its cultural resources identification and evaluation process for the above referenced project. Please note the AN package provides the reader with an overview of a proposed transportation project.

(Projects that qualify for screening and involve a federal action, federal funds, or are maintaining federal eligibility, require a Federal Consistency 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 May 26, 2022 and executed by the Federal Highway Administration and FDOT.*

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

*FDOT will determine what type of environmental documentation will be necessary based upon environmental evaluations and comments received through coordination with other agencies. FDOT is presenting an opportunity for early coordination in compliance with Section 106 of the National Historic Preservation Act of 1966 (as amended) and 36 CFR Part 800."*

(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 based upon in-house environmental evaluations and comments from other agencies. FDOT is presenting an opportunity for early coordination in compliance with Chapter 267.031(5)(d), Florida Statutes."*

### Figure 3-7 Sample Email to the Preservation Officials

(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 \_\_\_\_\_. This report may be reviewed at: <http://etdmpub.fl-a-etat.org/>.”*

An initial desktop evaluation of previously recorded archaeological and historic cultural resources in and proximate to the project area is included in the AN package for your consideration. Please take this opportunity to inform FDOT if you have any concerns related to historic or archaeological resources of importance to you.

Furthermore, if there are any traditional religious and/or culturally important places in or near 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 submitted to the District contact:

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

Thank you,

ETDM Coordinator

**Figure 3-7 Sample Email to the Preservation Officials (Page 2 of 2)**

### 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 Street, 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. Department of Health and Human Services                  1600 Clifton Road                  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 Avenue SE, Mail Stop 10                  Washington DC, 20590</p>	<p>Director                  U.S. Geological Survey                  U.S. Department of Interior                  Florida Water Science Center                  12703 Research Parkway                  Orlando, FL 32826</p>
<p>(FDOT District 3)                  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 Street                  Atlanta, GA 30303-2086</p>
<p>Southeast Regional Administrator                  National Marine Fisheries Service                  National Oceanic and Atmospheric Administration                  263 13th Avenue, South                  St Petersburg, FL 33701                  In addition, for actions involving the Florida Keys:                  Southeast Regional Director                  National Marine Sanctuaries Program                  National Oceanic and Atmospheric Administration                  33 East Quay Road                  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

This chapter provides an overview of the project development process for transportation projects prepared by Florida Department of Transportation (FDOT). This chapter focuses primarily on projects with a Project Development and Environment (PD&E) phase.

#### 4.1.1 Project Development Process

It is important to understand the sequence and interrelation between Planning, PD&E, Design, Right of Way (ROW), and Construction phases in the project development process to successfully deliver a project.

During the PD&E process, projects are evaluated for potential environmental impacts, to ensure compliance with applicable federal and state laws and regulations. For FDOT Federal Projects this process is followed to comply with the **National Environmental Policy Act (NEPA)**, state laws and regulations, and the environmental review process required by **23 United States Code (U.S.C.) § 139**. FDOT State Projects require similar environmental review for preparation of a State Environmental Impact Report (SEIR) (see [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)). Environmental review continues, through project Re-evaluation and permitting, during the Design and Construction phases.

Type 1 Categorical Exclusions (CEs) or Non-Major State Actions (NMSAs) (and occasional Type 2 CEs) do not have a PD&E phase. Environmental evaluations for Type 1 CEs and NMSAs are prepared and approved by the District Environmental Office during the Design phase. See [Part 1, Chapter 5, Categorical Exclusion](#) and [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#) for more information.

Communication among the various offices involved in the project development and delivery process and coordination between project phases is critical to a project's success. Project Managers are responsible for establishing and maintaining communication and coordination throughout the different phases. [Figure 4-1](#) shows the typical project development 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

projects that qualify, see the [Efficient Transportation Decision Making \(ETDM\) Manual, Topic No. 650-000-002](#). FDOT uses the ETDM Environmental Screening Tool (EST) to gather project information and coordinate with resource agencies, public, and other project stakeholders about the project’s potential effect on social, cultural, natural, and physical resources. This information is used to develop the scope of services for a planning 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) for **NEPA** documents or approval by the Lead Agency. Information obtained during the 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, permitting, 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 concurrently with the Design phase before the project moves into the Construction phase.

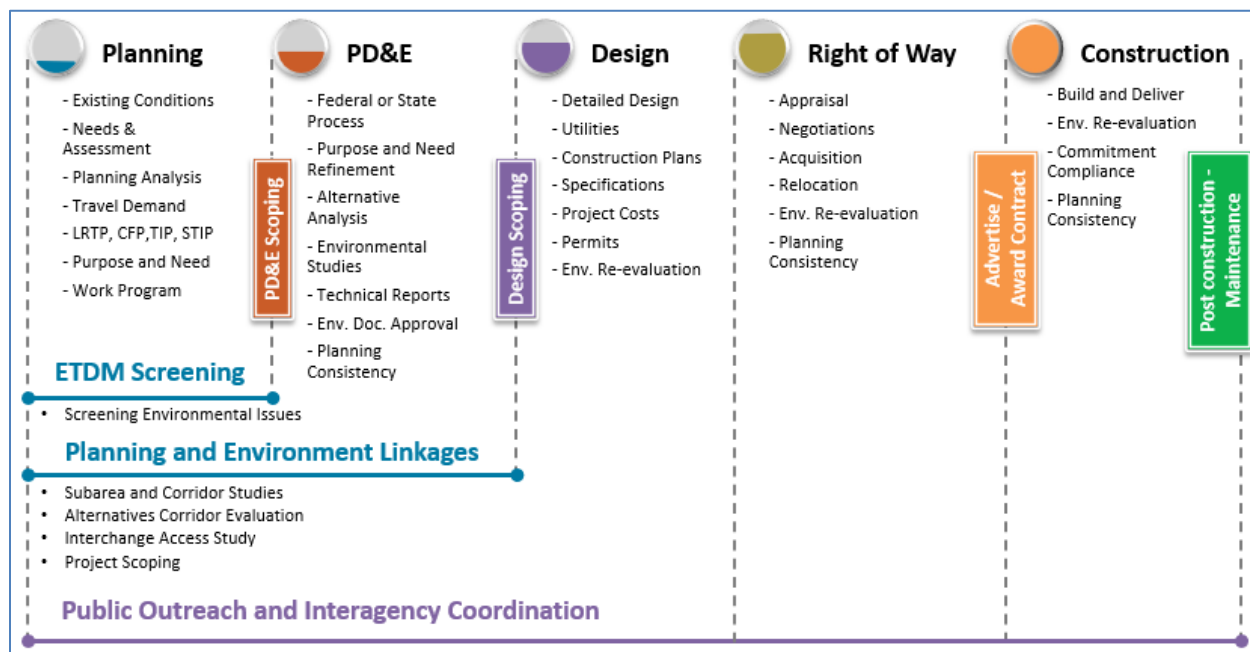


Figure 4-1 Project Development Process

### 4.1.2 Definitions

**Administrative Record** – The set of documents that the decision-maker considered in making the final decision that are submitted by the Lead Agency to the court for a **NEPA** project involving litigation. The Administrative Record is prepared using the project file in StateWide Environmental Project Tracker (SWEPT).

**Build Alternative** – A proposed alternative that involves constructing or implementing a project to address the project’s purpose and need.

**Cost Feasible Plan (CFP)** – A plan that consists of projects identified in a long-range transportation plan that are capable of being funded within the 20-year planning horizon.

**FDOT Federal Project**- A Federal Project with FDOT as the Lead Agency due to **NEPA** Assignment. These projects involve FHWA funds and/or affect the interstate during any phase of project development or implementation.

**FDOT State Project**- A project advanced through the FDOT Work Program using only state funding and/or does not affect the interstate during any phase of project development or implementation.

**Final Design** – Any design activities following preliminary design and expressly leading to the preparation of final construction plans, detailed specifications for the performance of construction work 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.

**Location and Design Concept Acceptance (LDCA)**- The approval of the preferred alternative by the Lead Agency.

**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, Federal Highway Administration (FHWA) can designate a project with a total cost of less than \$500 million as a major project in situations where the project requires a substantial portion of the State Transportation Agency program resources, has a high level of public or congressional interest, is unusually complex, or has extraordinary implications for the national transportation system. 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 with populations over 50,000, as determined by the U.S. Census Bureau. Such boards may also be referred to as Transportation Planning Organizations (TPOs).

**NEPA Process** – The process for Federal Projects to comply with the procedures and achieve the goals of **NEPA**.

**No-Action (No-Build) Alternative** - The option in which the proposed project activity would not take place. The no-action (no-build) alternative provides the baseline for establishing impacts of the build alternatives. The terms no-action and no-build are used interchangeably.

**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 PD&E 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 an MPO or a State, as appropriate, during metropolitan or statewide transportation planning under **23 U.S.C. § 134, § 135, or § 168** respectively.

**Preferred Alternative** - The alternative identified in the Environmental Document that will be advanced to the Design phase.

**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. Prior to completion of the **NEPA** process, any such preliminary engineering and other activities and analyses must not materially affect the objective consideration of alternatives in the **NEPA** process as defined by **23 CFR § 636.103** and **FHWA Order 6640.1A Policy on Permissible Project Related Activities During the NEPA Process**.

**Project Development and Environment (PD&E) Phase or PD&E Process-** The phase of the project development process that supports the Class of Action Determination. Entering the PD&E phase does not start the PD&E Study. The terms PD&E phase and PD&E process are used interchangeably.

**PD&E Activities-** Activities included in the **Work Program Instructions, Part III, Chapter 23.A.** that support ETDM, the PD&E phase, and ultimately the PD&E Study.

**Project Development and Environment (PD&E) Study-** The FDOT process of preparing an Environmental Document, including a Type 2 CE, Environmental Assessment (EA), Environmental Impact Statement (EIS), or SEIR once the **Class of Action Form** is approved. Type 1 CEs and NMSAs are not PD&E studies, as they do not have a PD&E phase and are prepared during the Design phase.

**Project Development Process** – A comprehensive process involving multiple project phases including Planning, PD&E, Design, Right of Way (ROW), and Construction.

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

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

to meet project goals and objectives. Project scoping is used to build the PD&E scope of services and starts towards the end of the planning process as the project transitions to the PD&E phase.

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

**Reasonable Alternatives** [Term used in the EIS only] – A reasonable range of alternatives that are technically and economically feasible and meet the purpose and need for the proposed action.

**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 District offices. FDOT has developed Standard Scopes of Services for procuring PD&E phase and Design services, and guidelines for estimating and negotiating staff hours.

**State Funds Only (SFO) project** – A project that is funded by state funds only. If it is determined that the project will be SFO, then this funding method 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)** – The interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the SHS, plus roads transferred to the state’s jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state’s jurisdiction. These facilities are facilities to which access is regulated. See **Subsection 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.

**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 under **Section 341.052, F.S.**

**Transportation Improvement Program (TIP)** – The staged multiyear program of transportation improvement projects developed by an MPO consistent with the LRTP.

## 4.2 PROCEDURE

### 4.2.1 Planning Process

The project planning process begins when Metropolitan Planning Organizations (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/Transportation Planning Organizations (TPOs) LRTPs. At the state level, FDOT develops CFPs for the State Highway System (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***.

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.

During the Planning phase, the purpose and need for the project is established based on identified transportation problems, or deficiencies. Travel demand, 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 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 the PD&E phase. Alternatives development typically begins 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 Environment Linkages (PEL), provides a connection between planning-level and environmental review decisions. Planning decisions and the ***NEPA*** process should be integrated to eliminate duplication of analysis and minimize delays in project delivery. The benefit of linking planning decisions and the PD&E phase 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 phase and focus the analyses and technical

studies conducted during the PD&E phase on those issues with potential to impact the project's delivery and recommendations. See the [Linking Planning and Environmental Review Guidebook](#).

Pursuant to **23 U.S.C. § 168**, **23 Code of Federal Regulations (CFR) § 450.212**, **23 CFR § 450.318**, and **23 U.S.C. § 139(f)(4)(E)**, 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 under existing laws. **Appendix A** of **23 CFR Part 450** is intended to be non-binding and voluntary. **23 U.S.C. § 139(f)(4)(E)** allows elimination of alternatives from detailed evaluation in an Environmental Impact Statement (EIS) for alternatives evaluated during planning.

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 **NEPA** and the associated implementing regulations (**23 CFR Part 771** and **23 U.S.C. Part 139**). The relevant agency in the **NEPA** 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 **NEPA**.
  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.

In accordance with **23 U.S.C. § 139(f)(4)(E)(ii)**, the Lead Agency may eliminate from detailed consideration an alternative proposed in an EIS if:

- The alternative was considered in a metropolitan planning process or a state environmental review process by a MPO or a state or local transportation agency, as applicable;
- The Lead Agency provided guidance to the MPO or state or local transportation agency, as applicable, regarding analysis of alternatives in the metropolitan planning process or state environmental review process, including guidance on the requirements of **NEPA** and any other federal law necessary for approval of the project;
- The applicable metropolitan planning process or state environmental review process included an opportunity for public review and comment;
- The applicable MPO or state or local transportation agency rejected the alternative after considering public comments;
- Office of Environmental Management (OEM) independently reviewed the alternative evaluation approved by the applicable MPO or state or local transportation agency; and
- OEM determined, in consultation with federal Participating or Cooperating Agencies, that the alternative to be eliminated from consideration is not necessary

for compliance with **NEPA**; or with the concurrence of federal agencies with jurisdiction over a permit or approval required for a project, that the alternative to be eliminated from consideration is not necessary for any permit or approval under any other federal law.

Linking planning and **NEPA** does not necessitate that planning products be prepared to a level comparable to a **NEPA** analysis. Pursuant to **23 U.S.C § 134(q)**, **23 U.S.C. § 135(k)** and **49 U.S.C. § 5303(q)**, and **49 U.S.C. § 5304(j)**, transportation plans and programs are actions which are subject to public comment but exempt from **NEPA** review. Because individual projects will be subject to a more comprehensive review, analysis of transportation plans or programs is not required to consider all regulatory or procedural requirements that should be addressed by the **NEPA** analysis. To ensure the public is provided an opportunity for input, proper disclosure that FDOT may adopt a planning product must be made. The following notice must be inserted on the cover page of 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 five years (from the date the product was approved), the information used to prepare the planning product must be reviewed to determine 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** process. OEM must be consulted when making this decision.

Planning studies adopted for consideration in the **NEPA** process should be uploaded in the StateWide Environmental Project Tracker (SWEPT). The **Preliminary Engineering Report (PER)** should include a summary of the alternatives considered in the planning study and the reason for eliminating them or carrying them forward for further consideration in the PD&E Study (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 (see [Part 2, Chapter 3A, Alternatives Analysis](#)).

### 4.2.3 Interagency Coordination and Public Involvement

Public involvement, which provides opportunity for input from interested and affected members of the public, local governments, and environmental resource agencies, is required by both federal and state laws, as well as FDOT procedure (see [Community Engagement, Policy 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 project issues

or challenges, ROW acquisition, relocations, and access modifications. See the [Public Involvement Handbook](#) for guidance on developing and implementing effective public involvement for transportation projects.

During the ETDM Planning and Programming screens, resource agencies interested project stakeholders, and the public 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 with the preparation of a **Public Involvement Plan (PIP)** to identify the potentially affected people in a community, identify special community needs to support the Community Impact Assessment (CIA), and define the outreach methods and schedule to involve and gain community input. Depending on the Environmental Document prepared 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, Community Impact Assessment](#) 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 1, Chapter 104, Public Involvement](#) 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 input related to the project.

#### 4.2.4 Efficient Transportation Decision Making 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. Early considerations of the project's purpose and need.
4. Early considerations of alternatives to be eliminated;
5. Full and early public and Environmental Technical Advisory Team (ETAT) member participation;
6. Linkage between Planning and PD&E (including **NEPA**); and,
7. 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, and using interactive techniques.

The ETDM process facilitates early interaction among transportation planners; federal, state, and local agencies; Federally Recognized Native American Tribes (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 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 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 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 the [\*\*ETDM Manual, Topic No. 650-000-002\*\*](#) for more information about the EST.

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, or when seeking ETAT and public input on a planning study. 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 phase. 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 and seeks 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 Transportation Improvement Program (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 phase, and assist in determining the appropriate Class of Action (COA) for the project.

Within the ETDM process, the Environmental Scoping Process [as required by **23 CFR § 771.123(b)(1)**, for 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](#).

#### 4.2.5 Environmental Review for Early Acquisition Projects

**Section 108 of Title 23 U.S.C.** provides that, subject to the terms and conditions set forth therein, acquisition of ROW acquired in advance of any federal approval or authorization, including **NEPA** approval, may receive federal aid participation. Early acquisition of property interests for transportation projects may be for purposes such as corridor preservation and access management.

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 require coordination with OEM to confirm 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](#).

An 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 the **NEPA** process 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 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** process without affecting subsequent approvals required for the transportation project by the state or any federal agency. Although early acquisition can occur prior to the **NEPA** decision on the transportation project, these property interests cannot influence the selection of the preferred alternative.

FDOT must comply with **NEPA** procedures, and the 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** in 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 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 for the request met by satisfying and documenting the requirements of **23 CFR Part 624, Interstate System Access**, FDOT's [Procedure No. 525-030-160, New or Modified Interchanges](#), and the [Programmatic Agreement Between the FHWA Florida Division and the FDOT Regarding the Review and Approval of Specific Types of Changes in Interstate-System Access](#).

The first part (SO&E acceptability) may precede or occur concurrently with the PD&E phase. The SO&E acceptability must be approved prior to LDCA. 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 an IAR by FHWA and cannot proceed until 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.

**23 CFR Part 624, Interstate System Access** focuses on the technical feasibility of access request proposals to support the FHWA's determination of SO&E acceptability. To streamline project reviews, **23 CFR Part 624** requires environmental impacts evaluation and planning considerations of IAR proposals be addressed through the **NEPA** process. FDOT addresses and documents environmental impacts evaluation and planning considerations in the PD&E Study.

The FDOT State Interchange Review Coordinator requests final approval of an IAR by submitting a letter to FHWA notifying that the SO&E and LDCA (or completion of the Type 1 CE) are complete. The letter also confirms that the preferred alternative concept is the same in the SO&E and the **NEPA** documents

An IAR reevaluation is performed to document compliance with state and federal requirements due to a change in the approved IAR design concept, change in traffic

condition or failure of an IAR to progress to construction within three years of approval (See the ***FDOT Interchange Access Request User's Guide***). If a re-evaluation of the IAR is required, it should be completed and documented before the approval of the Re-evaluation of a ***NEPA*** document.

## 4.2.7 PD&E Phase Scoping

The process for scoping a PD&E phase builds on the information obtained from the ETDM screening and planning product. 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 process for scoping the PD&E phase, outlined in this chapter, is applicable to FDOT Federal Projects and FDOT State Projects.

The project scoping 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](#).

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, the significance of potential project impacts, and the timing and future phases of the project. A well-prepared PD&E scope produces a foundation upon which the project development occurs. Additionally, a well-prepared scope sets expectations 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 phase. 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 in accordance with the [Project Development Policy, Topic No. 000-525-055](#). During project scoping the Project Manager should work collaboratively with District staff from relevant functional offices to identify or verify project needs and potential issues that will be addressed by the PD&E Study. Early input from the various District offices and subject matter experts is essential to develop effective project scopes that focus on project issues. The PD&E scope of services is prepared using SWEPT.

### 4.2.7.1 Early Internal Coordination

To ensure that project decisions get broad input and early support, communication and collaboration within District offices is beneficial when projects are evaluated for inclusion in the ***Tentative Work Program***, prior to development of the PD&E Scope of Services. It is recommended that the Project Manager coordinate with staff from:

- Work Program

- Production/Scheduling
- Intermodal Systems Development (ISD)/Planning
- Safety
- Design
- Structures
- ROW
- Traffic Operations
- Maintenance
- Environmental Management
- Environmental Permitting
- Program Management
- Professional Services Unit
- Other offices as needed

This should include the SIS Coordinator, MPO Liaisons, subject matter experts, and ETDM Coordinator.

Before the start of the PD&E phase, Districts should consider holding inter-disciplinary team meetings to evaluate the preliminary project scope by:

- Understanding the project objectives and purpose and need
- Discussing, confirming or refining the project limits
- Discussing the anticipated Class of Action (COA)/Environmental Document type
- Reviewing context classification
- Evaluating a cost estimate and baseline schedule to determine if adequate time and funding are available to address the project objectives
- Reviewing and verifying the status of project planning activities (e.g., ETDM planning and programming screens or planning product) that are performed to support the PD&E phase
- 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
- 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
- Discussing and refining the initial project schedule to ensure appropriate critical tasks (with planned durations) for the project development are included

An State Funds Only (SFO) identifier is assigned to projects that are recommended to use only state funds.

#### **4.2.7.2 Start Ahead of a PD&E Study**

The District should explore options to collect data and conduct technical studies and surveys ahead of the PD&E Study to assist in determining the COA. Advancing project activities 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. **PIP**, including public outreach;
6. Cultural Resources Assessment Survey;
7. Contamination screening; and,
8. Other technical studies or coordination as project characteristics allow.

#### **4.2.7.3 Project Schedule**

To streamline development of PD&E schedules, FDOT has developed project schedule templates for the PD&E phase (by anticipated Environmental Document type) to support sequencing, implementation and execution of the Work Breakdown Structure 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

Work Breakdown Structure 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 according to the [Project Development Policy, Topic No. 000-525-055](#). Environmental PSM codes can be downloaded from FDOT's [PD&E Manual Website](#) under PSM Codes and Schedule Templates. Entering the PD&E phase supports the PD&E Study and COA determination. For a Type 2 CE, EA, or SEIR the official start date is the date the **Class of Action Form** is approved. For an EIS, the **Notice of Intent (NOI)** serves as the official 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. The Project Manager should develop a project schedule 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 and comment resolution by the District, OEM and Cooperating Agencies, as appropriate. When a 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 at FDOT's [Project Management Resource Page](#).

#### 4.2.7.4 Level of Engineering Detail

The level of engineering detail should be contingent upon the future phases of the project and is determined based on early internal coordination as discussed in [Section 4.2.7.1](#). At a minimum, engineering activities for a PD&E Study are performed to a level of detail necessary to analyze and compare the effects of the project alternatives on the social, natural, cultural, and physical environment. The level of engineering 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 an FDOT Federal Project, the PD&E phase and Design phase can begin concurrently provided that the preliminary design activities comply with **23 CFR Part 771**. Essentially, if the project is anticipated to be an EIS, the preliminary engineering activities must not limit the choice of reasonable alternatives. FDOT State Projects 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](#)).

##### 4.2.7.4.1 Permissible Project Related Activities for FDOT Federal Projects

**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 for FDOT

Federal Projects. To comply with and utilize the flexibility provided in the FHWA directive, the Districts may perform preliminary design activities prior to a **NEPA** decision regardless of the project delivery method 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 9, Chapter 901, Sequence of Plans Preparation, 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, Initial Engineering Design Process](#). The District must coordinate with OEM to determine whether advancing preliminary design activities (that are not listed in the definition of preliminary design or **Appendix A of FHWA Order 6640.1A**), is appropriate. Concurrence from OEM must be obtained in writing. In accordance with the **Guidance on Preliminary Engineering Authorizations in Fiscal Management Information System (FMIS)**, the activities are eligible for Federal-Aid reimbursement once they are approved by FHWA, but until a project is authorized in the FMIS and federal funds obligated, there is no guarantee of federal funding for any pre-authorization preliminary work.

For Design-Build Projects, other activities necessary to establish the final design parameters, (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.

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

The Project Manager should consider the benefits and risks associated with overlapping preliminary design activities with PD&E. First, there is always the possibility 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 4.2.7.4.1](#) for the level of preliminary design detail allowed in PD&E studies. To mitigate the risk, some select PD&E studies may be procured concurrently with the Design phase. Projects with complex scopes that may require evaluation of multiple alternatives should not be procured concurrently with the Design phase.

There are three contracting 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.

The Project Manager should work closely with the 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 FDOT 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 Project Manager should be mindful of alternatives analysis considerations and other risks associated with advancing final design activities with a SEIR.

#### 4.2.7.5 Scope of Services

The Project Manager reviews the **Programming Screen Summary Report** before advancing the project to the PD&E phase. The report helps the Project Manager to become familiar with the existing environmental setting and helps with the understanding of the environmental topics/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 phase, the Project Manager should 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 process.

The Project Manager consults with the District Environmental Office staff for input regarding project activities and/or impacts. The Project Manager works with an interdisciplinary project team, composed of members from Planning, Environmental Management, Design, ROW, and Construction offices to complete the PD&E phase scope of services. The Project Manager can use the **PD&E Phase Standard Scope of Services** development tool. For overlapping PD&E and Design, the **Combined PD&E Study and Design Standard Scope of Services** can be used 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.

#### 4.2.7.6 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. This procedure recognizes the requirement for obtaining **NEPA** approval pursuant to **23 CFR § 771.113**, before a District can issue the notice to commence construction. 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.

#### 4.2.7.7 Project Management Plan and Financial Plan for Major Projects

Pursuant to **23 U.S.C. § 106(h)**, Major Projects, estimated at \$500 million or more, are required to have an FHWA approved Project Management Plan (PMP) and an annual Financial Plan, including a phasing plan when applicable. The PMP for Major Projects must document procedures and processes in effect to provide timely information to the project decision makers to successfully manage the scope, costs, schedules, and quality of and the federal requirements applicable to the project. 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.

Projects that are determined to be a major project should have a **Cost and Schedule Risk Assessment (CSRA)** and a **Project Management Plan** drafted prior to the PD&E phase. See the **FHWA Project Management Plan Guidance for Major Projects** for direction.

The Financial Plan for a Major Project is coordinated by the Project Finance Office in the Office of Comptroller and should 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.

#### 4.2.7.8 Quality Control

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

All work associated with a PD&E Study should adhere to a project specific QC Plan to ensure project deliverables conform to applicable laws, regulations, and FDOT procedures. The QC Plan should address the internal QC process performed by the PD&E Study team. The Plan should ensure 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 should 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 QA/QC checklists for PD&E studies and Re-evaluations. The template and the QA/QC checklists can be downloaded from FDOT's [Documents & Resources Website](#). Additional information on the development of QC plans can be found on FDOT's [Project Management Resource Page](#).

#### 4.2.7.9 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 reaching its objectives.

A **CSRA** is required if the total project costs exceed \$100 million. For projects with costs of \$100-500 million, coordination with the District Consultant Project Management Engineer is needed. If total project costs exceed \$500 million, then coordination with the FDOT Central Office and FHWA is required. Risk management is most effective when performed early in the project and assessed continuously throughout the project. ETDM screening events ([Section 4.2.3](#)) and early internal coordination 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 the PD&E phase 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 should 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, early internal coordination, and prior planning products, 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 2, Chapter 3, Engineering Analysis](#) and [Part 2, Chapter 3A, Alternatives Analysis](#) for more information on alternatives analysis. Environmental analyses performed for the PD&E Study evaluate the project's effect on social, cultural, natural, and physical topics/resources. During the environmental analysis, potential mitigation options may be developed based on unavoidable impacts. See [Part 2 of this Manual](#), for procedures on how to perform and document analyses for environmental topics/resources. Technical reports documenting the results of this analysis are discussed in [Section 4.2.8.2](#). For an interactive document to aid in the navigation of the PD&E process, see the [PD&E Roadmap](#).

For FDOT Federal Projects, each Environmental Document and technical report should include the **NEPA** Assignment Standard Statement on the cover page:

*The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by the Florida Department of Transportation (FDOT) pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated May 26, 2022, and executed by the Federal Highway Administration and FDOT.*

The cover page of technical reports is prepared using either **Technical Report Cover Sheet, Form No. 650-050-38b** for technical reports requiring an engineer signature and seal (e.g., **PER, Typical Section Package**), or **Technical Report Cover Sheet, Form No. 650-050-38a** for those that do not [e.g., **Cultural Resource Assessment Survey (CRAS) Report, Natural Resources Evaluation (NRE)**].

Throughout the PD&E process, interagency coordination is conducted to consider project impacts, permitting requirements, project commitments, and funding sources. Commitments established as a result of the PD&E Study and/or agency coordination/consultation must be documented as described in [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 FDOT Federal Projects is typically determined once sufficient analysis has occurred before the public hearing (if applicable) (see [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)). FDOT Federal Projects may proceed as a CE, EA, or EIS. If the project is an FDOT State Project, it may proceed as a SEIR.

Standard statements may be used to document coordination and findings in the Environmental Document. These standard statements have been developed to document compliance with *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](#).

FDOT Federal Projects should meet planning consistency requirements outlined in **23 CFR Part 450** prior to OEM approval for LDCA. Environmental Documents submitted to OEM for approval must include the appropriate planning consistency documentation. See [Part 2, Chapter 1, Project Description, Purpose and Need, and Planning Consistency](#) for guidance on meeting planning consistency requirements.

#### Type 2 Categorical Exclusions

Type 2 CEs are projects without significant impacts, but which may require more detailed analysis of relevant issues and public involvement than Type 1 CEs. These projects typically go through a PD&E phase before advancing into the Design phase. 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 SWEPT project file and appropriately summarized or referenced in the Type 2 CE. The processing and documentation of Type 2 CEs is discussed in [Part 1, Chapter 5, Categorical Exclusion](#). The document of record for LDCA is the signed **Type 2 Categorical Exclusion Determination Form**.

#### 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. A Draft Environmental Impact Statement (DEIS) is required 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 with 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 is described in [Part 1, Chapter 8, Draft Environmental Impact Statement](#) and the FEIS and FEIS/ROD in [Part 1, Chapter 9, Final Environmental Impact Statement](#).

## State, Local, or Privately Funded Projects

FDOT State Projects that qualify for EST screening require a SEIR, which could have comparable levels of impact and analysis equivalent to a federal Type 2 CE, EA, or EIS. For Local Agency or Private Entity Managed Projects, a Project Environmental Impact Report (PEIR) may be prepared. PEIRs are typically used by non-FDOT entities when state funds are used or a project advanced through other unique funding mechanisms. The processing, review, and approval of FDOT State Projects and Local Agency or Private Entity Managed Projects are described in [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

### 4.2.8.2 Project Reports and Documentation

Documentation for a PD&E Study includes the Environmental Document, technical reports, as well as other data, memoranda, maps, meeting summaries, comment/response matrices and other materials developed to support the study. The PD&E Project Manager is responsible for collecting, maintaining, and filing documentation for a PD&E Study in the SWEPT project file. SWEPT maintains the official project file for PD&E studies. It is recommended that documents be placed within the applicable folder in SWEPT according to FDOT's ***SWEPT Project File Organization Guide*** on FDOT's [PD&E Manual Website](#) and SWEPT. The project file provides the technical documentation supporting the PD&E Study's decision-making process. The Project Manager should begin compiling the project file at the start of the PD&E phase, continue to add documents throughout the phase, 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 the PD&E phase are available for the next phase of the project development process. Additionally, a complete project file is essential to preparing and compiling an adequate Administrative Record for the project when required.

All project documents are 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](#). See

[Table 4-1](#) for 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.

#### 4.2.9 Design Phase

The purpose of the Design phase is to prepare the detailed engineering design, ROW limits, contract plans, specifications, and estimates for the project. FDOT's design process follows the design criteria and procedures established in the [FDM, Part 2](#) and the requirements for preparation and assembly of contract plans established in [FDM, Part 9](#).

The review of design and construction plans for Design-Bid-Build projects (conventional projects) typically 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. Some projects that are Type 1 CE or NMSA can have two phase reviews. The appropriate number of submittal phases for 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. The Technical Proposal is submitted to FDOT during the procurement of the contract. The 90% and Final submittal phases occur after the award. The 60% submittal phase is required for complex or Category 2 structures (structure with greater design difficulty and complexity) ([FDM, Part 1, Chapter 121, Bridge Project Development](#)). [FDM, Part 9, Chapter 901, Sequence of Plans Preparation](#) 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. All projects with an estimated total cost of \$50 million or more, or \$40 million for a bridge project, must have a Value Engineering (VE) study performed during the development of the project and prior to the final design. A VE study may occur after the alternative analysis is complete. If the VE is performed during the PD&E phase, it must be completed prior to the public hearing so the public can be aware of the related enhancements. 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 phase 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 previous plan submittals are addressed.

During the Design phase, new or updated surveys may be needed to confirm impacts. Additionally, mitigation requirements should be reconciled with actual impacts based on the final design features of the project. Changes in design, environment, or laws which may have occurred since the approval of the final Environmental Document or any previous Re-evaluations are addressed. [Part 1, Chapter 13, Re-evaluations](#) explains the Re-evaluation process.

### 4.3 EMERGENCY RELIEF

The FHWA Emergency Relief Program and the Federal Emergency Relief Program's (FEMA's) Emergency Management Assistance Program are activated when a Governor's Proclamation of a State of Emergency or a Presidential Declaration of a State Emergency is issued. They provide federal assistance for debris removal and the repair of disaster-damaged federal-aid highways and bridges. There are two types of repairs under the FHWA 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.

For information on the eligible activities and the preparation of documents necessary for reimbursement, see [FDOT Environmental Review Guidance for Emergency Relief Projects](#).

### 4.4 REFERENCES

AASHTO Practitioner's Handbook 10: Using the Transportation Planning Process to Support the NEPA Process

FDOT, Efficient Transportation Decision Making Manual, Topic No. 650-000-002. <https://www.fdot.gov/environment/oem-divisions/qa-qc/etdm-manual>

FDOT, Environmental Review Guidance for Emergency Relief Projects. [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/2025-fdot-environmental-emergency-guidance\\_final.pdf?sfvrsn=6847e36c\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/2025-fdot-environmental-emergency-guidance_final.pdf?sfvrsn=6847e36c_1)

FDOT, FDOT Design Manual, Topic No. 625-000-002. <https://www.fdot.gov/roadway/fdm/2023-FDM>

FDOT, Florida's Strategic Intermodal Systems (SIS) Plan. <http://www.dot.state.fl.us/planning/sis/>

FDOT, Interchange Access Request User's Guide. [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/systems/systems-management/document-repository/iar/fdot-iaurg\\_final9f627242-aad3-4beb-861c-2ab1cdcd2352.pdf?sfvrsn=49d1416c\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/systems/systems-management/document-repository/iar/fdot-iaurg_final9f627242-aad3-4beb-861c-2ab1cdcd2352.pdf?sfvrsn=49d1416c_1)

FDOT, Manual on Intersection Control Evaluation, Topic No. 750-010-003.  
<https://pdl.fdot.gov/>

FDOT, New or Modified Interchanges, Topic No. 525-030-160. <https://pdl.fdot.gov/>

FDOT, Project Development Policy, Topic No. 000-525-055.  
<https://pdl.fdot.gov/api/procedures/downloadProcedure/000-525-055>

FDOT, PD&E Roadmap. [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/pde\\_roadmap\\_interactive\\_final20250506.pdf?sfvrsn=b91af4f\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/pde_roadmap_interactive_final20250506.pdf?sfvrsn=b91af4f_1)

FDOT, Project Management Resource Page.  
<https://www.fdot.gov/designsupport/pm/resourcepage>

FDOT, Public Involvement Handbook. <https://www.fdot.gov/planning/policy/community-engagement/resource-guide.shtm>

FDOT, Records Management, Procedure No. 050-020-025. <https://pdl.fdot.gov/>

FDOT, Right of Way Procedures Manual, Topic No. 575-000-000.  
<https://www.fdot.gov/rightofway/ProceduresManual.shtm>

FDOT, SWEPT Project File Organization Guide.  
[https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Ffdotwww.blob.core.windows.net%2Fsitefinity%2Fdocs%2Fdefault-source%2Fenvironment%2Fpubs%2Fswept-file-quick-guidance.xlsx%3Fsfvrsn%3D39a0be74\\_6&wdOrigin=BROWSELINK](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Ffdotwww.blob.core.windows.net%2Fsitefinity%2Fdocs%2Fdefault-source%2Fenvironment%2Fpubs%2Fswept-file-quick-guidance.xlsx%3Fsfvrsn%3D39a0be74_6&wdOrigin=BROWSELINK)

FDOT, Value Engineering Program. Topic No. 625-030-002. <https://pdl.fdot.gov/>

FDOT, Work Program Instructions. <https://www.fdot.gov/workprogram/development/wp-instructions.shtm>

FHWA, 2011. Guidance on Using Corridor and Subarea Planning to Inform NEPA

FHWA, 2015. Guidance on Preliminary Engineering Authorizations in FMIS.  
<http://www.fhwa.dot.gov/federalaid/150311.cfm>

FHWA, 2017. Project Management Plan Guidance for Major Projects.  
<https://www.fhwa.dot.gov/majorprojects/pmp/guidance17.cfm>

FHWA, Linking the Transportation Planning and National Environmental Policy Act(NEPA) Processes. <http://www.fhwa.dot.gov/hep/plannepa050222.pdf>

FHWA, ORDER Classification Code 6640.1A. Policy on Permissible Project Related Activities during the NEPA Process, October 1, 2010

National Environmental Policy Act of 1969 (NEPA) as amended (42 U.S.C. § 4321 et seq.). <https://www.govinfo.gov/content/pkg/COMPS-10352/pdf/COMPS-10352.pdf>

Programmatic Agreement Between the FHWA Florida Division and the FDOT Regarding the Review and Approval of Specific Types of Changes in Interstate-System Access, April 2, 2025. [2025-fhwa-fdot-interstate-programmatic-agreement\\_executed.pdf](https://www.fhwa.dot.gov/interstate-programmatic-agreement_executed.pdf)

Title 23 CFR Part 624, Interstate System Access.  
<https://www.fhwa.dot.gov/programadmin/fraccess.cfm>

Title 23 CFR § 636, Design-Build Contracting. <https://www.ecfr.gov/current/title-23/chapter-I/subchapter-G/part-636>

Title 23 CFR § 771, Environmental Impact and Related Procedures.  
<https://www.ecfr.gov/current/title-23/chapter-I/subchapter-H/part-771>

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.)

## **4.5 FORMS**

Technical Report Cover Sheet, Form No. 650-050-38a

Technical Report Cover Sheet Requiring PE Signature, Form No. 650-050-38b

FDOT forms are found in the [Procedural Document Library](#)

**Table 4-1 Reports and Design Information Maintained in Project File if Completed in the PD&E Phase**

Documentation	If Applicable
<b>Scope of Services</b>	
Draft Environmental Document (Type 2 CE, EA, DEIS, SEIR)	
Approved Final Environmental Document (Type 2 CE, EA with FONSI, FEIS/ROD, FEIS, ROD, or SEIR)	
<b>Summary of Public Involvement (SPI)</b>	✓
<b>Public Involvement Plan (PIP)</b> (for Type 2 CEs without a PD&E phase, include <b>CAP</b> instead of <b>PIP</b> )	
<b>Navigation Impact Report</b>	✓
<b>United States Coast Guard (USCG) Bridge Project Questionnaire</b>	✓
<b>Project Traffic Analysis Report (PTAR)</b>	✓
<b>Bridge Development Report (BDR)</b>	✓
<b>Bridge Replacement Report (BRR)</b>	✓
<b>Bridge Hydraulic Report (BHR)</b> for the preferred alternative	✓
Bridge analysis with supporting location and design recommendations for each viable structure alternative	✓
Preliminary scour analysis	✓
Conceptual Transportation Management Plan (TMP)	✓
Design Exceptions/Variation package	✓
Financial Plan	✓
Geotechnical report (PE signature required)	
<b>Interchange Access Request (IAR)</b> and associated documents ( <b>Methodology Letter of Understanding</b> and FHWA's SO&E Affirmative Determination Letter)	✓
<b>Intersection Control Evaluation (ICE) Forms</b>	✓
<b>Location Hydraulics Report (LHR)</b>	✓
<b>Preliminary Engineering Report (PER)</b> (PE signature required)	✓
Preliminary plans for preferred alternative with ROW dimensions	

**Table 4-1 Reports and Design Information Maintained in the Project File if Completed in the PD&E Phase (Page 2 of 2)**

Documentation	If Applicable
Preliminary stormwater design (including any drainage reports, preliminary drainage design, <b><i>Pond Siting Report (PSR)</i></b> , <b><i>Stormwater Management Alternatives Report (SMART)</i></b> , and/or <b><i>Conceptual Drainage Design Report</i></b>	✓
<b><i>Preliminary System Engineering Management Plan (PSEMP)</i></b>	✓
Project Management Plan	✓
Risk Management Plan	✓
<b><i>Typical Section Package</i></b> (PE signature required)	
<b><i>Value Engineering Study Report</i></b> (PE signature required)	✓
<b><i>CIA Technical Memorandum</i></b>	✓
<b><i>Conceptual Stage Relocation Plan (CSR)</i></b>	✓
<b><i>Farmland Conversion Impact Rating Form</i></b>	✓
<b><i>Section 4(f)</i></b> Evaluation	✓
<b><i>Cultural Resource Assessment Survey (CRAS) Report</i></b>	
<b><i>Case Study Report</i></b>	✓
<b><i>Natural Resources Evaluation (NRE)</i></b> (wetlands, protected species and habitat, Essential Fish Habitat) or technical memo	
<b><i>Sea Level Impact Projection (SLIP) Study</i></b>	✓
Sea Level Rise Analysis	✓
<b><i>Noise Study Report (NSR)</i></b>	✓
<b><i>Air Quality Technical Memorandum</i></b>	✓
<b><i>Contamination Screening Evaluation Report (CSER) or Contamination Screening Technical Memorandum</i></b>	
<b><i>Utility Assessment Package</i></b>	✓

**Note:** Additional environmental and technical reports (including planning products), which are the basis of PD&E Study decisions, must also be kept in the project file.

## **PART 1, CHAPTER 5**

# **CATEGORICAL EXCLUSION**

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## PART 1, CHAPTER 5

# CATEGORICAL EXCLUSION

### 5.1 OVERVIEW

This chapter focuses on the preparation of the Environmental Document as a Type 1 or Type 2 Categorical Exclusion (CE) after the Class of Action (COA) has been determined. See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for information on determining the COA. For guidance on preparing a Type 1 CE see [Section 5.2.1](#). For guidance on preparing a Type 2 CE see [Section 5.2.2](#).

### 5.2 PROCEDURE

#### 5.2.1 Type 1 Categorical Exclusions

Type 1 CEs are prepared using a *Type 1 Categorical Exclusion Checklist* in the StateWide Environmental Project Tracker (SWEPT) after environmental analysis has been completed. This checklist is typically prepared in the Design phase and is approved by the Florida Department of Transportation (FDOT) District.

##### 5.2.1.1 Analysis and Coordination

Environmental analysis is completed and impacts are determined to verify that the COA Determination is a Type 1 CE. The level of detail required to support this determination depends upon the specific project and the magnitude of environmental impacts. Social, cultural, natural, and physical topics/resources are evaluated using the pertinent chapters in *Part 2* of this [Manual](#) to satisfy applicable federal and state environmental laws, regulations, and executive orders. Since Type 1 CEs are generally minor in nature, indirect and cumulative impacts assessments are generally not warranted. There may be exceptions, which can be evaluated on a case-by-case basis.

Analysis may include desktop and/or field review, local knowledge of the project area, agency coordination/consultation, and preparation of supporting documents. Type 1 CEs are not typically screened in the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST); however, the EST Area of Interest (AOI) tool may be used to look at the project location and view GIS data layers applicable to the project without initiating Environmental Technical Advisory Team (ETAT) review. On occasion, an EST screened project may become a Type 1 CE based on the screening results and consultation with the Office of Environmental Management (OEM). In this case information from the screening can be used to assist with the impact analysis. See the [ETDM Manual, Topic No. 650-000-002](#) for guidance on using the EST AOI tool and information on the ETDM screening events.

Coordination or consultation with appropriate resource agencies may be needed to verify the finding that there is no potential to significantly impact environmental resources (e.g.,

historic resources, listed species). Coordination and documentation are also important because they may affect environmental permitting [e.g., State Historic Preservation Officer (SHPO) coordination in a Water Management District (WMD) permit].

Projects that would normally qualify as a Type 1 CE may require additional analysis, documentation, or coordination with OEM to assure the COA is valid. This process is built into the **Type 1 Categorical Exclusion Checklist** with pop ups identifying when coordination is needed with OEM, along with other functionality that limits certain selections.

The following actions apply to CEs listed in **23 Code of Federal Regulations (CFR) § 771.117(c)** (C-list projects):

- If the project will involve a designated Wild and Scenic or Study River, coordination is required with the OEM.
- If the project will have an adverse effect on the natural, cultural, or recreational values of an Nationwide Rivers Inventory (NRI) River segment, coordination with the National Parks Service (NPS) is required and the project cannot be a Type 1 CE (***Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory and Guide for Identifying Potential Adverse Effects***).
- If the project involves a relocation, the project should be coordinated with OEM as C-list projects should not have any residential or non-residential relocations. Instead, it may be processed as a D-list project to ensure that the action meets the legal criteria for a CE (***Federal Highway Administration [FHWA] Project Involving Residential or Non-Residential Displacements Memo***).

For actions listed in **23 CFR § 771.117(c)26, (c)(27) and (c)28**, pop ups identify when coordination is needed with OEM because they must also meet the constraints in **23 CFR § 771.117(e) ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#))** to be considered a C-list project. Through OEM coordination it is determined if the project remains a Type 1 CE and is documented as CE number (d)(13) or if a Type 2 CE is needed. For these actions if any of the following are identified on the checklist, coordination with OEM is required:

- Any acquisitions of more than a minor amount of Right of Way (ROW) or would result in any residential or non-residential displacements
- Standard Permit under the **Clean Water Act Section 404, 33 United States Code (U.S.C.) § 1344**, and/or Section 10 of the **Rivers and Harbors Act**
- United States Coast Guard (USCG) bridge permit

- 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)
- Involvement with a Wild and Scenic River or Study River (project activities are located within the river corridor, across, or adjacent to the designated river segment).
- “May Affect, Likely to Adversely Affect” determination for threatened or endangered species or critical habitat under the ***Endangered Species Act (ESA)***
- Properties protected by ***Section 4(f)*** pursuant to ***23 CFR Part 774*** requiring a Programmatic or Individual ***Section 4(f) Evaluation***
- Finding of Adverse Effect for Historic and/or Archaeological Resources protected under ***Section 106*** of the ***National Historic Preservation Act (NHPA)*** and ***36 CFR Part 800***

If during the preparation of the ***Type 1 Categorical Exclusion Checklist***, an answer requires coordination with OEM, the OEM Project Delivery Coordinator (PDC) 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 would not normally need to be screened in the EST. In addition, an alternatives analysis may not be needed. The Type 2 CE is then focused on the topics which triggered the Type 2 CE COA Determination. A ***Class of Action Form*** is not needed for these projects. In this scenario, not all items on the **[Type 2 Categorical Exclusion Quality Assurance \(QA\)/Quality Control \(QC\) Checklist](#)** are applicable. See **[Section 5.2.2](#)** for more information on Type 2 CEs.

### 5.2.1.2 Public Involvement

A ***Community Awareness Plan (CAP)*** is typically prepared to identify appropriate outreach activities based on the specific project and potential community concerns. For guidance on preparing a ***CAP*** see the **[FDOT Design Manual, Part 1, Chapter 104, Public Involvement, Topic No. 625-000-002](#)**. A public hearing is typically not required for Type 1 CEs, unless the project is considered a major transportation improvement under ***Section 339.155(5)(b), Florida Statute (F.S.)*** (see **[Part 1, Chapter 11, Public Involvement](#)**).

### 5.2.1.3 Preparing a Type 1 Categorical Exclusion Checklist

A sample ***Type 1 Categorical Exclusion Checklist*** is provided as a visual in [Guidance for Part 1, Chapter 5](#). This checklist is only prepared using SWEPT. There may be multiple Type 1 CEs prepared using the same Financial Management number such as emergency or push-button projects. SWEPT provides functionality to prepare these types of documents.

The CE number/activity type from **23 CFR § 771.117(c)**, **23 CFR § 771.117(d)**, or Other (for other federal agency CE Number) is selected at the beginning of the checklist (see [Guidance for Part 1, Chapter 5](#)). For projects that may fall under two or more actions, the CE designation that is most appropriate is identified.

When completing the checklist, selection of certain items may require consultation with OEM and during this coordination it may be determined that the project cannot be completed as a Type 1 CE. When these items are selected on the checklist a notice appears stating that by checking this box, coordination with OEM is required. For these instances see [Section 5.2.1.1](#).

Documentation of analysis, coordination, and results should be uploaded to SWEPT for the project file. This documentation should include the results of any desktop and/or field review, agency consultation, and any supporting documents and/or technical reports required to justify the responses on the checklist. It is important to document that the project will not have significant impacts and that environmental issues have been addressed.

Planning consistency for Type 1 CEs is met when the project is in the State Transportation Improvement Program (STIP). The Current STIP page is attached and included in the project file to document that the project has met planning requirements in **23 CFR Part 450**. If the project is not in the STIP, a simple explanation of why the project is not in the STIP is attached. More information on FHWA's planning consistency requirements can be found in the [FDOT/FHWA Consistency Guidance](#) and FDOT's [Planning Consistency for National Environmental Policy Act \(NEPA\) Practitioners](#).

The ***Type 1 Categorical Exclusion Checklist*** is approved by the District Environmental Manager or designee using SWEPT.

### 5.2.1.4 Actions Taken After Approval

Once the final ***Type 1 Categorical Exclusion Checklist*** is approved in SWEPT, the District Environmental Office will complete and provide the date of the determination on the ***Environmental Certification for FDOT Federal Project*** form, located in SWEPT. A sample form is provided in the [Guidance for Part 1, Chapter 5](#). This form is required as part of the contract documents for federal-aid construction projects and is used when submitting all projects, including Local Agency Program (LAP) projects, for approval to the Federal Aid Office. As specified by the [Local Programs Manual, Topic No. 525-010-300](#), LAP agencies do not have signature authority for environmental certifications;

therefore, the ***Environmental Certification For FDOT Federal Project*** form 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 ***Environmental Certification for FDOT Federal Project*** form to complete the ***Federal-Aid Project Authorization/Agreement Form (PR-1240 Form)***.

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

## 5.2.2 Type 2 Categorical Exclusions

Type 2 CE COA Determinations are documented in the ***Class of Action Form (Part 1, Chapter 2, Class of Action Determination for Federal Projects)***. As a Project Development and Environment (PD&E) Study, Type 2 CE projects follow the project development process outlined in [Part 1, Chapter 4, Project Development Process](#). During the PD&E phase, the District prepares a ***Type 2 Categorical Exclusion Determination Form*** in SWEPT. The resulting Environmental Document is commonly referred to as a Type 2 CE. Type 2 CEs summarize the results of the engineering and environmental analysis and input received from stakeholders [e.g., agencies, Federally Recognized Native American Tribes (Tribes), the public] and require review and approval by OEM ([Section 5.2.2.5](#)). See [Figure 5-1](#) for a flowchart of the Type 2 CE process.

### 5.2.2.1 Engineering and Environmental Analysis and Coordination

The results of the ETDM screening events are used for project scoping and to prepare the Type 2 CE. For Type 2 CEs which were not screened through the EST, the District is responsible for gathering enough information to scope the project. The District is also responsible for coordinating with OEM and applicable agencies, when appropriate.

If project conditions change, and a project that was screened in the EST can now be completed as a Type 1 CE, a ***Type 1 Categorical Exclusion Checklist*** is prepared, coordination takes place with OEM, and the change is documented (see [Section 5.2.1](#)).

A Type 2 CE does not typically require consideration of multiple build alternatives. However, in some situations, the impacts to topics/resources may result in the need to consider additional alternatives during the PD&E phase. This should not preclude a District from considering minor shifts in the alignment during the PD&E phase. A preferred alternative is typically chosen prior to the public hearing. For projects with an accelerated schedule, Districts are encouraged to prepare up to 60 percent preliminary design during PD&E as described in [Part 1, Chapter 4, Project Development Process](#). The ***Preliminary Engineering Report (PER)*** is referenced in the Type 2 CE and uploaded to the SWEPT project file with the other Technical Materials. For bridge projects, a ***PER*** can be substituted with a ***Bridge Development Report (BDR)*** or ***Bridge Replacement Report (BRR)***. A summary of the engineering considerations and alternatives evaluation (if applicable) is included in the Project Description section of the Type 2 CE. Guidance

on completing a *PER* is provided in [Part 2, Chapter 3, Engineering Analysis](#) and [Part 2, Chapter 3A, Alternatives Analysis](#).

During the PD&E phase, impacts are evaluated and environmental analysis is completed to verify that the COA determination is a Type 2 CE. The level of detail required to support the Type 2 CE determination depends upon the complexity of the project and the magnitude of environmental impacts. Social, cultural, natural, and physical topics/resources are evaluated using the pertinent chapters in **Part 2** of this [Manual](#) to satisfy applicable federal and state environmental laws, regulations, and executive orders. Since Type 2 CEs are generally minor in nature and have less than significant impacts, cumulative impacts assessments are generally not warranted. There may be exceptions, which can be evaluated on a case-by-case basis. Indirect impact assessments may be needed for some resources.

Analysis typically includes desktop and field review, local knowledge of the project area, agency coordination/consultation, and preparation of supporting documents and technical reports.

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, uploaded as Technical Materials or attached and included in the Appendix, 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 ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)). A project with a significant impact to any topic/resource cannot be processed as a Type 2 CE.

Coordination or consultation with appropriate resource agency personnel (typically an ETAT representative) is necessary for some topics/resources. The Type 2 CE must include documentation of interagency coordination on respective jurisdictional issues to adequately support the Type 2 CE determination. A summary of coordination and/or consultation efforts and results, which support the findings, should be included in the Type 2 CE and findings or concurrence documentation should be attached. In addition, it must list commitments made throughout the PD&E Study.

### 5.2.2.2 Public Involvement

The Type 2 CE includes preparation of a public engagement plan, typically a **Public Involvement Plan (PIP)** or in some cases a **CAP**.

Type 2 CEs typically require a public hearing. If the project is a major transportation improvement as described in **Section 339.155(5), F.S.**, a public hearing is required. See [Part 1, Chapter 11, Public Involvement](#) for information on holding a public hearing and notification requirements.

The public hearing is certified when the Project Manager prepares a **Public Hearing Certification Form**. This form may be completed in SWEPT or by using the **Public Hearing Certification, Form No. 650-050-56**. If completed in SWEPT, the **Public Hearing Transcript** is uploaded to SWEPT and a link to it is provided in the certification form. If completed outside of SWEPT, the certification form and the **Public Hearing Transcript** are uploaded to SWEPT for the project file. These two documents are included in the Appendix of the Type 2 CE. Written statements from the public, both submitted at the public hearing or during the public hearing comment period, are included in the **Summary of Public Involvement (SPI)**. See [Part 1, Chapter 11, Public Involvement](#) for information on the **SPI**.

Under limited circumstances, when a Type 2 CE does not constitute a major transportation improvement as described in **Section 339.155(5), F.S.**, 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 of opportunity to request a public hearing is then published, see ([Part 1, Chapter 11, Public Involvement](#)) for publication requirements.

It is normally expected that a preferred alternative is chosen prior to the public hearing. If in unusual circumstances a preferred alternative cannot be selected before the public hearing the District should coordinate with OEM. For these situations, additional public involvement after the hearing could be necessary and could range from another public hearing to a meeting, or a flyer/mailer. The documents should also be posted on the project website.

### 5.2.2.3 Supporting Information

Supporting information such as agency coordination/consultation letters, technical memos, technical reports, and other supporting documents are saved in the SWEPT project file and are identified as either Technical Materials or Attachments. The [Type 2 Categorical Exclusion QA/QC Checklist](#) includes a list of these documents and clarifies which should be Technical Materials and which are attachments.

Technical Materials are documents contained under a separate cover that are incorporated by reference, meaning they should be referenced in the Type 2 CE. Technical Materials includes technical reports [e.g., **Project Traffic Analysis Report (PTAR)**, **Conceptual Stage Relocation Plan (CSR)**, **Natural Resource Evaluation (NRE)**, **PER**], technical memorandums, and studies. For a list of reports and design information typically completed in the PD&E phase that should be in the project file see [Part 1, Chapter 4, Project Development Process](#).

Documents added as attachments are included in the Appendix and are considered to be a part of the Type 2 CE. This may include concurrence letters, determinations of effect, and Memorandum of Understanding (MOUs). Items that are to be included as attachments are specifically identified in the [Type 2 Categorical Exclusion QA/QC Checklist](#).

#### 5.2.2.4 Preparing a Type 2 Categorical Exclusion Determination Form

The Type 2 CE is prepared using the ***Type 2 Categorical Exclusion Determination Form*** in SWEPT. Guidance on content to include in the ***Type 2 Categorical Exclusion Determination Form*** is provided in the [Guidance for Part 1, Chapter 5](#). An outline of the Type 2 CE is provided in [Figure 5-2](#). Once the form is completed, it is saved as a PDF which becomes the Type 2 CE Environmental Document.

Once completed, the form is approved and electronically signed by the Director of OEM or designee. Signing the Type 2 CE constitutes Location and Design Concept Acceptance (LDCA).

#### 5.2.2.5 FDOT Document Review Process

Type 2 CEs are required to go through a QA/QC check at the District level before the public hearing, if held (see OEM's [QA/QC Tools for PD&E Studies Website](#)). During this process the [Type 2 Categorical Exclusion QA/QC Checklist](#) is completed.

Typically, OEM Initial and Final reviews are completed after the public hearing. 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 the public hearing, if held, the District certifies the public hearing ([Section 5.2.2.2](#)) and updates the Environmental Document. The District also confirms the project file in SWEPT is complete. Districts should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

After updating the Type 2 CE, using 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 Categorical Exclusion QA/QC Checklist](#) and supporting information into SWEPT.

The 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 has 30 days to review the draft documents. The District addresses OEM comments and provides responses. 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 shares the Type 2 CE with the Cooperating Agencies. This review may be concurrent with OEM review. The District then addresses 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 Final review and 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 Administrators for review, who have 25 days to recommend the Type 2 CE for approval. The Director of OEM, or designee, then has five days to approve the Type 2 CE. This approval grants LDCA.

### 5.2.2.6 Actions Taken After Approval

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

Announcement of LDCA is sent to Cooperating Agencies and Participating Agencies through the EST, or by other electronic means. The District should also send the announcement to other interested state and federal agencies and other stakeholders. The announcement should be sent to Tribes according to their requested method as reflected on FDOT's [Native American Tribal Consultation Website](#). Others should be sent an electronic link to the document, unless a paper copy is requested. The approved Type 2 CE may be sent to a permitting agency if a permit is required [e.g., USCG for a bridge permit or the USACE for a ***Section 404*** or ***Section 408*** permit).

#### 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. See [Part 1, Chapter 11, Public Information](#) for details on preparing an Announcement of LDCA. Proof of publication or an ***Affidavit of Publication*** is saved in the ***Final Notifications Package***.

If a ***Limitations on Claims Notice*** is anticipated see [Part 1, Chapter 11, Public Involvement](#) for more information on this process. If applicable a copy of the notice in the ***Federal Register (FR)*** is saved in the ***Final Notifications Package***.

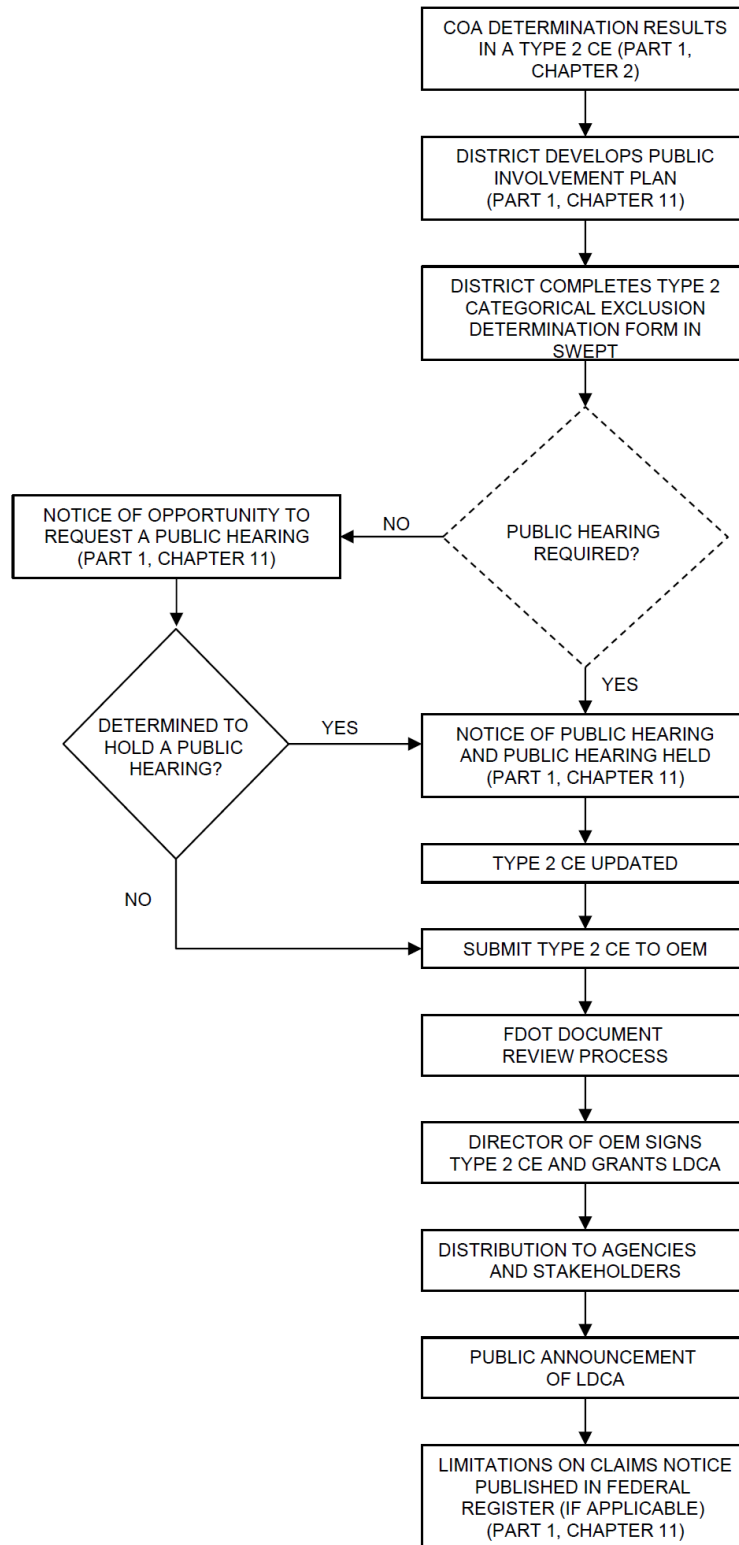
Re-evaluations may be needed for a Type 2 CE as the project progresses per [Part 1, Chapter 13, Re-evaluations](#).

## 5.3 REFERENCES

- FHWA, 1987, Technical Advisory T6640.8A. Guidance for Preparing and Processing Environmental and Section 4(f) Documents.  
[https://www.environment.fhwa.dot.gov/legislation/nepa/guidance\\_preparing\\_env\\_documents.aspx](https://www.environment.fhwa.dot.gov/legislation/nepa/guidance_preparing_env_documents.aspx)
- 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)
- FHWA, Projects Involving Residential or Non-Residential Displacements Memo, October 13, 2022.
- FDOT, 2014, Section 2. Meeting Planning Requirements for NEPA Approval.  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/metrosupport/resources/section2.pdf?sfvrsn=9567358f\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/metrosupport/resources/section2.pdf?sfvrsn=9567358f_0)
- FDOT, Planning Consistency for NEPA Practitioners.  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/planning-consistency-for-nepa-practitioners.pdf?sfvrsn=895090ea\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/planning-consistency-for-nepa-practitioners.pdf?sfvrsn=895090ea_1)
- FDOT, Project Commitment Tracking, Procedure No. 650-000-003. <https://pdl.fdot.gov/>
- FDOT, Efficient Transportation Decision Making Manual.  
<https://www.fdot.gov/environment/oem-divisions/qa-qc/etdm-manual>
- National Environmental Policy Act of 1969 (NEPA) as amended (42 U.S.C. § 4321 et seq.), <https://www.govinfo.gov/content/pkg/COMPS-10352/pdf/COMPS-10352.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 23 U.S.C. § 139(I), Efficient Environmental Reviews for Project Decision Making

## 5.4 FORMS

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



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

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**Second Cover Page**  
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- 1.1 Project Description
- 1.2 Purpose and Need
- 1.3 Planning Consistency

**Section 2: Environmental Analysis Summary**

**Section 3: Community Effects**

- 3.1 Social
- 3.2 Economic
- 3.3 Land Use Changes
- 3.4 Mobility
- 3.5 Aesthetic Effects
- 3.6 Farmland

**Section 4: Cultural Resources**

- 4.1 Section 106 of the National Historic Preservation Act
- 4.2 Section 4(f) of the USDOT Act of 1966, as amended
- 4.3 Section 6(f) of the Land and Water Conservation Fund Act of 1965
- 4.4 Recreational Areas and Protected Lands

**Section 5: Natural Resources**

- 5.1 Protected Species and Habitat
- 5.2 Wetlands and Other Surface Waters
- 5.3 Essential Fish Habitat
- 5.4 Floodplains
- 5.5 Sole Source Aquifer
- 5.6 Water Resources
- 5.7 Aquatic Preserves
- 5.8 Outstanding Florida Waters
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- 5.10 Coastal Barrier Resources

**Section 6: Physical Resources**

- 6.1 Highway Traffic Noise
- 6.2 Air Quality
- 6.3 Contamination
- 6.4 Utilities and Railroads
- 6.5 Construction

**Section 7: Engineering Analysis Support**

**Section 8: Permits**

**Section 9: Public Involvement**

**Section 10: Commitments**

**Section 11 Technical Materials**

**Appendix**

**Figure 5-2 Type 2 Categorical Exclusion Outline**

## **PART 1, CHAPTER 6**

# **ENVIRONMENTAL ASSESSMENT**

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## PART 1 CHAPTER 6

# ENVIRONMENTAL ASSESSMENT

### 6.1 OVERVIEW

This chapter provides guidance for the development of an Environmental Assessment (EA). See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for guidance on determining if a project is an EA.

In accordance with **U.S. Department of Transportation (USDOT) Order 5610.1D, 10.b.**, in order to provide evidence and analysis to determine whether to prepare a Finding of No Significant Impact (FONSI) or to prepare an Environmental Impact Statement (EIS), the EA should briefly discuss the following:

- The purpose and need for the project
- Alternatives analysis to a degree commensurate with the nature of the proposed project and indicate a preferred alternative, if identified
- The reasonably foreseeable impacts of the proposed project and the alternatives considered, including the no action alternative

All projects subject to **23 United States Code (U.S.C.) § 139** are required to be tracked on the Permitting Dashboard established under **42 U.S.C. § 4370m-2(b)**. Under **National Environmental Policy Act (NEPA)** Assignment, the Office of Environmental Management (OEM) enters project schedules for EAs into the Permitting Dashboard. The District is responsible for providing specific project schedule information to OEM as requested. The Permitting Dashboard is updated in accordance with USDOT tracking requirements.

### 6.2 PROCEDURE

Environmental and engineering analysis is used to prepare the EA. The level of analysis for topics/resources should be sufficient to adequately identify the impacts and address comments provided by the Environmental Technical Advisory Team (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 support the resource agency consultation processes, address opportunities and approaches to mitigation when needed, and aid in coordination with the public or other interested stakeholders.

At the beginning of the Project Development and Environment (PD&E) phase a **Public Involvement Plan (PIP)** is developed and administered in accordance with procedures

in [Part 1, Chapter 11, Public Involvement](#). Public involvement activities take place throughout the PD&E phase and are documented in a **Summary of Public Involvement (SPI)**. See [Part 1, Chapter 11 Public Involvement](#) for more information on public involvement during the PD&E phase.

According to **USDOT Order 5610.1D**, EAs are required to be completed within 1 year, which is measured from the date the OEM Director approves the **Class of Action Form** to the signature of an EA with FONSI. This form is typically approved prior to the public hearing, if held. The District must coordinate with OEM if a longer time limit is necessary.

The EA is prepared by the District in consultation with OEM and includes the results of the environmental and engineering analysis, agency coordination, and public involvement ([Section 6.2.1](#)). It is important for the PD&E scope of services to recognize the result of the PD&E Study could be either a FONSI or an EIS. [Figure 6-1](#) outlines 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 (see [Section 6.2.1.8](#)). Comments submitted from the ETAT during the Environmental Screening Tool (EST) screening should be used to focus the content of the EA. The [Environmental Assessment QA/QC Checklist](#) may be used as a tool to facilitate preparation of the EA and ensure that applicable information is included.

According to **23 Code of Federal Regulations (CFR) § 771.138(b)(2)**, the text of an EA must not exceed 75 pages, not including any citations or appendices. If the page limit is exceeded, the District must coordinate with OEM.

**USDOT Order 5610.1D, 10.h.(3)**, provides that an EA should “be as concise as possible while proportional to the magnitude of the proposed action and anticipated impacts”. EAs must be formatted for an 8.5”x11” page with one-inch margins using 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. These size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information, although pages containing such material do count towards the page limit. When an item of graphical material is larger than 8.5”x11”, each item counts as one page.

### 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 [Guidance for Part 1, Chapter 6](#). The draft cover page is removed prior to the final submittal of the EA in SWEPT.

The layout of a sample Table of Contents is provided in [Figure 6-2](#). This layout is flexible depending on the specifics of the project.

### **6.2.1.2 Project Information**

The Project Information section of an EA should be developed in accordance with [Part 2, Chapter 1, Project Description, Purpose and Need, and Planning Consistency](#).

In the Planning Consistency subsection information is needed to verify that a project meets the planning requirements in **23 CFR § 450**. The intent is to advance projects derived from transportation plans and clearly describe the steps toward implementation as described in those plans. The EA must include information reflecting the status of planning consistency [Cost Feasible Plan of the Long Range Transportation Plan (CFP L RTP), Transportation Improvement Program (TIP), and Current State Transportation Improvement Program (STIP)] and include documentation of planning consistency pages. Documentation of snapshots of the Work Program is not adequate documentation to demonstrate planning consistency. More information on planning consistency is in [Florida Department of Transportation \(FDOT\)/Federal Highway Administration \(FHWA\) Consistency Guidance](#), and [Planning Consistency for NEPA Practitioners](#). Planning consistency should be met prior to Location and Design Concept Acceptance (LDCA).

### **6.2.1.3 Alternatives**

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

An EA must evaluate at least one Build Alternative, a No-Build Alternative, and a Transportation Systems Management and Operations (TSM&O) alternative. When consistent with the purpose and need, a multi-modal alternative(s) should also be included. 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](#) and [Part 2, Chapter 3A, Alternatives Analysis](#).

A preferred alternative is typically chosen prior to the public hearing. If in unusual circumstances a preferred alternative cannot be selected before the public hearing the District should coordinate with OEM. For these situations, additional public involvement after the hearing could be necessary and could range from another public hearing to a meeting, or a flyer/mailer. See [Part 1, Chapter 11, Public Involvement](#) for details on public involvement activities.

## 6.2.1.4 Environmental Analysis

The Environmental Analysis section includes discussion of existing conditions of the project area and potential impacts the project may have on applicable topics/resources.

The Table of Contents in [Figure 6-2](#) provides a layout of subsections that are typically 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 topic/resource. The EA should focus on those resources where there is a question of significance. If there is no involvement with, or impact to the topic/resource, some of the chapters listed in [Table 6-1](#) provide standard statements to include in these subsections. Topics/resources without involvement/impacts may be summarized in an introductory paragraph in the Environmental Analysis section and separate, individual sections for those topics are not required.

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 topic/resource subheading should 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 topic/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. This section should not duplicate discussions in the Alternatives section.

### 6.2.1.4.1 Anticipated Permits

The Environmental Analysis section should include a subsection on anticipated permits identified during the PD&E phase. This list includes 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 and included in the Appendix of the EA. Coordination with the District Environmental Permits 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 EA. This includes documentation of early coordination and comments received 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 during the PD&E phase.

This section is divided up into five subsections:

1. Discussion of ETDM Programming Screen and Advance Notification
2. Agency Coordination and Consultation
3. Public Meeting/Workshop(s)
4. Other Coordination (included only when needed)
5. 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 includes 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 Agency Coordination and Consultation**

This subsection summarizes the coordination and consultation which occurred with agencies 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. This summary is in addition to discussion of consultation in other sections of the EA. The detailed results of coordination are included in the applicable topic/resource section and the actual coordination documents (e.g., emails, letters, meeting notes) are added to the Appendix of the EA.

#### **6.2.1.5.3 Public Meetings/Workshops**

A summary of the information provided in the **SPI** for the public kick-off meeting, any public meeting or workshops, or public involvement activities held before the public hearing may be included here, or this section may reference the **SPI**. Coordination documents (e.g., agenda, meeting notes) are included in the Appendix of the EA (see [Section 6.2.1.7](#)).

#### 6.2.1.5.4 Other Coordination

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

#### 6.2.1.5.5 Concluding Statement

Since the EA may be modified after the public hearing/public notice, the following statement is included 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 contains 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 of the Environmental Assessment

**USDOT Order 5610.1D, 10.h(2)**, provides that appendices are to be used for voluminous materials, such as scientific tables, collections of data, statistical calculations, which substantiate the analysis provided in the EA. Appendices are not to be used to provide additional substantive analysis.

The appendices include documents which support the significance findings of the EA. This may include concurrence letters, determinations of effect, Memorandums of Understanding (MOUs), and Referendums.

The Appendices also include correspondence with agencies, officials, cooperating agencies, and citizens or private interest groups. It also may include lists (i.e., meetings), resolutions, Letters of Agreement, Memoranda of Agreement (i.e., **Section 106 - Historic Preservation Act**).

The Appendices should **not** contain materials that do not support the significance findings such as internal FDOT memos, correspondence between FDOT and its consultant, comments on draft documents, or ETDM Planning or Programming Screen Summary Reports.

The Appendix of the EA contains a series of appendices divided up by topic/resource (e.g., Community Effects, Cultural Resources, Natural Resources) with each appendix

including a divider page that lists the documents provided in that Appendix. For example, the divider page of the Natural Resources Appendix would list items such as the USFWS Species Concurrence Letter.

### 6.2.1.8 Material Incorporated by Reference

Material incorporated by reference (contained under separate cover) should be cited in the EA and included in the project file in SWEPT. See the ***SWEPT Project File Organization Guide*** on FDOT's [PD&E Manual Website](#) for information on organizing the project file. Districts should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

These materials include technical reports (e.g., ***Project Traffic Analysis Report, Conceptual Stage Relocation Plan, Natural Resource Evaluation***), technical memorandums, and studies. For a list of potential technical reports see [Part 1, Chapter 4, Project Development Process](#).

### 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. EAs are required to go through a Quality Assurance (QA)/Quality Control (QC) check at the District level before submittal for OEM Initial review (see OEM's [Documents and Resources Webpage](#)). During this process the [Environmental Assessment QA/QC Checklist](#) is completed and then submitted to OEM with the EA for Initial review.

The District 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 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. The OEM and OGC review team have 30 days to review the draft 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 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 EA 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 EA for approval. The Director of OEM, or designee, then has 5 days to approve the EA in SWEPT. This approval is for public notice of the EA.

## 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 Federally Recognized Native American 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. See [Guidance for Part 1, Chapter 6](#) for a sample transmittal letter.

### Making the EA Available for Public Inspection

The EA is made available:

- For a minimum of 15 days in advance of the public hearing (if applicable)
- At the District office for 30 days
- At the public hearing (if applicable)
- On project websites or using other publicly accessible electronic means.

Materials incorporated by reference may also be made available on the project website.

### Public Notice of Availability and Public Hearing

A public hearing is required if the project is a major transportation improvement as described in **Section 339.155(5), Florida Statutes (F.S.)** (see [Part 1, Chapter 11, Public Involvement](#)). When a public hearing is required, the District places a notice in the local newspaper(s) which:

- Advertises the public hearing

- Announces the availability of the EA for public review for 30 days (start date being the newspaper ad publication date)
- Provides locations where the EA can be obtained or reviewed by the public
- Requests comments during the 30-day availability period of the EA

Proof of publication or an **Affidavit of Publication** is included in the **SPI** for these notices. See [Part 1, Chapter 11, Public Involvement](#) for details on other notification requirements for public hearings and guidance on holding a public hearing.

After the public hearing, it must be certified by the Project Manager using a **Public Hearing Certification, Form**. This form may be completed in SWEPT or by using the **Public Hearing Certification, Form No. 650-050-56**. If completed in SWEPT, the **Public Hearing Transcript** is uploaded to SWEPT and a link to it is provided in the certification form. If completed outside of SWEPT, the certification form and the **Public Hearing Transcript** are uploaded to SWEPT for the project file.

Written statements from the public, both submitted at the public hearing or during the public hearing comment period, are added to the **SPI**.

### **Public Notice of Availability Without a Public Hearing**

Under limited circumstances, a project requiring an EA may not constitute a major transportation improvement as described in **Section 339.155(5), F.S.**, and a public hearing is not required. 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.

In accordance with **23 CFR § 771. 119(f)**, the District places a public notice of availability in a newspaper(s) similar to a public hearing notice and at a similar stage of development. This notice:

- Mentions the public of the availability of the EA for public review for 30 days
- Provides the locations where the EA can be obtained or reviewed by the public
- Requests comments during the 30-day availability period of the EA

This notice is typically combined with a notice of opportunity to request a public hearing. See [Part 1, Chapter 11, Public Involvement](#) for guidance on preparing this notice and publication requirements. Proof of publication or an **Affidavit of Publication** is included in the **SPI** for these notices.

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

After the public hearing has been held (if applicable), the 30-day comment period has closed, comments have been addressed and the project will have **no** significant impacts, the District updates the EA and prepares a FONSI according to procedures in [Part 1, Chapter 7, Finding of No Significant Impact](#). If significant impacts are anticipated at any point, consultation with OEM is required to determine if a DEIS should be prepared in accordance with [Part 1, Chapter 8, Draft Environmental Impact Statement](#). See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for guidance on significance.

## 6.3 REFERENCES

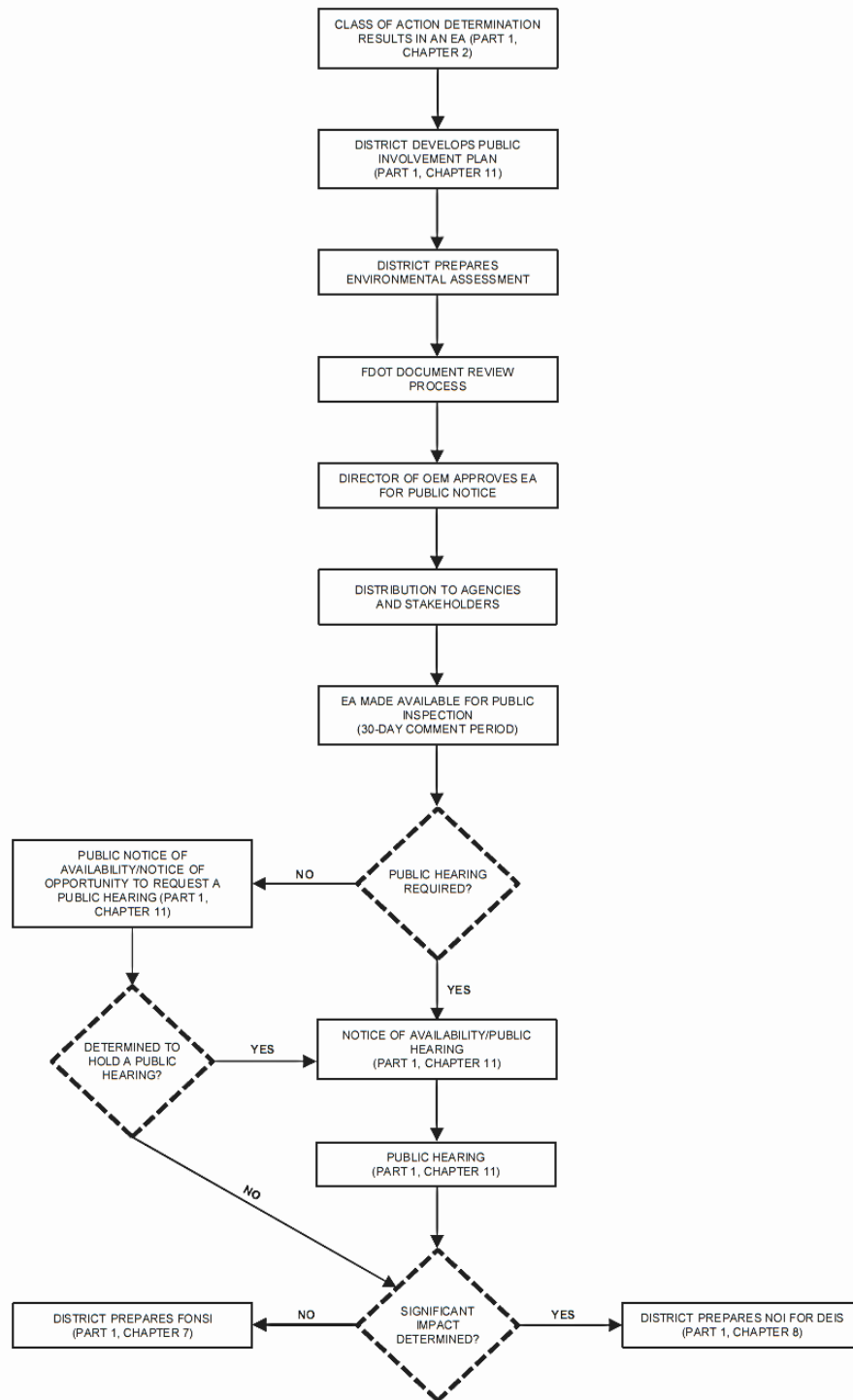
- FHWA, 1987. Technical Advisory T6640.8A. Guidance for Preparing and Processing Environmental and Section 4(f) Documents.  
[https://www.environment.fhwa.dot.gov/legislation/nepa/guidance\\_preparing\\_env\\_documents.aspx](https://www.environment.fhwa.dot.gov/legislation/nepa/guidance_preparing_env_documents.aspx)
- FHWA, Guidance on NEPA Documentation.  
[https://www.environment.fhwa.dot.gov/nepa/classes\\_of\\_action.aspx#ea](https://www.environment.fhwa.dot.gov/nepa/classes_of_action.aspx#ea)
- FDOT, Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002. <https://www.fdot.gov/environment/oem-divisions/qa-qc/etdm-manual>
- FDOT, Planning Consistency for NEPA Practitioners.  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/planning-consistency-for-nepa-practitioners.pdf?sfvrsn=895090ea\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/planning-consistency-for-nepa-practitioners.pdf?sfvrsn=895090ea_1)
- FDOT, Project Commitment Tracking, Procedure No. 650-000-003. <https://pdl.fdot.gov/>
- FDOT, SWEPT Project File Organization Guide.  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/swept-file-quick-guidance.xlsx?sfvrsn=39a0be74\\_6](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/swept-file-quick-guidance.xlsx?sfvrsn=39a0be74_6)
- Title 23 CFR Part 771, Environmental Impact and Related Procedures.  
<https://www.ecfr.gov/current/title-23/chapter-I/subchapter-H/part-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, Order 5610.1D, Procedures for Considering Environmental Impacts.  
<https://www.transportation.gov/mission/dots-procedures-considering-environmental-impacts>

## **6.4 FORMS**

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

**Table 6-1 Chapter References for Topics/Resources**

<b>Topic/Resource</b>	<b>Part</b>	<b>Chapter</b>
<b>Community Effects</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>		
Historic Sites/Districts	2	8
Archaeological Sites	2	8
Section 4(f) of the USDOT Act of 1966, as amended	2	7
Section 6(f) of the Land and Water Conservation Fund Act of 1965	2	7
Recreational Areas and Protected Lands	2	7 and 23
<b>Natural</b>		
Protected Species and Habitat	2	16
Wetlands and Other Surface Waters	2	9
Essential Fish Habitat	2	17
Floodplains	2	13
Sole Source Aquifer	2	11
Water Resources	2	11
Aquatic Preserves	2	11
Outstanding Florida Waters	2	11
Wild and Scenic Rivers	2	12
Coastal Zone Consistency	2	14
Coastal Barrier Resources	2	15
<b>Physical</b>		
Highway Traffic Noise	2	18
Air Quality	2	19
Contamination	2	20
Utilities and Railroads	2	21
Bicycles and Pedestrians	2	3
Navigation	1	16
Construction	2	3
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## **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

This chapter provides guidance on preparation and review of a Finding of No Significant Impact (FONSI) and updating the accompanying Environmental Assessment (EA). A FONSI is the **National Environmental Policy Act (NEPA)** decision document which states that the project will not have any significant environmental effect, and therefore does not require an Environmental Impact Statement (EIS). This determination is based on the analysis contained in an EA ([Part 1, Chapter 6, Environmental Assessment](#)).

Since a FONSI is attached to an updated EA, the term “EA with FONSI” is used for the Environmental Document throughout this [Manual](#). The EA with FONSI should document compliance with **NEPA** and other applicable environmental laws, Executive Orders, and related requirements [**23 Code of Federal Regulations (CFR) § 771.133**]. If full compliance is not possible by the time the FONSI is prepared, the FONSI should reflect consultation with the appropriate agencies and provide reasonable assurance that the requirements will be met.

The EA with FONSI documents the decisions reached by the Florida Department of Transportation (FDOT) regarding a project and details the rationale behind the decision and the selection of the preferred alternative.

## 7.2 PROCEDURE

### 7.2.1 Preparation of the Environmental Assessment with Finding of No Significant Impact

After the public hearing (if held) and the end of the 30-day public inspection period for an EA, the District updates the EA (keeping within the 75 page limit) to address any changes that have occurred since the document became publicly available ([Section 7.2.1.2](#)) and prepares a FONSI (see [Section 7.2.1.1](#)). This process is shown in [Figure 7-1](#).

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

The FONSI is prepared by the District and briefly identifies the preferred alternative, incorporates the updated EA by reference, and identifies any other related environmental documents, if applicable. The FONSI states that an EIS is not required, thus concluding the **NEPA** process for that action.

See [Guidance for Part 1, Chapter 7](#) for a FONSI template. If applicable, the FONSI also includes the final **Section 4(f)** approval.

## 7.2.1.2 Updating the Environmental Assessment

Appropriate sections of the EA are modified to reflect changes in environmental impact(s), cost, design, or other changes since approval of the EA. It incorporates any new coordination and comments submitted on the EA.

### 7.2.1.2.1 Updating the Planning Consistency and the Alternatives Sections

In the Planning Consistency section, the applicable Planning Consistency Table should be updated as necessary 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 of the EA with FONSI if not already included in the Appendix of the EA . Documentation of snapshots of the Work Program are not adequate documentation to demonstrate planning consistency. Planning consistency should be met prior to Location and Design Concept Acceptance (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 subsection of the EA.

### 7.2.1.2.2 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 EA was signed. Mitigation measures should be identified for the preferred alternative, if applicable.

### 7.2.1.2.3 Updating the Comments and Coordination Section

The Comments and Coordination section of the EA is updated to incorporate comments received or coordination that occurred since the EA was approved for public availability. This section should include a summary of comments received during the 30-day public inspection period along with a response to each substantive comment.

The Agency Coordination and Consultation subsection is updated to include any new coordination/consultation or comments from agencies. Concurrence and/or coordination letters should be referenced and added to the Appendix of the EA with FONSI.

The Concluding Statement subsection should be deleted.

A new subsection should be added titled “Public Hearing”, if a public hearing was held. 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. It should also provide a summary of the comments received at 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)***.

#### **7.2.1.2.4 Updating the Commitments Section**

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

#### **7.2.1.2.5 Preparing the Appendix of the EA with FONSI**

A new Appendix of the EA with FONSI is created and is added after the Appendix of the EA. This Appendix should include only new materials since the EA was approved.

#### **7.2.1.3 Combining the Environmental Assessment and Finding of No Significant Impact**

The EA and FONSI are combined into an EA with FONSI. The EA cover page is removed and replaced with a divider page between the FONSI and the updated EA, which contains the words "Environmental Assessment" in the center of the page. It also includes “and Individual Section 4(f) Evaluation” if applicable.

### **7.2.2 FDOT Document Review Process**

A diagram of the FDOT Document Review Process is available on the [Office of Environmental Management \(OEM\) 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 StateWide Environmental Project Tracker (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 District ensures the ***Public Hearing Transcript*** and ***Public Hearing Certification*** (if applicable) and new materials are incorporated by reference and uploaded into SWEPT. Districts should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

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 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 EA with FONSI 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 EA with FONSI for approval. The Director of OEM, or designee, then has five 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 Administrators recommend the document for approval prior to OEM Director approval.

### 7.2.3 Actions Taken After Approval

Once the EA with FONSI is approved, the District must provide notification that LDCA has been granted. 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 EA. An electronic copy of the document is sent to the Florida State Clearinghouse and the Environmental Technical Advisory Team (ETAT) agencies, which includes 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 EA. The document should be sent to Federally Recognized Native American 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 EA with FONSI Available to the Public**

The EA with FONSI is made available:

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

### **Public Announcement of LDCA**

In accordance with *U.S. Department of Transportation (USDOT) Order 5610.1D*, FDOT must notify the public of the availability of an EA and accompanying FONSI, therefore the District publishes an Announcement of LDCA in the same local newspaper(s) used to provide notice of the availability of the original EA, informing the public that the project has received LDCA and is being advanced. 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](#).

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

### **Limitations on Claims Notice**

*Title 23 United States Code (U.S.C.) § 139(l)* 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). See [Part 1, Chapter 11, Public Involvement](#) for guidance on preparing a *Limitations on Claims Notice*. A copy of the notice is included in the *Final Notifications Package*.

## **7.3 REFERENCES**

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

NEPA of 1969, as amended (42 U.S.C. § 4321 et seq.).  
<https://www.govinfo.gov/content/pkg/COMPS-10352/pdf/COMPS-10352.pdf>  
[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.

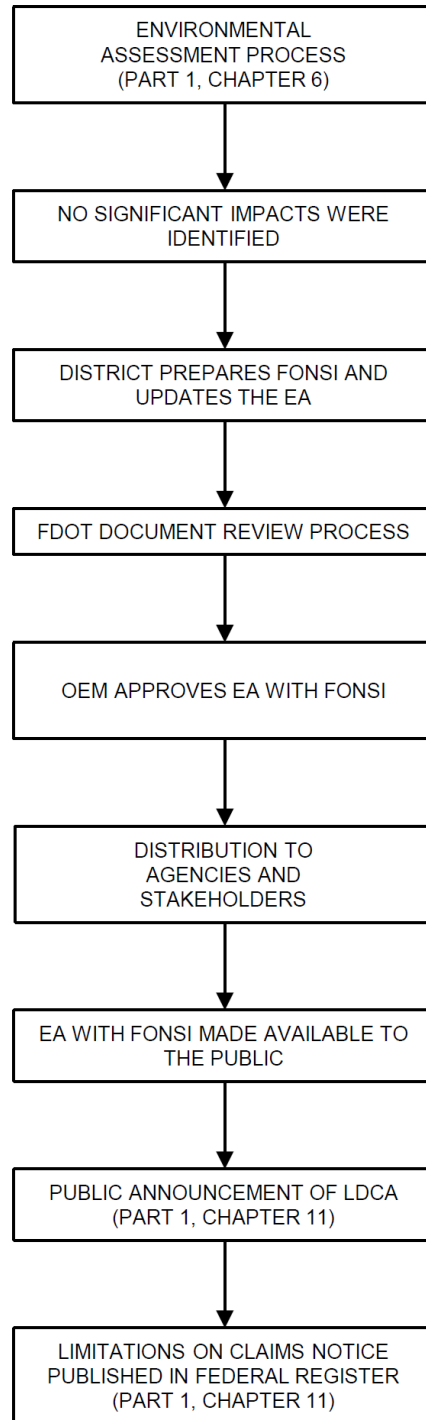
<http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title23-section139&num=0&saved=%7CKHRpdGxIOjlzIHNIY3Rpb246MTM3IGVkaXRpb246cHJlIGltKQ%3D%3D%7C%7C%7C0%7Cfalse%7Cprelim>

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)

USDOT, Order 5610.1D, Procedures for Considering Environmental Impacts.

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



**Figure 7-1 Finding of No Significant Impact Process**

## **PART 1, CHAPTER 8**

# **DRAFT ENVIRONMENTAL IMPACT STATEMENT**

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## PART 1, CHAPTER 8

### DRAFT ENVIRONMENTAL IMPACT STATEMENT

#### 8.1 OVERVIEW

Environmental Impact Statements (EISs) should provide full and fair discussion of significant environmental impacts and inform decision makers and the public of reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. This chapter provides guidance for the development of a Draft Environmental Impact Statement (DEIS). See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for guidance on determining if a project requires the preparation of an EIS.

All projects subject to **23 United States Code (U.S.C.) § 139** are required to be tracked on the Permitting Dashboard established under **42 U.S.C. § 4370m-2(b)**. Under **National Environmental Policy Act (NEPA)** Assignment, the Office of Environmental Management (OEM) enters project schedules for EISs into the Permitting Dashboard. The District is responsible for providing specific project schedule information to OEM as requested. The Permitting Dashboard is updated in accordance with the U.S. Department of Transportation (USDOT) tracking requirements.

#### 8.2 PROCEDURE

The results of the environmental and engineering analyses are used to prepare the EIS. The level of analysis for topics/resources should be sufficient to adequately identify the impacts and address comments provided by the Environmental Technical Advisory Team (ETAT), other agencies, interested parties, or the public during the Programming Screen and/or Advance Notification (AN) process. The analysis should also fulfill the resource agency consultation process, address opportunities and/or approaches to mitigation when needed, and aid in coordination with the public or other interested stakeholders.

At the beginning of the Project Development and Environment (PD&E) phase a **Public Involvement Plan (PIP)** is developed and administered in accordance with procedures in [Part 1, Chapter 11, Public Involvement](#). Public involvement activities take place throughout the PD&E phase and are documented in a **Summary of Public Involvement (SPI)**. See [Part 1, Chapter 11, Public Involvement](#) for more information on public involvement during the PD&E phase.

According to **23 Code of Federal Regulations (CFR) § 771.138(a)**, 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 Final Environmental Impact Statement (FEIS)/Record of Decision (ROD) or separate ROD. The District must coordinate with OEM if a longer time limit is necessary.

The District coordinates with OEM to determine the timing of the **NOI**. OEM then coordinates with the Federal Highway Administration (FHWA) Division Office for publication of the **NOI** in the **Federal Register (FR)** (see [Section 8.2.2](#)).

A DEIS is prepared by the District in consultation with OEM and includes the results of the environmental and engineering analysis, agency coordination, and public involvement. [Figure 8-1](#) shows the DEIS process.

The following activities are required for EISs, and are conducted by the District in consultation with the Cooperating and Participating agencies before the **NOI** is issued.

1. During project screening through the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST).
  - a. Identify Participating and Cooperating agencies ([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)).
  - b. Identify purpose and need ([Part 2, Chapter 1, Project Description, Purpose and Need, and Planning Consistency](#)).
  - c. Identify potential alternatives ([Part 2, Chapter 3, Engineering Analysis](#) and [Part 2, Chapter 3A, Alternatives Analysis](#)).
  - d. Conduct the Programming Screen and/or prepare the AN ([ETDM Manual, Topic No. 650-000-002](#)).
    1. Begins the coordination process and provides notification to agencies that the project is beginning.
    2. Provides a status of the project as it relates to inclusion in the Cost Feasible Plan of the Long Range Transportation Plan (CFP LRTP), Transportation Improvement Program (TIP), and Current State Transportation Improvement Program (STIP).
  - e. Provide opportunity for public and agency input ([Part 1, Chapter 11, Public Involvement](#)).
  - 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.
  2. Cooperating and Participating agencies concurrence should be no later than 90 days after publication of the **NOI**.
2. After EST screening and to support the PD&E phase.
  - a. Develop the PD&E Scope of Services based on early internal coordination, ETAT commentary and Environmental Scoping ([Section 8.2.1](#)). This determines the extent of analysis needed for each resource.
  - b. If a formal scoping meeting is held, it must be announced in the **NOI** ([Section 8.2.1](#)).
  - c. Prepare the **PIP** consistent with [Part 1, Chapter 11, Public Involvement](#).
  - d. Initiate applicable resource surveys/studies ([Section 8.2.4](#)).
  - e. Initiate permit activities as soon as possible, such as pre-application processes ([Part 1, Chapter 12, Environmental Permits](#)).

### 8.2.1 Environmental Scoping Process

The Environmental Scoping Process is a formal process that is required for an EIS, per **23 CFR § 771.123(b)(1)**, and is used to identify the purpose and need, the range of alternatives, reasonably foreseeable impacts, and the significant issues to be addressed in the DEIS. The Environmental Scoping Process begins with ETAT reviews during the ETDM screening events ([ETDM Manual, Topic No. 650-000-002](#)). Pursuant to **49 U.S.C. § 310**, concurrence, or issue resolution (between the Lead Agency and Cooperating Agencies) on the purpose and need statement must be achieved during the Environmental Scoping Process of an EIS, and during development of the EIS on the range of alternatives for analysis. For Florida Department of Transportation (FDOT) projects this occurs during the ETDM screening.

The District may hold a formal scoping meeting(s), publish scoping information, or use other means to communicate with those persons or agencies who may be interested or affected. 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](#). According to **23 CFR § 771.123(b)(1)**, if a scoping meeting is to be held, it should be announced in the **NOI** and by appropriate means at the state or local level (see [Section 8.2.2](#)).

The results of the ETDM Programming Screen and Environmental Scoping Process are 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 phase. 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 Appendix ([Section 8.2.4.8.1](#)).

### 8.2.1.1 Prior Concurrence

For selected projects, "prior concurrence" pursuant to **23 CFR § 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 the FDOT approvals of a DEIS, 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 Chief Operations Officer, 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

The **NOI** informs stakeholders that an EIS is being prepared for the proposed project and is issued once OEM determines the project proposal is sufficiently developed to allow for meaningful public comment. The District coordinates with OEM on the format and content of the **NOI**. A sample **NOI** is shown in [Guidance for Part 1, Chapter 8](#).

After the District drafts the **NOI**, OEM coordinates with the FHWA Division Office on publication in the **FR**. The **NOI** will not be published in the **FR** until the project schedule has been approved by OEM.

OEM transmits a draft cover letter (see [Guidance for Part 1, Chapter 8](#)) and the **NOI** to FHWA for signature. After obtaining FHWA signatures, FHWA submits to the **FR**. Documents submitted to the **FR** must follow guidance from the Office of the Federal Register's **Document Drafting Handbook**. Publication of the **NOI** begins the **NEPA** process for an EIS. Proof of publication or an **Affidavit of Publication** of the **NOI** must be included in the project file and in the Appendix of the DEIS.

### 8.2.3 Project Status Fact Sheet

Once the **NOI** is published (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. The project termini have changed (expanded); or
2. 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 Class of Action (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

The DEIS should meet legal sufficiency, as well as be analytic, concise, and no longer than necessary to comply with *NEPA*.

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 (see [Section 8.2.4.9](#)).

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

*USDOT Order 5610.1D, 13.h.(4)* provides that an EIS must be prepared using an 8.5"x11" format with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. These size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information. When an item of graphical material is larger than 8.5"x11", each such item counts as one page.

### 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, and a sample cover page for a Supplemental DEIS is provided in [Guidance for Part 1, Chapter 8](#).

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. The District should contact OEM for assistance when assigning the document number.

The layout of a sample Table of Contents is provided in [Figure 8-2](#).

### 8.2.4.2 Executive Summary

The Executive Summary describes the proposed action and the conclusions of topic/resource analysis for a project and identifies avoidance, minimization, and/or mitigation measures. The Executive Summary normally will not exceed 15 pages, adequately and accurately summarize the DEIS, 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 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.

**Preferred Alternative:** This section contains a brief discussion of the preferred alternative.

**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 provided.

**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 Information

The Project Information section of a DEIS should be developed in accordance with [Part 2, Chapter 1, Project Description, Purpose and Need, and Planning Consistency](#).

In the Planning Consistency subsection, information is needed to verify that a project meets the planning requirements in **23 CFR § 450**. The intent is to advance projects derived from transportation plans and clearly describe the steps toward implementation as described in those plans. The DEIS must include information reflecting the status of planning consistency (CFP LRTP, TIP, and Current STIP) and include documentation of planning consistency pages. Documentation of snapshots of the Work Program is not adequate documentation to demonstrate planning consistency. See [FDOT/FHWA Consistency Guidance](#) and [Planning Consistency for NEPA Practitioners](#) for additional planning consistency guidance. Planning consistency should be met prior to Location and Design Concept Acceptance (LDCA).

### 8.2.4.4 Alternatives

For a DEIS, a reasonable range of alternatives, including the preferred alternative and the No-Build alternative are evaluated according to **USDOT Order 5610.1D, 13.e**. This range includes a Transportation Systems Management and Operations (TSM&O) alternative, and when consistent with the purpose and need, a multi-modal alternative(s).

The Alternatives section of the DEIS includes impacts on the environment from the preferred alternative and other alternatives in a comparative form based on the information and analysis presented in the Environmental Analysis section. The DEIS should identify the preferred alternative to the extent practicable. [Part 2, Chapter 3A, Alternatives Analysis](#) 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. Coordination with the State Environmental Development Engineer is needed prior to developing a preferred alternative to a higher level of detail than other alternatives.

A preferred alternative is typically chosen prior to the public hearing. If in unusual circumstances a preferred alternative cannot be selected before the public hearing the District should coordinate with OEM. For these situations, additional public involvement after the hearing could be necessary and could range from another public hearing to a meeting, or a flyer/mailer. See [Part 1, Chapter 11, Public Involvement](#) for details on public involvement activities.

#### **8.2.4.5 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 topics/resources. The Table of Contents in [Figure 8-2](#) 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 topic/resource. If there are potential impacts, each subsection should include 1) a discussion on the affected environment ([Section 8.2.4.5.1](#)) and 2) a discussion on the environmental consequences for the topic/resource ([Section 8.2.4.5.2](#)). If there is no involvement with, or impact to the topic/resource, some of the chapters listed in [Table 8-1](#) provide standard statements to include in these subsections.

##### **8.2.4.5.1 Affected Environment**

Each topic/resource subsection should provide a concise description of the existing social, economic, and environmental setting for the area(s) to be affected or created by the alternatives under consideration, including the reasonably foreseeable environmental trends and planned actions in the area(s). It should contain a general description for the entire project area rather than a separate description for each proposed alternative. Discussion should be in proportion to the significance of the impacts and no longer than is necessary to understand the effects of the alternatives.

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. This information is typically collected and drafted before the PD&E Study begins.

#### **8.2.4.5.2 Environmental Consequences**

The Environmental Analysis section should include a discussion of potential impacts and benefits to topics/resources for each reasonable alternative and describe measures proposed to mitigate adverse impacts. Consistent with FHWA's policy as set forth in **23 CFR § 771.105(c)**, the evaluation of alternatives should include consideration "the reasonably foreseeable social, economic, and environmental impacts of the proposed transportation improvement."

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 topic/resource subheading should 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 topic/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. This section should not duplicate discussions in the Alternatives section.

This section includes:

- The reasonably foreseeable environmental impacts of the proposed action
- Any reasonably foreseeable adverse environmental impacts that cannot be avoided should the proposal be implemented
- The relationship between local short-term uses of the human environment and the maintenance and enhancement of long-term productivity
- Any irreversible or irretrievable commitments of federal resources which would be involved in the proposal should it be implemented
- Any means identified to mitigate adverse environmental impacts of the proposed action

It is recommended in **FHWA Technical Advisory T6640.8A** that the following are included for each reasonable alternative:

1. Sufficient information on the environmental studies and technical reports, major assumptions made, and supporting information on the validity of the methodology;
2. Sufficient information (results of analysis) to establish the reasonableness of the conclusions on project impacts;
3. A description of mitigation measures, where applicable. Associated commitments may be needed to address mitigation.

Once the analysis is completed, a determination of significance is made for relevant topic/resources in coordination with OEM.

#### **8.2.4.5.3 Anticipated Permits**

The Environmental Analysis section should include a subsection on anticipated permits that lists permits identified during the PD&E Study. This list includes 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 and included in the Appendix. Coordination with the District Environmental Permits 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. This is determined in coordination with OEM. If applicable, this subsection should include a summary of the results of the CEE.

#### **8.2.4.6 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](#).

#### **8.2.4.7 Concluding Statement**

Since the DEIS may be modified after the public hearing, the following statement is included as the concluding statement.

*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.*

## 8.2.4.8 Appendix

**USDOT Order 5610.1D, 13.h.(3)** provides that appendices are to be used for voluminous materials, such as scientific tables, collections of data, statistical calculations, and the like, which substantiate the analysis provided in the DEIS. Appendices are not to be used to provide additional substantive analysis.

The Appendix of a DEIS consists of the following, as appropriate:

- Material prepared in connection with the DEIS, that is not incorporated by reference (not contained under separate cover)
- Material substantiating any analysis fundamental to the DEIS
- Material relevant to the decision to be made that supports the significance findings. This may include concurrence letters, determinations of effect, Memorandums of Understanding (MOUs), and Referendums.
- Comments (or summaries in which the response is exceptionally voluminous) received during the scoping process (See [Section 8.2.1](#))
- Correspondence with agencies, officials, cooperating agencies, and citizens or private interest groups throughout the PD&E Study. Appendix should be limited to materials necessary to support FDOT's analysis and decision-making.
- Lists (e.g., meetings), resolutions, Letters of Agreement, Memoranda of Agreement (e.g., **Section 106 - Historic Preservation Act**),
- Material which, due to its nature, should be circulated with the DEIS

The Appendices should **not** contain materials that do not support the significance finding such as internal FDOT memos, correspondence between FDOT and its consultant, comments on draft documents, or ETDM Planning or Programming Screen Summary Reports.

The Appendix contains a series of appendices, including the Comments and Coordination Appendix (see [Section 8.2.4.8.1](#)), the List of Preparers Appendix (see [Section 8.2.4.8.2](#)), and other appendices divided up by topic/resource (e.g., Community Effects, Cultural Resources, Natural Resources, Physical Resources). See [Figure 8-2](#) for the layout of the Appendix in the Table of Contents.

Each Appendix should include a divider page that lists the documents provided in that Appendix. For example, the divider page of the Natural Resources Appendix would list items such as the USFWS Species Concurrence Letter. A sample of a divider page is provided in [Guidance for Part 1, Chapter 8](#).

### **8.2.4.8.1 Comments and Coordination Appendix**

The Comments and Coordination Appendix includes a summary of the public, stakeholder, and agency comments and coordination involved in developing the DEIS. This includes documentation of early coordination and comments received 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 during the Environmental Scoping Process and PD&E phase.

This Appendix is divided up into subsections:

1. Summary of the Environmental Scoping Process
2. Agency Coordination and Consultation
3. Public Meeting/Workshop(s)
4. Other Coordination (included only when needed)

#### **Summary of the Environmental Scoping Process**

This subsection describes the Environmental Scoping Process (including ETDM and AN processes) for the DEIS and includes the following information:

1. Dates and locations of DEIS scoping meeting(s) (if held);
2. Agencies participating in the Environmental Scoping Process;
  - a. Including federal, state, local agencies and other interested parties that provided comments in the EST or AN;
3. A summary of meetings, discussions, and correspondence pertinent to the Environmental Scoping Process.

The comments received by the District during the AN, or if combined, the ETDM Programming Screen must be referenced, and include the following information:

1. The date of the AN distribution, or if combined with the ETDM Programming Screen, the screening date;
2. A reference to relevant comments on the project and District responses. Reference the appropriate section where comments/District responses can be located.

#### **Agency Coordination and Consultation**

This subsection summarizes the coordination and consultation which occurred with agencies during preparation of the DEIS. This should include a chronology of meetings,

events, attendees, comments received, and District responses. This information may be exhibited as a table. This summary is in addition to discussion of consultation in other sections of the DEIS. The results of the coordination is discussed in the applicable topic/resource section and the actual coordination documents (e.g., emails, letters, meeting notes) are added to the applicable topic/resource Appendix.

### **Public Meetings/Workshops**

A summary of the information provided in the **SPI** for the public kick-off meeting, any public meeting or workshops, or public involvement activities held before the public hearing may be included here, or this section may reference the **SPI**. Coordination documents (e.g., agenda, meeting notes) are included in the Appendix.

The final statement should be that a public hearing will be taking place, including the date and location if known.

### **Other Coordination**

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

### **8.2.4.8.2 List of Preparers Appendix**

The Appendix includes a list of preparers. 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 of the List of Preparers Appendix is shown in [Guidance for Part 1, Chapter 8](#).

### **8.2.4.9 Material Incorporated by Reference**

Material incorporated by reference (contained under separate cover) should be cited in the DEIS and included in the project file in SWEPT. See the **SWEPT Project File Organization Guide** on FDOT's [PD&E Manual Website](#) for information on organizing the project file. Districts should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

These materials include technical reports (e.g., **Project Traffic Report Analysis**, **Conceptual Stage Relocation Plan**, **Natural Resource Evaluation**), technical

memorandums, and studies. For a list of potential technical documents see [Part 1, Chapter 4, Project Development Process](#).

### 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. DEISs are required to go through a Quality Assurance (QA)/Quality Control (QC) check at the District level before submittal for OEM Initial review (see OEM's [Documents and Resources Webpage](#)).

The District 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 have 30 days to review the draft 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 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.

Once comments have been addressed, the District submits the revised DEIS 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 DEIS for approval. The Director of OEM, or designee, then has five days to approve the DEIS in SWEPT.

When the DEIS is approved by OEM for circulation, 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**. See [Section 8.2.6](#) for information on the **Notice of Availability**.

## 8.2.6 Actions After Approval

The DEIS is distributed and made available **before** the e-NEPA 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 § 771.123(i)** to make the DEIS 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

The approved DEIS is sent electronically to the State Clearinghouse (SCH) and the 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 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. See [Guidance for Part 1, Chapter 8](#) for a sample transmittal letter.

### Making the DEIS Available for Public Inspection

The DEIS is made available:

- For a minimum of 15 days in advance of the public hearing
- For a 45-day comment period after publication of the NOA in the FR
- At the public hearing
- In other formats when reasonably necessary and hard copies on request
- On project websites or using other publicly accessible electronic means

Materials incorporated by reference may also be made available on the project website.

### Public Notice of Availability and Public Hearing

The District places a notice in the local newspaper(s) which:

- Advertises the public hearing
- Mentions the availability of the DEIS
- Provides the locations where the DEIS can be obtained and reviewed by the public

- Requests comments submitted on the DEIS during the 45-day comment period (45 days from **NOA** publication)

See [Part 1, Chapter 11, Public Involvement](#) for details on the public hearing and notification requirements for public hearings. Proof of publication or an **Affidavit of Publication** is included in the **SPI** for these notices.

After the public hearing, the **Public Hearing Transcript** must be certified by the Project Manager using a **Public Hearing Certification Form**. This form may be completed in SWEPT or by using the **Public Hearing Certification, Form No. 650-050-56**. If completed in SWEPT, the **Public Hearing Transcript** is uploaded to SWEPT and a link to it is provided in the certification form. If completed outside of SWEPT, the certification form and the **Public Hearing Transcript** are uploaded to SWEPT for the project file.

Written statements from the public, both submitted at the public hearing or during the public hearing comment period, are added to the **SPI** (see [Part 1, Chapter 11, Public Involvement](#)).

### Notice of Availability in the FR

The **Notice of Availability** is initiated when the DEIS is filed with EPA. DEISs 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 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 a link to the project website where readers can find the DEIS. OEM then coordinates with FHWA on publication.

EPA publishes the **Notice of Availability** of the DEIS in the **FR** for a 45-day comment period (**23 CFR § 771.123**). The District must monitor the **FR** for publication and proof of publication or an **Affidavit of Publication** is uploaded to the project file.

After the circulation of the DEIS, the public hearing, and consideration of comments received, the District prepares a FEIS/ROD or FEIS and separate ROD according to procedures in [Part 1, Chapter 9, Final Environmental Impact Statement](#).

### Future Project Phases

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.

### 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

EPA, Environmental Impact Statement Filing Guidance Website.

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

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)

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

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. <https://www.fdot.gov/environment/oem-divisions/qa-qc/etdm-manual>

FDOT, Planning Consistency for NEPA Practitioners.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/planning-consistency-for-nepa-practitioners.pdf?sfvrsn=895090ea\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/planning-consistency-for-nepa-practitioners.pdf?sfvrsn=895090ea_1)

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

FDOT, SWEPT Project File Organization Guide.

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/swept-file-quick-guidance.xlsx?sfvrsn=39a0be74\\_6](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/swept-file-quick-guidance.xlsx?sfvrsn=39a0be74_6)

Office of the Federal Register, National Archives and Records Administration, 2018, Document Drafting Handbook, Revision 2.1, dated October 2023.

<https://www.archives.gov/files/federal-register/write/handbook/ddh.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)

Title 49 U.S.C. § 310, Aligning Federal Environmental Reviews.  
<https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title49-section310&num=0&edition=prelim>

USDOT, Order 5610.1D, Procedures for Considering Environmental Impacts.  
<https://www.transportation.gov/mission/dots-procedures-considering-environmental-impacts>

## **8.4 FORMS**

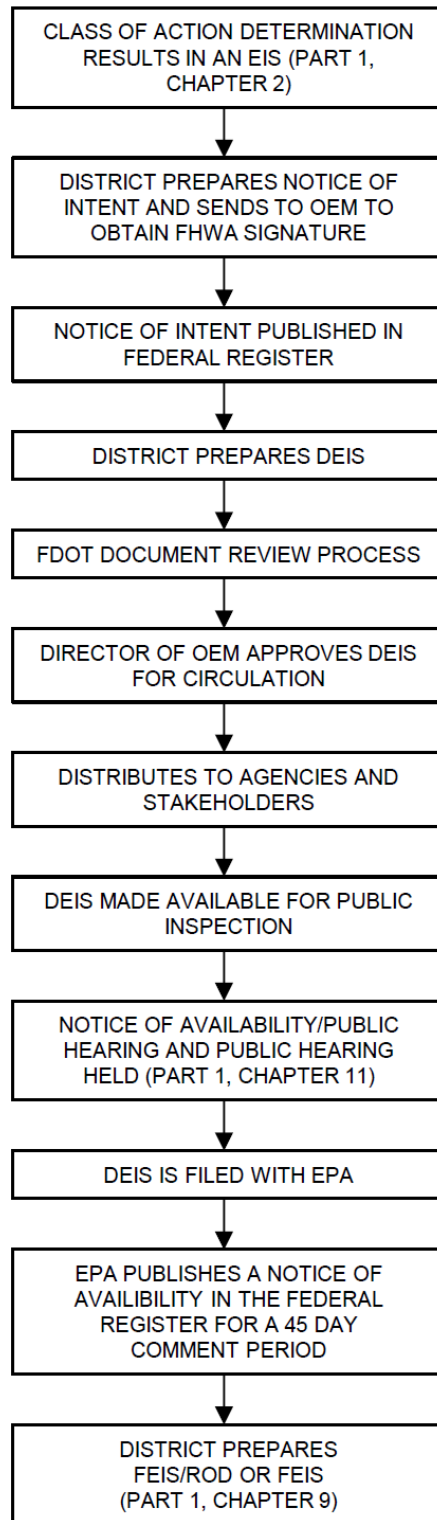
[Public Hearing Certification, Form No. 650-050-56](#)

**Table 8-1 Chapter References for Topics/Resources**

<b>Topic/Resource</b>	<b>Part</b>	<b>Chapter</b>
<b>Community Effects</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>		
Historic Sites/Districts	2	8
Archaeological Sites	2	8
Section 4(f) of the USDOT Act of 1966, as amended	2	7
Section 6(f) of the Land and Water Conservation Fund Act of 1965	2	7
Recreational Areas and Protected Lands	2	7 and 23
<b>Natural</b>		
Protected Species and Habitat	2	16
Wetlands and Other Surface Waters	2	9
Essential Fish Habitat	2	17
Floodplains	2	13
Sole Source Aquifer	2	11

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Outstanding Florida Waters	2	11
Wild and Scenic Rivers	2	12
Coastal Zone Consistency	2	14
Coastal Barrier Resources	2	15
<b>Physical</b>		
Highway Traffic Noise	2	18
Air Quality	2	19
Contamination	2	20
Utilities and Railroads	2	21
Bicycles and Pedestrians	2	3
Navigation	1	16
Construction	2	3
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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

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>

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)

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

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.

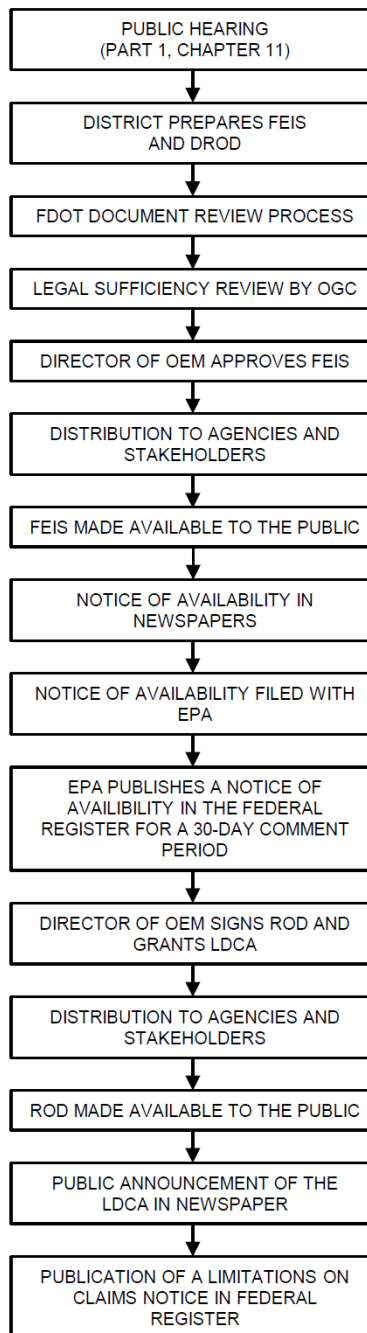
[http://uscode.house.gov/view.xhtml?req=\(title:23%20section:327%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title23-section327\)&f=treesort&edition=prelim&num=0&jumpTo=true](http://uscode.house.gov/view.xhtml?req=(title:23%20section:327%20edition:prelim)%20OR%20(granuleid:USC-prelim-title23-section327)&f=treesort&edition=prelim&num=0&jumpTo=true)

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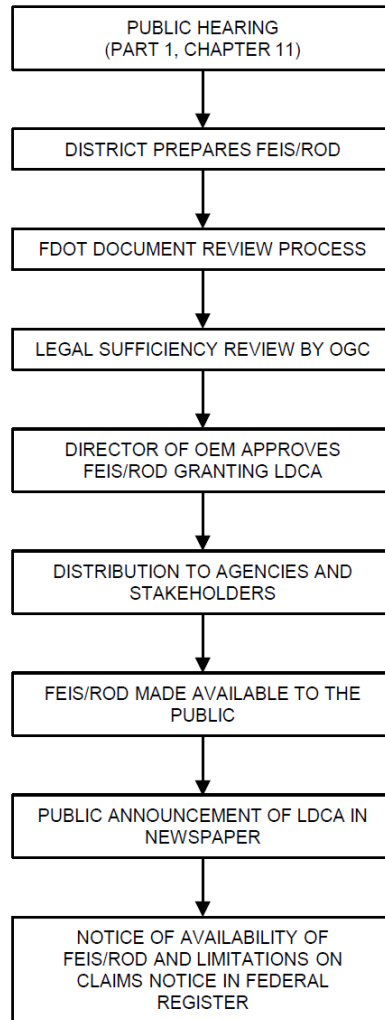
<https://www.transportation.gov/sites/dot.gov/files/docs/mission/transportation-policy/permittingcenter/337371/feis-rod-guidance-final-04302019.pdf>

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**

# **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

Environmental evaluations are required for state funded projects to comply with state and federal laws and Florida Department of Transportation (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 depends upon the Lead Agency and the actions being taken. FDOT is the Lead Agency for FDOT State Projects, and the District has responsibility for the preparation, review, and approval of the Environmental Document as either a State Environmental Impact Report (SEIR) or Non-Major State Action (NMSA). Some FDOT State Projects may require Federal Actions (see [Section 10.2.1.4](#)).

This chapter primarily focuses on FDOT State 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). When a local agency or private entity is the Lead Agency, FDOT involvement may be required under certain conditions (see [Section 10.2.2](#)).

#### 10.1.1 Definitions

**FDOT Federal Project-** A Federal Project with FDOT as the Lead Agency due to NEPA Assignment. These projects involve FHWA funds and/or affect the interstate during any phase of project development or implementation.

**FDOT State Project –** A project advanced through the FDOT Work Program using only state funding and/or does not affect the interstate during any phase of project development or implementation.

**Lead Agency -** 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. This definition is specific to this chapter.

**Local Agency Managed Project –** a project where a local agency is the Lead Agency

**Non-Major State Action (NMSA) –** A checklist prepared as the Environmental Document (or document type) for FDOT State Projects that do **not** qualify for screening in the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST).

**Private Entity Managed Project-** a project where a private entity is the Lead Agency.

**Project Environmental Impact Report (PEIR) –** A document (or document type) prepared and approved by a local agency or private entity.

**State Environmental Impact Report (SEIR)** - The Environmental Document (or document type) prepared for FDOT State Projects that qualify for screening in the ETDM EST and are approved by the District.

## 10.2 PROCEDURE

### 10.2.1 Florida Department of Transportation State Projects

See [Figure 10-1](#) for a flowchart of the FDOT State Project Process discussed throughout this chapter.

Early communication and collaboration within District offices is beneficial when projects are evaluated for inclusion in the FDOT Tentative Work Program, prior to development of the Scope of Services, to ensure that project decisions get broad input and early support. See [Part 1, Chapter 4, Project Development Process](#) for more details. During this coordination it is determined if the project proceeds as an FDOT State Project or an FDOT Federal Project. A State Funded Only (SFO) identifier is assigned to projects that are recommended to use only state funds and they proceed as an FDOT State Project.

Qualifying projects are screened through FDOT's Efficient Transportation Decision Making (ETDM) process according to the [ETDM Manual, Topic No. 650-000-002](#) to engage other agencies and the public early in project development and facilitate project scoping. The decision of whether a project is entered into the ETDM Environmental Screening Tool (EST) is based on a qualifying project type and the conditions.

A Project Development and Environment (PD&E) Study is prepared for projects that qualify for screening in the EST and a SEIR is prepared ([Section 10.2.1.2](#)). An NMSA is prepared for FDOT State Projects not qualifying for EST screening (See [Section 10.2.1.1](#)).

#### 10.2.1.1 Non-Major State Action

Projects that are to proceed as NMSA's are typically identified during early internal coordination ([Part 1, Chapter 4, Project Development Process](#)). NMSAs are prepared using a **Non-Major State Action Checklist** in the StateWide Environmental Project Tracker (SWEPT) after environmental analysis has been completed. This checklist is typically prepared in the Design phase at the end of the Plans, Specifications, and Estimates (PS&E) development or Final plans.

##### 10.2.1.1.1 Analysis, Coordination, and Public Involvement

Impacts are evaluated and environmental analysis is completed to verify that there are no substantial environmental impacts. The level of detail required to support the NMSA determination depends upon the specific project and the magnitude of environmental impacts. Social, cultural, natural, and physical topics/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.

Analysis may include desktop and/or field review, local knowledge of the project area, agency coordination, and preparation of supporting documents. Even though NMSAs are not screened in the ETDM EST, the EST Area of Interest (AOI) tool may be used to review the project location and view Geographic Information System (GIS) data layers applicable to the project without initiating Environmental Technical Advisory Team (ETAT) review. See the [ETDM Manual, Topic No. 650-000-002](#) for guidance on using the AOI tool and information on the ETDM screening events. Supporting documents or technical reports may need to be prepared for some topics. Coordination with agencies may be needed as well to ensure there are no substantial impacts to environmental resources.

An NMSA may necessitate public involvement activities as determined by the District. A **Community Awareness Plan (CAP)** is typically prepared for these projects. See the [FDOT Design Manual, Part 1, Chapter 104, Public Involvement, Topic No. 625-000-002](#) for more information on preparing a CAP.

A public hearing is typically not required for NMSAs, unless the project is considered a major transportation improvement under **Section 339.155(5)(b), Florida Statutes (F.S.)** (see [Part 1, Chapter 11, Public Involvement](#)). See the [Public Involvement Handbook](#) for public involvement activities during the Design phase.

If the NMSA project needs a federal permit 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 10.2.1.4](#)).

### 10.2.1.1.2 Non-Major State Action Checklist

Guidance on preparing the **Non-Major State Action Checklist** is provided in [Guidance for Part 1, Chapter 10](#). A sample checklist is also provided as a visual in the guidance. During preparation, documentation of analysis, coordination, and results should be uploaded to the SWEPT project file. This documentation should include the results of desktop and/or field review, agency coordination, and any supporting documents and/or technical reports required to substantiate the responses on the checklist. It is important to document that the project will not have substantial impacts and that environmental issues have been addressed.

Approval of the **Non-Major State Action Checklist** is granted by the District Environmental Manager or designee using SWEPT. The District Environmental Manager's electronic signature on this checklist certifies that environmental analysis has been completed and provides environmental clearance to advance to the next phase.

### 10.2.1.1.3 Actions Taken After Approval

Once the **Non-Major State Action Checklist** is approved, the District Environmental Manager or designee completes and provides the date of the determination on the **Environmental Certification for FDOT State Project** form, in SWEPT. A sample form is provided as a visual in the [Guidance for Part 1, Chapter 10](#).

When an NMSA is completed before the conclusion of the Design phase, the District should confirm whether a Re-evaluation of the NMSA is necessary before completing the ***Environmental Certification for FDOT State Project*** form in SWEPT.

NMSA updates or changes are documented as a Re-evaluation through re-submittal of the ***Non-Major State Action Checklist*** in SWEPT. The Re-evaluation process for NMSAs is shown in [Figure 10-2](#).

Re-evaluations should be completed when changes have been made to the project, or existing conditions have changed since the completion and approval of the last ***Non-Major State Action Checklist***. The completion of the checklist is then documented in the ***Environmental Certification for FDOT State Project*** form 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 FDOT State Project*** form is distributed/sent to appropriate offices.

## 10.2.1.2 State Environmental Impact Report

### 10.2.1.2.1 Efficient Transportation Decision Making Screenings

When a project is anticipated to be a SEIR, the District decides whether to initiate an ETDM Planning Screen or Programming Screen event in the EST, based on project complexity, intended outcome of the event, as well as funding considerations and project implementation schedule. ETDM Planning Screen events may have been previously completed when considering projects during Long Range Transportation Plan (LRTP) process. It is recommended that the ETDM Programming Screen be completed one year before the year in which PD&E phase funds are programmed. When entering information into the EST, there is an option to select state or federal funding.

An Advance Notification (AN) is circulated for qualifying projects ([ETDM Manual, Topic No. 650-000-002](#)) prior to PD&E Study initiation either with or subsequent to the ETDM Programming Screen event. FDOT State Projects do not require a Federal Consistency Review with the State Clearinghouse as part of the AN ([Part 1, Chapter 3, Preliminary Environmental Documentation and Advance Notification](#)). If a federal permit is needed for the project, the Federal Consistency Review is typically provided as part of the permitting process.

During the Programming Screen review the project is reviewed by appropriate FDOT personnel (i.e., Project Manager, environmental specialist, design and drainage staff) and the ETAT (see [FDOT's ETDM Manual, Topic No. 650-000-002](#)). During the screening, ETAT members use the EST to review project information, identify potential project effects, and submit comments to FDOT. The EST provides access to project information and data about social, cultural, natural, and physical topics/resources in the project area. After reviewing this information, the ETAT members provide input about potential project effects specific to their area of expertise. The results of the screening are published in a Preliminary ***Programming Screen Summary Report*** and reviewed by the District to

assist in determining appropriate topics/resources for additional information-gathering and analysis.

ETDM Screening event results may be used to inform project planning, project scoping and other activities prior to initiation of the PD&E phase. The District should explore options to collect data and conduct technical studies and surveys ahead of the PD&E Study, see [Part 1, Chapter 4, Project Development Process](#). Based upon the Preliminary **Programming Screen Summary Report** and other known information, the District completes a **Class of Action Form** in the EST. The Environmental Document selected should be a SEIR. Even though FDOT State Projects do not have a Class of Action, the **Class of Action Form** is still completed for a SEIR (see [Guidance for Part 1, Chapter 10](#)).

### 10.2.1.2.2 State Environmental Impact Report Preparation

As a PD&E Study, SEIR projects follow the project development and delivery process outlined in [Part 1, Chapter 4, Project Development Process](#). During the PD&E phase, the District prepares a **SEIR Form** in SWEPT. The resulting Environmental Document is commonly referred to as a SEIR. SEIRs are concise, focused documents that summarize the results of the engineering and environmental analysis and input received from stakeholders (e.g., agencies, Federally Recognized Native American Tribes, the public). The level of detail needed can vary and depends on project specific circumstances.

The SEIR includes preparation of a public engagement plan, typically a **Public Involvement Plan (PIP)** or in some cases a **CAP**, early in project development.

The results of the ETDM screening events are used for project scoping and to prepare the SEIR. The SEIR should address comments provided by the ETAT, other stakeholders during the ETDM screening and the AN.

The analysis to support the SEIR should facilitate coordination with stakeholders, include opportunities and approaches to mitigation when needed and provide sufficient detail to support the conclusions and scientific and analytical basis for the comparison of alternatives, if applicable. Chapters in [Part 2 of the PD&E Manual](#) detail how to conduct the engineering and environmental analysis, provide guidance on coordination with agencies and stakeholders, and provide specifics on what should be included in the SEIR depending on the level of impact. The level of analysis should be sufficient to adequately identify the impacts. Social, cultural, natural, and physical topics/resources are evaluated to satisfy applicable federal and state environmental laws, regulations and executive orders.

Project commitment coordination is accomplished prior to and during the PD&E phase consistent with [Part 2, Chapter 22, Commitments](#) and [Procedure No. 650-000-003, Project Commitment Tracking](#). Commitments are coordinated and agreed upon by appropriate FDOT functional area representatives.

Supporting information such as agency coordination letters, technical memorandums, technical reports, and other supporting documents are saved in the SWEPT project file

and are identified as either Technical Materials or Attachments. The [State Environmental Impact Report QA/QC Checklist](#) lists these documents and specifies which are to be categorized as Technical Materials and which as Attachments.

Technical Materials are documents contained under separate cover that are incorporated by reference, meaning they should be referenced in the SEIR. Technical Materials include technical reports [e.g., *Project Traffic Analysis Report (PTAR)*, *Conceptual Stage Relocation Plan (CSR)*, *Natural Resource Evaluation (NRE)*, *Preliminary Engineering Report (PER)*], technical memorandums, and studies. For a list of reports and design information typically completed in the PD&E phase that should be in the SWEPT project file see [Part 1, Chapter 4, Project Development Process](#).

Documents added as Attachments are included in the Appendix and are considered to be a part of the SEIR. This may include coordination letters, determinations of effect, and Memorandum of Understanding (MOUs).

Guidance on preparing the SEIR in SWEPT is provided in the [Guidance for Part 1, Chapter 10](#). An outline is provided in [Figure 10-3](#) to show the layout of the SEIR. Once the form is approved, it is saved as a PDF which becomes the SEIR Environmental Document.

Other considerations for completing a SEIR are as follows:

1. **Historic Resources:** If no federal permit is required, consultation with the Florida Division of Historical Resources (FDHR) is required per **Chapter 267, F.S.**, to address historic or archaeological resources. However, if a federal permit is required then the project must comply with **Section 106** of the **National Historic Preservation Act (NHPA)**. See [Part 2, Chapter 8, Historic and Archeological Resources](#) and [Section 10.2.1.4](#) for additional guidance.
2. **Protected Species and Habitat:** If a federal permit will be required, then technical assistance from the USFWS or NMFS should occur and be documented in the SEIR. See [Part 2, Chapter 16, Protected Species and Habitat](#) and [Section 10.2.1.4](#) for additional guidance. If no federal permit is required, any required consultation with USFWS or NMFS regarding federally listed species occurs under **Section 10** of the **Endangered Species Act (ESA)**.
3. **Section 4(f):** **Section 4(f)** does not apply to FDOT State Projects 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 ([Part 2, Chapter 23, State-owned Upland Conservation Land Coordination](#)).

4. **Water Resources:** SEIRs are not subject to Environmental Protection Agency (EPA) review for sole source aquifers since they do not receive federal financial assistance ([Part 2, Chapter 11, Water Resources](#)).
5. **Farmlands and Coastal Barrier Resources:** Unique and Prime Farmland and Coastal Barrier Resources are not analyzed for SEIR projects since analysis of these resources is only required for Federal Projects. Agricultural lands that are not subject to the **Farmland Protection Policy Act (FPPA)** are considered in the Land Use Changes subsection.
6. **Planning Consistency:** Planning consistency information is not required for the approval of the SEIR; however, to the extent planning consistency information is available it should be provided as it serves to inform stakeholders and assists in the timely advancement of project funds for the next phase. If planning consistency information is not available, a description of actions required for obtaining planning consistency may be provided.
7. **Alternatives Analysis:** There is no requirement for the analysis of multiple build 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-build alternative, if determined appropriate.

As a best practice SEIRs go through a Quality Assurance (QA)/Quality Control (QC) check before the public hearing, if held (see QA/QC Tools for PD&E Studies on OEM's [Documents and Resources Website](#)). During this process the applicable [State Environmental Impact Report QA/QC Checklist](#) is completed.

The SEIR is then signed by the Environmental or Project Development Manager confirming that the document has completed the QA/QC review and approving it for public availability. This signature is obtained electronically during preparation of the form in SWEPT.

SEIRs require a public hearing if the project is a major transportation improvement as described in **Section 339.155, F.S.** This includes 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.

See [Part 1, Chapter 11, Public Involvement](#) for information on holding a public hearing and publication requirements.

Under limited circumstances, when a SEIR does not constitute a major transportation improvement as described in **Section 339.155(5), F.S.**, the District offers the public an opportunity to request a public hearing in lieu of holding it without a public request. A

notice of opportunity to request a public hearing is then published, see ([Part 1, Chapter 11, Public Involvement](#)) for publication requirements.

It is normally expected that a preferred alternative is chosen prior to the public hearing. If in unusual circumstances a preferred alternative cannot be selected before the public hearing, additional public involvement after the hearing could be necessary and could range from another public hearing to a meeting, or a flyer/mailler. The SEIR should also be posted on the project website.

After the public hearing, if held, the District updates the SEIR and written statements from the public, both submitted at the public hearing or during the public hearing comment period, are included in the **Summary of Public Involvement (SPI)**. See [Part 1, Chapter 11, Public Involvement](#) for information on the **SPI**.

The public hearing is certified when the Project Manager prepares a **Public Hearing Certification Form**. This form may be completed in SWEPT or by using the **Public Hearing Certification, Form No. 650-050-56**. If completed in SWEPT, the **Public Hearing Transcript** is uploaded to SWEPT and a link to it is provided in the certification form. If completed outside of SWEPT, the certification form and the **Public Hearing Transcript** are uploaded to SWEPT for the project file. These two documents are included in the Appendix of the SEIR.

The District confirms the project file in SWEPT is complete. Districts should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

OEM may review the SEIR at the District's request. The District Secretary or designee signs and approves the SEIR within SWEPT and may post it on the project website.

The District Environmental Office also completes and provides the date of the approval on the **Environmental Certification for FDOT State Project** form. A sample form is provided as a visual in [Guidance for Part 1, Chapter 10](#).

### 10.2.1.3 Re-evaluation

A Re-evaluation is needed to document changes that may have occurred in the project since approval of the Environmental Document or prior Re-evaluation(s). 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 might include changes in the design, project limits, or project scope, new or modified laws, circumstances or project area changes, or any other new information affecting the project. Re-evaluations also update the status of commitments. Documenting these changes helps ensure compliance with applicable federal and state regulations.

Re-evaluations are conducted when:

1. Design changes result in new or additional impacts, possibly requiring agency consultation or public involvement

2. Changes in laws, passage of time, or changes in topic/resource need to be documented
3. Advancing to Right of Way (ROW) or Construction phase, more than three years since approval of the SEIR or last Re-evaluation. Often there may be an overlap of phases, such as ROW and design phases. In this case a Re-evaluation could cover both.

A Re-evaluation of a SEIR is prepared by using the **State Environmental Impact Report Re-evaluation Form** in SWEPT. An outline of this form is provided in [Figure 10-4](#). See [Guidance for Part 1, Chapter 10](#) for detailed information to assist with preparing this form and a sample SEIR Re-evaluation. Information supporting the SEIR Re-evaluation is submitted with the form and uploaded to the project file in SWEPT.

Approval is granted by the District approving authority or designee electronically. The approved Re-evaluation is maintained in the project file and the District notifies other phase managers e.g., Design, ROW, and Construction, and others as appropriate.

The District Environmental Office also provides the date of the signed Re-evaluation on the **Environmental Certification for FDOT State Project**, as shown in [Guidance for Part 1, Chapter 10](#), which is required as part of the contract file.

#### 10.2.1.4 FDOT State Projects with Federal Actions

Federal permits, such as those from a federal agency (e.g., USCG, USACE, USFWS, NMFS), may be required for FDOT State Projects and require a **National Environmental Policy Act (NEPA)** document be prepared by the lead federal permitting agency. In such cases, consultation or technical assistance with the appropriate federal agency(ies) should be performed early. OEM should be contacted with any questions regarding federal coordination on FDOT State Projects. The lead federal permitting agency may adopt or modify the FDOT Environmental Document to use as their **NEPA** document.

If a federal permit 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

A thorough understanding of funding sources, system designation, proposed work activity and existing or proposed agreements, such as a Joint Participation Agreement (JPA) or MOA, assists in determining if the project should advance as a Project Environmental Impact Report (PEIR), a SEIR or an FDOT Federal Project.

##### Local Agency or Private Entity Managed Projects

FDOT may enter into comprehensive agreements with private entities for the building, operation, ownership or financing of transportation facilities through the process provided

in **Section 334.30, F.S., Public-private transportation facilities.**

**Section 334.30(3), F.S.**, provides that “[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 fully funded by others (with no Federal Highway Administration [FHWA] funding or involvement), requires execution of an **FDOT Construction Agreement, Form No. 850-040-89**. The local agency or private entity must apply for this Construction Agreement 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 Managed 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 local agency or private entity prior to environmental permit application, may be documented as a PEIR. The PEIR analysis may include both environmental and engineering analyses as described in [this Manual](#), as applicable. PEIRs are not FDOT documents, as they are not prepared or approved by FDOT and therefore not prepared in SWEPT. A PEIR is prepared and approved by the local agency or private entity to document environmental analysis. The [Guidance for Part 1, Chapter 10](#) provides a PEIR outline.

### **Local or Privately Funded Projects with Potential Transfer of Jurisdiction**

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 within SWEPT. 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 10.2.1.3](#))

These decisions should be documented in the project file.

### **Local Agency Managed Projects with Only State Funding**

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), 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 the [Guidance for Part 1, Chapter 10](#) to prepare a PEIR.

### **Local Agency Using Federal Funds**

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 the project will become a Local Agency Program (LAP) project, and therefore an FDOT Federal Project. The **NEPA** document would generally be prepared by the local agency with FDOT support as deemed appropriate through early project coordination (per [FDOT Local Programs Manual, Topic No. 525-010-300](#)).

### **Environmental Certification**

A local agency or private entity may **not** provide FDOT Environmental Certification to advance a project in the FDOT Work Program, and FDOT **should not** provide a certification to a local agency or private entity.

## **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. <https://www.fdot.gov/environment/oem-divisions/qa-qc/etdm-manual>

FDOT, Local Programs 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, Planning Consistency for NEPA Practitioners.  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/planning-consistency-for-nepa-practitioners.pdf?sfvrsn=895090ea\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/pdeman/planning-consistency-for-nepa-practitioners.pdf?sfvrsn=895090ea_1)

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

FDOT, Public Involvement Handbook. <https://www.fdot.gov/planning/policy/community-engagement/resource-guide.shtm>

FDOT, Re-evaluation Guidance for Section 3 - Changes in Applicable Law or Regulation. [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/reeval-regs-laws-checklist\\_2025-0916.pdf?sfvrsn=52041e4e\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/reeval-regs-laws-checklist_2025-0916.pdf?sfvrsn=52041e4e_1)

FDOT, State Environmental Impact Report QA/QC Checklist

Chapter 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/>

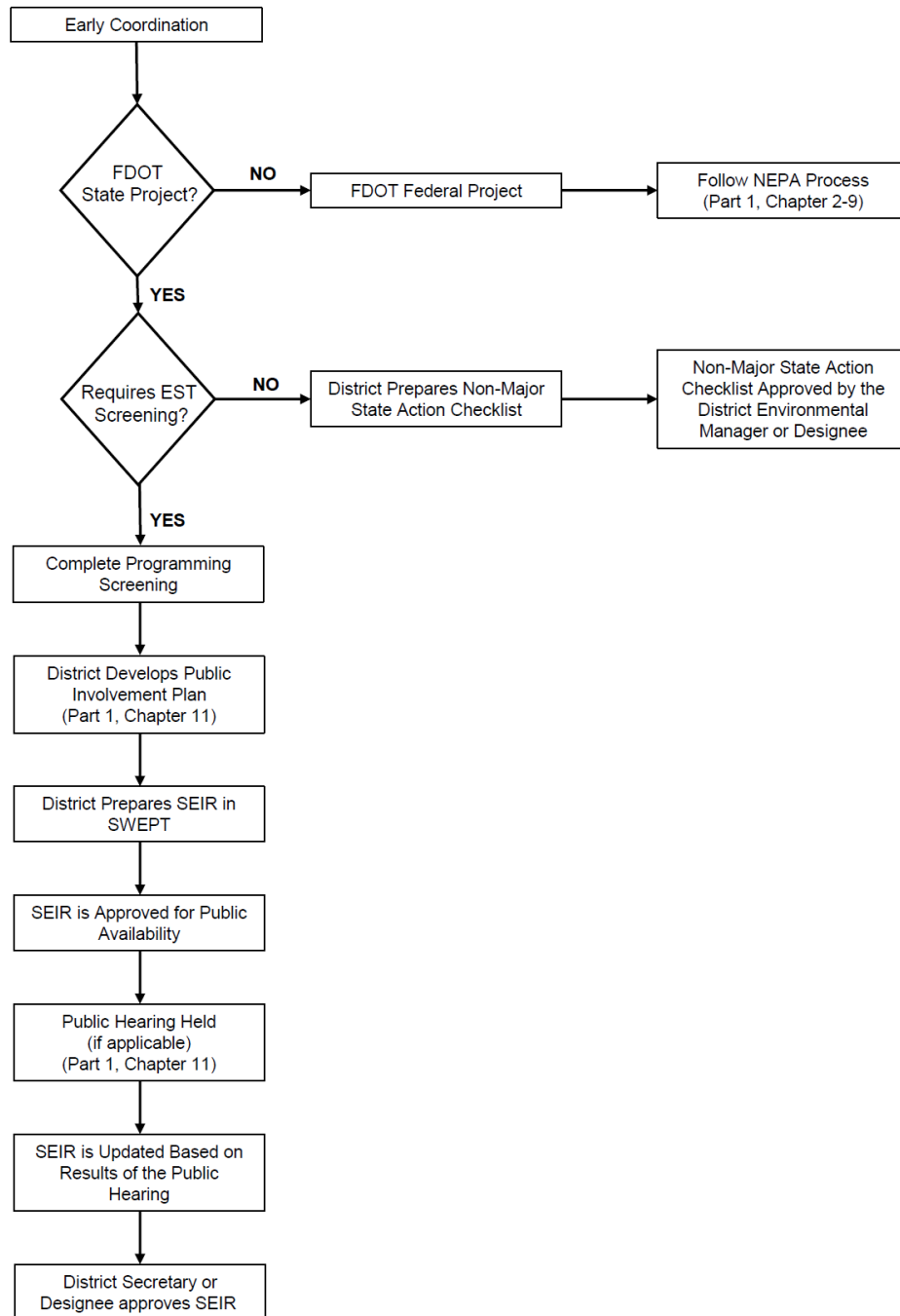
Section 339.61, F.S., Florida Strategic Intermodal System (SIS); legislative findings, declaration, and intent. <http://www.leg.state.fl.us/Statutes/>

## **10.4 FORMS**

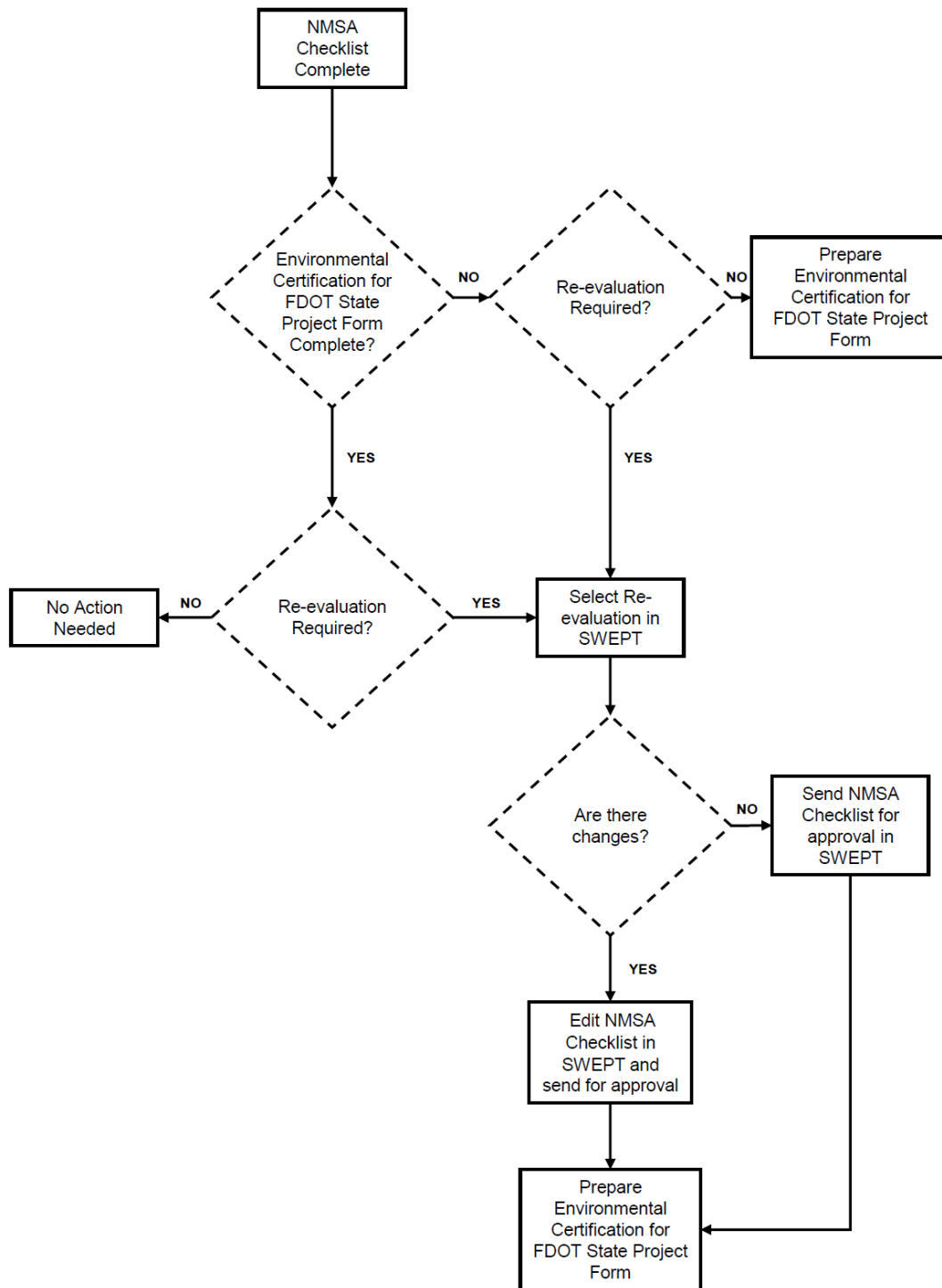
FDOT Construction Agreement, Form No. 850-040-89

Public Hearing Certification, Form 650-050-56

FDOT Forms are found in the [Procedural Document Library](#)



**Figure 10-1 FDOT State Project Process**



**Figure 10-2 Non-Major State Action Re-evaluation Process**

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### **Figure 10-3 State Environmental Impact Report Outline**

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- B. Original approved Environmental Document
- C. Prior Re-evaluation(s)
- D. Project or project segment(s) being evaluated

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**Figure 10-4 State Environmental Impact Report Re-evaluation Outline**

## **PART 1, CHAPTER 11**

### **PUBLIC INVOLVEMENT**

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## PART 1 CHAPTER 11

# PUBLIC INVOLVEMENT

### 11.1 OVERVIEW

This chapter contains the Florida Department of Transportation (FDOT) procedure for public involvement during the Project Development and Environment (PD&E) phase of a transportation project and also provides some guidance on other phases of project development.

#### 11.1.1 Definition of Public Involvement

Public involvement is the active 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 participate in 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 (see [Section 11.1.3](#)). Public input can be received via various forms of media or through participation in a public forum.

#### 11.1.2 Intent of Public Involvement

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 topics/impacts early in the project development process so solutions can be considered prior to the completion of the Design phase.

FDOT has established procedures and agreements for coordinating public and agency participation in and comment on the environmental review process for transportation projects consistent with **23 United States Code (U.S.C.) § 139(g)**. This 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; and project screening through the ETDM Environmental Screening Tool (EST).

Public involvement should:

1. Be inclusive of 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 throughout project development, activities are most prevalent during the PD&E phase. Coordination during this phase allows the public the opportunity to provide input in transportation decisions resulting in the development of transportation systems that support community needs and desires. Through public involvement, FDOT can gain insight into an affected community and use this knowledge to evaluate the community effects of the project alternatives (see [Part 2, Chapter 4, Community Impact Assessment](#)). Public involvement, in conjunction with other sources of data, plays an essential role in the assessment of the social, cultural, natural and physical effects of transportation projects.

### 11.1.3 Federal and State Public Involvement Requirements

The public involvement procedure in this chapter is in compliance with federal and state requirements. This chapter was reviewed and approved by the Federal Highway Administration (FHWA) for compliance with **23 Code of Federal Regulations (CFR) § 771.111** on January 26, 2026.

There are many laws and regulations that apply to the **National Environmental Policy Act (NEPA)** process. Specifics on how regulations pertaining to public involvement are implemented during the PD&E phase are discussed within individual sections as they apply. The most relevant to public involvement activities include:

#### Title VI / Nondiscrimination

All FDOT project activities must comply with **Title VI of the 1964 Civil Rights Act** and related statutes, as referenced in [Title VI/Non-Discrimination Program, Policy Number 001-275-006](#) and implementing procedure [Title VI Program and Related Statutes-Implementation and Review Procedure, Topic No. 275-010-010](#). This includes all federal and state programs administered by FDOT and its sub-recipients. All public meeting or hearing notifications must include the **Civil Rights Act of 1964** standard statement (see [Section 11.6.2](#)). At all public meetings and hearings, regardless of project phase, a board with the **Civil Rights Act of 1964** standard statement, along with the contact information for the District Title VI Coordinator and State Title VI Coordinator, must be displayed in the physical location and on a slide for the virtual component (see [Section 11.6.7](#)).

#### Americans with Disabilities Act of 1990 (ADA)

All FDOT project activities must comply with the **Americans with Disabilities Act of 1990 (ADA)**. This Act prohibits the exclusion of persons with disabilities from participation

in services, programs, or activities of a public entity and requires public accommodations to provide equivalent access to individuals with disabilities. This is important for public involvement activities, as the locations of public meetings, workshops, and hearings should be accessible.

Other federal regulations that are applicable to public involvement activities are listed in [Table 11-1](#). State regulations that are applicable to public involvement activities are listed in [Table 11-2](#).

## 11.2 PUBLIC INVOLVEMENT DURING THE EFFICIENT TRANSPORTATION DECISION MAKING PROCESS

For FDOT projects that qualify for screening in the ETDM EST, project information is available to the public on the [ETDM Public Access Site](#). See [Part 1, Chapter 2, Class of Action Determination for Federal Projects](#) for a list of qualifying project types.

Through the [ETDM Public Access Site](#) the public is able to submit comments on the project through the EST to the project contact (i.e., ETDM Coordinator or Project Manager) providing the public an early opportunity to be involved in the identification of potential project impacts as well as defining the purpose and need and reasonable range of alternatives as required by **23 CFR § 771.111**.

Additional information regarding the ETDM process and access to the [ETDM Public Access Site](#) is available at FDOT's [Office of Environmental Management \(OEM\) Website](#) and in the [ETDM Manual, Topic No. 650-000-002](#).

## 11.3 PUBLIC INVOLVEMENT BASED ON ENVIRONMENTAL DOCUMENT TYPE

For projects with a PD&E phase, information from the Planning phase may be utilized to continue or enhance public involvement activities. For projects screened in the ETDM EST, information from the EST can be used to plan and implement **Public Involvement Plans (PIPs)** and public outreach activities. The ETDM Coordinator and Community Liaison Coordinator (CLC) can provide an understanding of the project's background, issues that were identified, and any public comments received during the EST screening events to help develop the **PIP**. The CLC can also assist with identifying audiences for PD&E outreach activities and provide any public feedback received during the screening events.

Public involvement activities vary by Environmental Document type.

### 11.3.1 Type 1 Categorical Exclusion and Non-Major State Action

Type 1 Categorical Exclusions (CEs) and Non-Major State Actions (NMSAs) do not typically require a public hearing, but may necessitate public involvement activities as determined by the District. A **Community Awareness Plan (CAP)** is typically prepared for these projects. See the [FDOT Design Manual, Part 1, Chapter 104, Public Involvement, Topic No. 625-000-002](#) for more information on preparing a **CAP**.

### 11.3.2 Type 2 Categorical Exclusion

Notification and public involvement activities for a Type 2 CE are outlined below:

- The District initiates a **PIP** or in some cases a **CAP**. See [Section 11.4](#) for guidance on determining which plan to prepare.
- The District **may** conduct a kick-off meeting for public engagement with elected officials/agencies and/or the public. A formal letter/email may be used in place of a meeting. See [Section 11.6.3](#) for more details.
- A public meeting/workshop **may** be held. See [Section 11.6](#) for more details.
- A public hearing may be required by **Section 339.155(5), Florida Statutes (F.S.)** (see [Section 11.6.9](#)).
- If a public hearing **is** required:
  - A notice of the public hearing is placed as a newspaper advertisement (newspaper ad) twice in the local newspaper(s) (see [Section 11.6.9.2.3](#)). The District obtains proof of publication or an **Affidavit of Publication**.
  - A similar notice is placed on the FDOT **Public Meeting Notices Website** ([Section 11.6.9.2.5](#)) and the **Florida Administrative Register (FAR)** ([Section 11.6.9.2.4](#)).
  - The public hearing is held. See [Section 11.6.9](#) for public hearing requirements.
- If a public hearing is **not** required by **Section 339.155(5), F.S.**, see [Section 11.6.10](#) for guidance on offering the public an opportunity to request a public hearing.
  - If it is determined to hold a public hearing after requests are received, see [Section 11.6.9](#) for details.

- After the Type 2 CE is approved, an Announcement of Location and Design Concept Acceptance (LDCA) is distributed as outlined in [Part 1, Chapter 5, Categorical Exclusion](#).
- The Announcement of LDCA is also published as a newspaper ad. See [Section 11.7.2](#) for details.
- A **Limitations on Claims Notice** may be published in the *Federal Register (FR)*. See [Section 11.7.3](#) for more details.

### 11.3.3 Environmental Assessment

Notification and public involvement activities for an Environmental Assessment (EA) are included in [Figure 11-1](#) and outlined below:

- The District initiates a **PIP**. See [Section 11.5](#) for guidance on preparing a **PIP**.
- The District **may** conduct a kick-off meeting for public engagement with elected officials/agencies and/or the public. A formal letter/email may be used in place of a meeting. See [Section 11.6.3](#) for details.
- A local advisory group **may** be established. See [FDOT Public Involvement Handbook](#) for details.
- A public meeting/workshop **may** be held. See [Section 11.6](#) for details.
- After the EA is approved by OEM for public notice it is distributed as outlined in [Part 1, Chapter 6, Environmental Assessment](#).
- The EA is made available for public inspection. See [Section 11.6.9.1](#) for details.
- A public hearing may be required by **Section 339.155(5), F.S.**, (see [Section 11.6.9](#)).
- If a public hearing **is** required:
  - The District places a notice of availability in the local newspaper(s) twice which includes advertisement of the public hearing. See [Section 11.6.9.2](#) for notification requirements. The District obtains proof of publication or an **Affidavit of Publication**.
  - A similar notice is placed on the FDOT **Public Meeting Notices Website** ([Section 11.6.9.2.5](#)) and the **FAR** ([Section 11.6.9.2.4](#)).

- The public hearing is held. See [Section 11.6.9](#) for public hearing requirements.
- If a public hearing is **not required** by **Section 339.155(5), F.S.**, see [Section 11.6.10](#) for guidance on a notice of opportunity to request a public hearing.
  - If it is determined to hold a public hearing after requests are received, see [Section 11.6.9](#).

### 11.3.4 Environmental Assessment with Finding of No Significant Impact

Final notification activities for an EA with Finding of No Significant Impact (FONSI) are included in [Figure 11-1](#) and outlined below:

- After the EA with FONSI is approved by OEM, it is distributed as outlined in [Part 1, Chapter 7, Finding of No Significant Impact](#).
- The EA with FONSI is made available to the public. See [Section 11.7.2](#) for details.
- An Announcement of LDCA is published as a newspaper ad. See [Section 11.7.2](#) for details.
- A **Limitations on Claims Notice** is published in the *FR*. See [Section 11.7.3](#) for details.

### 11.3.5 Draft Environmental Impact Statement

Notification and public involvement activities for a Draft Environmental Impact Statement (DEIS) are included in [Figure 11-2](#) and outlined below:

- The District initiates a **PIP**. See [Section 11.5](#) for guidance on preparing a **PIP**.
- The District **may** conduct a kick-off meeting for public engagement with elected officials/agencies and/or the public. A formal letter/email may be used in place of a meeting. See [Section 11.6.3](#) for details.
- A local advisory group **may** be established. See the [FDOT Public Involvement Handbook](#) for details.
- Public meetings/workshops **may** be held. See [Section 11.6](#) for details.

- The District submits a **Notice of Intent (NOI)** to OEM to coordinate publication in the **FR**. See [Part 1, Chapter 8, Draft Environmental Impact Statement](#) for additional information on the **NOI**.
- The District **may** hold a formal scoping meeting with government agencies and other parties with an interest in or jurisdiction over the project area. For additional guidance, see [Figure 11-3](#).
- After the DEIS is approved by OEM for circulation, it is distributed as outlined in [Part 1, Chapter 8, Draft Environmental Impact Statement](#).
- The DEIS is made available to the public, see [Section 11.6.9.1](#) for details.
- A notice of public hearing is placed as a newspaper ad twice in the local newspaper(s) which mentions the availability of the DEIS for comment. See [Section 11.6.9.2](#) for notification requirements. The District obtains proof of publication or an **Affidavit of Publication**.
- A similar notice is placed on FDOT **Public Meeting Notices Website** ([Section 11.6.9.2.5](#)) and the **FAR** ([Section 11.6.9.2.4](#)).
- After distribution and public notice, the District submits a **Notice of Availability** of the DEIS to OEM to coordinate publication in the **FR**. The **Notice of Availability** establishes a 45-day comment period. See [Part 1, Chapter 8, Draft Environmental Impact Statement](#) for details on preparing and publishing the **Notice of Availability**.
- A public hearing is held to comply with **Section 339.155(5), F.S.**, see [Section 11.6.9](#) for public hearing requirements.

### 11.3.6 Final Environmental Impact Statement/Record of Decision or Final Environmental Impact Statement

Final notification activities for a Final Environmental Impact Statement/Record of Decision (FEIS/ROD) are included in [Figure 11-2](#). Notification activities for a separate FEIS, and final notification activities for a ROD are included in [Figure 11-4](#). Both are outlined below:

- If a FEIS/ROD:
  - After the FEIS/ROD is approved by OEM, it is distributed as outlined in [Part 1, Chapter 9, Final Environmental Impact Statement](#).
  - The FEIS/ROD is made available to the public (see [Section 11.7.2](#) for requirements).

- An announcement of LDCA is published as a newspaper ad. See [Section 11.7.2](#) for details.
- After the announcement of LDCA is published, the District submits a **Notice of Availability** of the FEIS/ROD to OEM to coordinate publication in the *FR* (see [Part 1, Chapter 9 Final Environmental Impact Statement](#)). The **Notice of Availability** may be combined with a **Limitations on Claims Notice** or it may be published separately in the *FR*. See [Section 11.7.3](#) for details.
- If the FEIS is approved separately from the ROD:
  - After the FEIS is approved by OEM, it is distributed as outlined in [Part 1, Chapter 9, Final Environmental Impact Statement](#).
  - The FEIS is made available to the public. See [Section 11.7.1](#) for details.
  - The District places a notice of availability as a newspaper ad and obtains proof of publication or an **Affidavit of Publication**. See [Section 11.7.1](#) for details.
  - After distribution and public notice, the District submits a **Notice of Availability** of the FEIS to OEM to coordinate publication in the *FR*. The **Notice of Availability** establishes a 30-day comment period (see [Part 1, Chapter 9, Final Environmental Impact Statement](#)).
  - The ROD is prepared and signed by OEM no sooner than 30 days after publication of the **Notice of Availability** in the *FR*.
  - After the ROD is approved by OEM, it is distributed as outlined in [Part 1, Chapter 9, Final Environmental Impact Statement](#).
  - The ROD is made available to the public. See [Section 11.7.2](#) for details.
  - An announcement of LDCA is published as a newspaper ad. See [Section 11.7.2](#) for details.
  - The District submits a **Limitations on Claims Notice** to OEM to coordinate publication in the *FR*. See [Section 11.7.3](#) for details.

### 11.3.7 State Environmental Impact Report

Public involvement activities for a State Environmental Impact Report (SEIR) are outlined below:

- The District initiates a **PIP**. See [Section 11.5](#) for guidance on preparing a **PIP**.
- The District **may** conduct a kick-off meeting for public engagement with elected officials/agencies and/or the public. A formal letter/email may be used in place of a meeting. See [Section 11.6.3](#) for more details.
- A local advisory group **may** be established. See the [FDOT Public Involvement Handbook](#) for details.
- A public information meeting/workshop **may** be held. See [Section 11.6](#) for more details.
- After the SEIR is approved for public availability, a notice of the public hearing is placed as a newspaper ad twice in the local newspaper(s). See [Section 11.6.9](#) for public hearing notification requirements. The District obtains proof of publication or an **Affidavit of Publication**.
- A similar notice is placed in the **FAR** ([Section 11.6.9.2.4](#)) and on the FDOT **Public Meeting Notices Website** ([Section 11.6.9.2.5](#)).
- The public hearing is held. See [Section 11.6.9](#) for public hearing requirements.

## 11.4 TYPES OF PUBLIC ENGAGEMENT PLANS

There are three types of plans for public engagement that are prepared in specific scenarios. As appropriate, these plans should be developed and implemented at the start of the applicable project phase.

A **Communication Plan** may be developed to provide the public engagement strategy during the Planning phase (work prior to the PD&E phase). This plan outlines the methods and timelines for engaging with the public, local agencies, and stakeholders.

A **Public Involvement Plan (PIP)** is the primary public engagement plan outlined in this Chapter. A **PIP** is prepared for transportation projects during the PD&E phase (typically a Type 2 CE, EA, EIS, or SEIR). The **PIP** defines affected communities and potential stakeholders, as well as details of the outreach methods and required notification timeframes to involve and gain their input. It may include any other public involvement strategies used to support a **NEPA** decision for an FDOT Federal Project. See [Section 11.5](#) for information on creating a **PIP**.

Planning activities and design projects with minor activities may follow a **PIP** outline. For example, a planning project may have a more fluid plan, focused on stakeholders, rather than a standard **PIP**.

A **Community Awareness Plan (CAP)** is developed for the design and construction phases of a project. It identifies appropriate outreach activities based on the type of project and potential community concerns about proposed construction impacts. For additional information, see the [FDOT Design Manual, Part 1, Topic No. 625-000-002](#). A **CAP** is typically prepared for Type 1 CEs, NMSAs, and sometimes Type 2 CEs that are not screened in EST. For format and content of the **CAP** see the [FDOT Design Manual, Part 1, Chapter 104, Public Involvement, Topic No. 625-000-002](#). In the case of overlapping PD&E and Design phases; either a **PIP** or a **CAP** is prepared depending on the needs of the project.

## 11.5 PUBLIC INVOLVEMENT PLAN

This section outlines the contents of the **PIP**. For additional information on strategies and best practices, see the [FDOT Public Involvement Handbook](#). A sample of the **PIP** is included in the FDOT [Public Engagement Resource Kit \(PERK\)](#).

The **PIP** is considered final after District-level review and approval and it is uploaded in the StateWide Environmental Project Tracker (SWEPT). This typically takes place before the kick-off of public engagement. As the PD&E phase continues, adjustments may be made to the public engagement strategies. Any changes to the approach as outlined in the **PIP**, along with the reasoning behind the changes, should be documented within a technical report called a **Summary of Public Involvement (SPI)**, see [Section 11.8](#).

A **PIP** should only be rewritten or updated under unusual circumstances as determined by FDOT. For example, if there is a substantial change in project scope or purpose and need or the project has been on hold for an extended period of time.

### 11.5.1 Project Overview

This section of the **PIP** includes a description of the project, its location, the history of any previous studies/engagement, and a discussion of what the project is trying to achieve.

### 11.5.2 Identification of Elected Officials and Local Agencies

This section of the **PIP** involves identification of elected officials and local agency representatives. These are city, county, state, and federal representatives, whose jurisdictional/political boundary intersects the project area. Local constitutional offices are a part of this group. A contact list of elected officials and local agencies is included as an Appendix. Elected official information is updated after every election cycle, and the local

agency representatives list is updated as appropriate. Any subsequent updates to these lists are included in the **SPI**.

Resource agency representatives, including local, state, regional, and federal agencies that were sent the Advance Notification (AN) (see [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)), are referenced, but are not included in the **PIP** contact lists. Native American Tribes involved in coordination are also referenced but not included in the contact lists. Tribes must be contacted as specified on FDOT's [Native American Tribal Consultation Website](#). The District coordinates with OEM prior to any direct communication with a Tribe.

The **PIP** should include the following language to address this:

*Federal and State agencies, as well as Native American Tribes, having an interest in this project due to jurisdictional review or expressed interest have been identified. These contacts can be found in the Advance Notification (AN) package in the Environmental Screening Tool, ETDM# (add ETDM number here). Visit <https://etdmpub.flas-etat.org> to view the official transmittal list in the AN Package. Subsequent contact list updates can be obtained through the District Environmental Office.*

Coordination with resource agencies and Native American Tribes should be documented in the SWEPT project file.

### **11.5.3 Identification of Affected Communities and Stakeholders**

This section of the **PIP** involves identification of affected communities, property owners/tenants, business owners, community leaders, and other parties that may have a potential direct or expressed interest in the project. These affected stakeholders may be defined by geographic and political boundaries. They may or may not be self-identified as a community, meaning they may or may not have a shared cultural identity. The stakeholder contact list should include a wide cross-section of the project area and may be included as an Appendix in the **PIP**.

Adjacent property owners whose property lies, in whole or part, within at least 300 feet on either side of the centerline [or Right of Way (ROW) line for interstates] of each project alternative (**Section 339.155, F.S.**), as well as tenants of these properties, are considered stakeholders. An initial property owner contact list or map of the mailing area may be included as an Appendix in the **PIP**.

Interested parties are those who request placement on the project mailing list as the project progresses. This list may be included as an Appendix in the **PIP**.

## 11.5.4 Outreach Accommodations

A **Sociocultural Data Report (SDR)** provides a snapshot of the study area population, race, age, income, educational attainment, housing types, and language over the last three censuses and most recent American Community Survey. **SDRs** for projects screened in the EST are available on the [ETDM Public Access Site](#). If an **SDR** is not available, the ETDM Coordinator or Project Manager may be contacted to provide this information.

The **SDR** is reviewed and analyzed in coordination with the person overseeing the Community Impact Assessment (CIA). This analysis may be used to make preliminary determinations, such as when/where in-person versus virtual meetings may be appropriate, if meeting accommodations for an aging or transit-dependent population are needed, or if there are potential language barriers. This section of the **PIP** should include any identified public involvement opportunities to reach specific communities (i.e., relationships with community leaders within local health clinics, community centers, places of worship, advocacy groups, and schools). Additional information can be found in [Part 2, Chapter 4, Community Impact Assessment; FDOT's Public Involvement Handbook](#); and the [ETDM Manual, Topic No. 650-000-002](#). The **SDR** should be added as an Appendix to the **PIP**.

## 11.5.5 Outreach Activities

This section of the **PIP** defines the type and frequency of outreach that occurs during the PD&E Study, how the outreach will be conducted, how the public will be notified, whether newsletters will be distributed and when, and the overall public outreach schedule.

Public engagement activities should use appropriate approaches evaluated on a project-by-project basis, making sure that strategies are inclusive of all affected stakeholders. Non-traditional approaches should be considered to provide the opportunity for involvement of all parties. For more information about non-traditional approaches, as well as additional guidance on public involvement approach and optional activities (such as small group meetings or local advisory groups), see the [FDOT Public Involvement Handbook](#). For public meeting and public hearing requirements that are included in this section of a **PIP**, see [Section 11.6](#).

## 11.5.6 Public Involvement Summary

This section of the **PIP** defines how public involvement documentation will be organized in the **SPI**. For details on preparing a **SPI**, see [Section 11.8](#).

## 11.5.7 Final Notifications and Project Approval

This last section of the **PIP** defines how the final notification of project approval will occur as well as any final outreach to inform the public of the conclusion of the PD&E phase. For more details on project approval notification requirements, see [Section 11.7](#).

## 11.6 PUBLIC MEETING AND PUBLIC HEARING PROCEDURE

This section describes FDOT requirements for various types of public meetings and public hearings as they relate to state and federal law (including advertisement and logistical requirements). For samples, see the [PERK](#) and for best practices see the [FDOT Public Involvement Handbook](#).

### 11.6.1 Selecting Dates and Locations

**FDOT public meetings and public hearings (where the general public is invited to participate) must include both an in-person and virtual component.** The two components can be separate events, but should be within 7 calendar days of each other. Small group and one-on-one meetings can be held in-person, virtually, or using both components.

#### In-Person Location

In-person meeting facilities are selected based on the anticipated number of attendees, proximity to the project, easy accessibility, safety, and public transportation availability. Justification for the facility selected should be included in the **SPI**. When choosing between multiple locations, publicly-owned facilities should take precedence over privately-owned facilities. However, privately-owned facilities can be considered if there are no other reasonable options.

Per the **ADA**, all public meeting facilities must be **ADA**-compliant and provide access for disabled persons wishing to attend. FDOT does not provide transportation for disabled persons or pay for transportation of disabled persons to attend public meetings.

Per the **Jessica Lunsford Act**, public school facilities, grades K-12, should not be used for public meetings while students are present.

A meeting facility should be approved by the FDOT Project Manager and reserved prior to advertising for a public meeting.

#### Virtual Broadcast Platform

There is no preferred virtual platform, but the platform chosen should be consistent with FDOT current practice.

## Times

Both meeting and hearing times for the in-person and virtual components should be held during the work week, Monday through Friday, and at a time most accessible for the community. For additional information on recommendations and best practices, see the [FDOT Public Involvement Handbook](#).

Coordination with the District Environmental Office is needed if considering atypical times/days for a public meeting/hearing or for approval of any alternative virtual meeting platforms.

### 11.6.2 Standard Language for Notifications

To aid in demonstrating compliance with state and federal requirements, the following **Civil Rights Act of 1964** standard statement is included for all outreach and public involvement notification methods:

*Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status.*

This is listed along with the District and State Title VI Coordinator contact information.

Event notifications also include the following statement:

*Any person requiring special accommodations under the Americans with Disabilities Act or requiring translation services (free of charge) should contact \_\_\_\_\_ at \_\_\_\_\_ at least seven days prior to the public meeting.*

Similarly, the **NEPA** Assignment standard statement is included for outreach and public involvement notification for FDOT Federal Projects.

*The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by the Florida Department of Transportation (FDOT) pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated May 26, 2022, and executed by the Federal Highway Administration and FDOT.*

If the project involves any wetland impacts, the following statement at a minimum must be included in the **FAR**, FDOT **Public Meeting Notices Website**, and newspaper ad per **Executive Order (EO) 11990, Protection of Wetlands**:

*FDOT evaluated wetlands within the project limits in accordance with Executive Order 11990, Protection of Wetlands. The proposed project will affect approximately \_\_\_ acres of wetlands. [include 'other surface waters' and acreage, if applicable]*

If the project includes significant encroachment of floodplains, per **EO 11988, Floodplain Management**, the following language must at a minimum be included in **FAR**, **FDOT Public Meeting Notices Website**, and newspaper ad:

*The project has been evaluated for potential floodplain involvement in accordance with Executive Order 11988 Floodplain Management and involves encroachments on base floodplains [include regulatory floodway, if applicable].*

If the project includes *de minimis* impacts to **Section 4(f)** properties, per [Part 2, Chapter 7, Section 4\(f\) Resources](#), the following statements are included in the **FAR**, **FDOT Public Meeting Notices Website**, and newspaper ad:

*The proposed project is subject to the requirements of Section 4(f) of the US Department of Transportation Act, and the project may result in a use within the meaning of Section 4(f). FDOT is seeking public review and comment on potential effects to protected activities, features, or attributes of Section 4(f) properties.*

If the project includes impacts to **Section 106**, per [Part 2, Chapter 8, Archaeological and Historical Resources](#), the following statements are included in the **FAR**, **FDOT Public Meeting Notices Website**, and newspaper ad:

*The proposed project is subject to the requirements of Section 106 of the National Historic Preservation Act, and may result in effects to properties that are listed on, eligible, or potentially eligible for the National Register of Historic Places. FDOT is seeking comments from the public on resource identification and evaluation, effect determinations, and resolution of adverse effects, if applicable.*

If the project includes an access class change, per **Rule 14-97 of the Florida Administrative Code (F.A.C.)**, the following statement is included in the **FAR**, **FDOT Public Meeting Notices Website**, and newspaper ad:

*Per Rule 14-97, Florida Administrative Code, FDOT is soliciting comments on the proposed access management classification changes for the \_\_\_\_\_ [name of project].*

### 11.6.3 Types of Meetings

#### Scoping Meeting for Environmental Impact Statements

The Environmental Scoping Process is a required, formal process for projects requiring an Environmental Impact Statement (EIS) (see [Part 1, Chapter 8, Draft Environmental Impact Statement](#)). A scoping meeting **may** be held as a part of the Environmental Scoping Process. For guidelines on holding a scoping meeting for an EIS, see [Figure 11-3](#).

#### 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. The format is typically an informal, open house with staff members available for discussion. Items usually covered at the meeting include purpose and need, project priority in local and regional plans, potential environmental and/or engineering issues, project schedule, and a request for comments and concerns. For other alternatives and best practices in place of a kick-off meeting, see the [FDOT Public Involvement Handbook](#).

#### Public Meetings/Workshops

For the purposes of this Chapter, the term ‘public meeting’ can be defined as a milestone meeting that invites the public at large (i.e., public workshop, public information meeting, public alternatives information meeting, alternatives public workshop, public alternatives workshop). A public meeting is an effective tool to provide and receive information, create an exchange of ideas, present multiple transportation alternatives, and build consensus. In the PD&E process, public meetings are held to inform the public of alternative designs and potential impacts, and to receive input. Access management components may require a public meeting, see [Section 11.6.8](#). Meetings are different than public hearings. For public hearing requirements, see [Section 11.6.9](#).

#### Small Group Meetings/Project Advisory Groups

Stakeholder or ‘small group’ meetings and Project Advisory Groups (PAGs) are considered meetings with a targeted invitation list and can include a statement inviting the public to observe. For notification requirements for stakeholder, small group, or PAG meetings, see [Section 11.6.6](#). For additional best practices, see the [FDOT Public Involvement Handbook](#).

### 11.6.4 Required Meeting Notices

The following notices are required for public meetings:

- Notification to Elected Officials and Agencies ([Section 339.155, F.S.](#))

- Notification to Property Owners/Tenants (**Section 339.155, F.S.**)
- Florida Administrative Register (**Section 120.525, F.S.**)
- FDOT **Public Meeting Notices Website** (**Section 120.525, F.S.**)

Compliance with **Florida's Government in the Sunshine Law, Section 286.011, F.S.**, and **Section 120.525, F.S.**, requires any public meeting or hearing to be noticed in the **FAR** and on the FDOT **Public Meeting Notices Website**.

Public notices should be drafted using plain language, per **EO 07-01** and should include the standard statements in [Section 11.6.2](#).

The public comment period for the meeting is listed in all notices. The comment period begins one calendar day after the last event and continues for at least 7 calendar days.

The [PERK](#) provides sample notifications and materials for use in preparing a public meeting.

#### **11.6.4.1 Notification to Elected Officials and Agencies**

Before holding a public meeting, an invitation is sent to the local governments and agencies **at least 25 but no more than 30 calendar days prior to the first public meeting event date**. The invitation should be distributed to the local governments and agencies before the public is notified. Invitations can be sent by first class mail or by email from a District designee. At minimum, the invitation should include the following, either in the body of the letter or in an attachment:

1. The purpose of the meeting
2. A description of the project
3. The in-person date, time, and location; and virtual broadcast date, time, and registration
4. Standard statements (e.g., **NEPA** Assignment standard statement, **Civil Rights Act of 1964** standard statement), Title VI contact information, and information for **ADA** requests as provided in [Section 11.6.2](#)
5. A copy of the invitation sent to property owners and tenants, if available

#### **11.6.4.2 Notification to Property Owners and Tenants**

Property owners, tenants, and leaseholders in whole or in part, within at least 300 feet of the centerline (or ROW line for interstates) of each proposed project alternative must be

notified of an upcoming meeting (**Section 339.155, F.S.**). The names and addresses of property owners are obtained from the property appraiser's office. Notification must be sent to all affected property owners by mail **at least 20 days prior to the first meeting event**. They are notified through the use of invitational letters, newsletters, or flyers and at a minimum should include the same elements as described in [Section 11.6.4.1](#).

### 11.6.4.3 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 before the first meeting 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).

See the [PERK](#) for sample **FAR** notices.

### 11.6.4.4 FDOT Public Meeting Notices Website

To comply with **Section 120.525, F.S.**, **notice of all public meetings, workshops, and hearings must be published on the FDOT [Public Meeting Notices Website](#) at least 7 calendar days before the first meeting event**.

The public notices submittal form is located on the [FDOT Employee Portal](#) under E-Forms. Once the form is submitted online by the appropriate FDOT employee, the District Communications Office will complete the review and approval, and publish it to the website.

## 11.6.5 Optional Meeting Notifications

The following notices are optional for public meetings:

- Newspaper Advertisement
- Press Release
- Website and Social Media Advertisements

These notices are described in the following sections, but for additional notification methods and best practices, please see the [FDOT Public Involvement Handbook](#).

### 11.6.5.1 Newspaper Advertisement

A newspaper advertisement (newspaper ad) for a public meeting is not required but may be used at the discretion of the project team. When used, newspaper ads should be published in the local newspaper(s) with general circulation in the vicinity of the project.

The ad should include the same information as the required notices (specifically the standard statements in [Section 11.6.2](#)), but arranged in a format that suits the visual medium and the ad size.

It is suggested that the ad be published a minimum of one time, 10 to 14 days prior to the first meeting event.

### **11.6.5.2 Press Release**

Press releases may be used in appropriate circumstances and should be approved by the Communications Office. Coordination with the District Communications Office is recommended to receive current standards and letterhead, as well as preferred distribution and review timeframes.

### **11.6.5.3 Websites and Social Media**

Project websites are cost effective means of reaching a broad cross section of the public. Website addresses should be included in printed and digital invitations. Project websites may contain information such as meeting announcements, presentations, project information, and study updates. For public hearings, project websites or other publicly accessible electronic means are typically used to make the Environmental Document and supporting information available (see [Section 11.6.9.1](#)).

The established FDOT-managed website for each District is used to house individual project webpages. For rare cases, information for creating a project website compatible with FDOT standards is found on FDOT's [Consultant Managed Web Sites](#) page.

District Communications Specialists can place notifications about project events and activities on FDOT social media accounts for team members and the public to reshare. Special interest groups may be willing to share updates and notifications about the project on their social media sites. The District Communications Office can provide current standards and preferred review and distribution procedures for FDOT social media.

## **11.6.6 Small Group Meetings and Project Advisory Group Notification Requirements**

If the project includes small group meetings or the formation of a Project Advisory Group (PAG), certain notification requirements must be met when the public is invited to attend a meeting (including invitation as an observer).

**Small Group/Stakeholder Meetings:** If the project team/FDOT representatives are invited to attend a standing meeting (i.e., Homeowners Association, Civic Club) to discuss a project, then FDOT is not responsible for advertisement of the meeting. If FDOT hosts a group to meet for discussion including two or more members of the same board or

commission, per the ***Florida's Government in the Sunshine Law, Section 286.011, F.S.***, the meeting must be noticed in the ***FAR*** and on the ***FDOT Public Meeting Notices Website*** at least 7 days prior to the meeting.

**Project Advisory Group Meetings:** Other names for a PAG may include local advisory group or project advisory team. Since these meetings are organized and run by the project team, they must be noticed in the ***FAR*** and on the ***FDOT Public Meeting Notices Website*** at least 7 days prior to each meeting. If applicable, a statement that the public is invited to attend as observers may be included.

### **11.6.7 Public Meeting Layout and Format**

For the in-person location, the layout of the meeting room is generally divided into three areas.

- **Registration Area:** Attendee names and preferred contact method are requested as part of the public record.
- **Exhibit Area:** This includes maps, exhibits to convey information about the project, and comment tables to allow participants an opportunity to sit and write their comments.
- **Presentation Area:** This area includes seating for presentation viewing, if a live or pre-recorded presentation is presented.

For the virtual broadcast, the same information is presented to online attendees. An FDOT project representative should open the meeting, then allow for any project presentations and opportunity to ask questions directly to the project team. For more information on how to conduct the virtual component of the meeting, see the [FDOT Public Involvement Handbook](#).

A board with the ***Civil Rights Act of 1964*** standard statement (see [Section 11.6.2](#)), along with the contact information for the District Title VI Coordinator and State Title VI Coordinator, must be displayed in the physical location and that board must be referenced in the virtual presentation. [FDOT Title VI Forms](#) should be available, if requested. The [PERK](#) includes a sample Title VI board.

### **11.6.8 Access Management**

Access Management is the process used to plan the location, design, and operation of driveways, median openings, interchanges, and street connections. Per ***Section 335.199, F.S.***, FDOT must 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 phase of the project is completed. At least one public meeting must be held 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 public hearing during the PD&E phase do not require a separate meeting during the Design phase. Additional information is available in [Median Openings and Access Management, Topic No. 625-010-021](#). Although access management meetings are a state requirement as opposed to a **NEPA** requirement, these meetings should still follow public meeting requirements detailed in [Section 11.6](#).

### 11.6.9 Public Hearings

While public involvement and participation is encouraged for all projects, public hearings are not required for all projects. Per **Section 339.155(5), F.S.**, a public hearing **is required** for a “Major Transportation Improvement”. This is defined in the Statute as projects:

- a. Increasing capacity through the addition of new lanes;
- b. Providing new access to a limited or controlled access facility (new interchanges); and
- c. Construction of a facility in a new location.

The primary difference between a public meeting and a public hearing is that a public hearing must meet formal requirements for the way it is conducted (including verbal testimony and formal transcription). Additionally, it has specific time frames associated with advertising, hearing notice, and a specific comment period.

Public hearings for Type 2 CEs are usually held prior to the submittal of the Environmental Document to OEM. EAs require OEM approval for public notice and DEISs require OEM signature before the public hearing.

#### 11.6.9.1 Documents for Public Review

The Environmental Document (including Appendices) is typically made available for public review **within 21 calendar days prior to the first public hearing event**. This is to ensure that the documents are ready and available to the public when all notices are published. For an EA or a DEIS, the Environmental Document **must be** made available for a **minimum of 15 days in advance of the public hearing**.

Technical documents or supporting documents may be available in draft form. For a list of reports and design information typically completed during the PD&E phase, see [Part 1, Chapter 4, Project Development Process](#). Technical documents **may** be made available at the public hearing.

When preparing a **Cultural Resources Assessment Survey (CRAS) Report** or similar document for public review, particular care must be taken to comply with the confidentiality provisions of **Section 304 of the National Historic Preservation Act (NHPA)** and **Section 267.135, F.S.**, regarding the protection of archaeological site locations within the project documentation, as applicable. It is the District's responsibility to ensure that sensitivities for these properties are fully respected in the public involvement efforts. The Environmental Manager and/or Cultural Resource Coordinator (CRC) reviews all site information to ensure that FDOT does not inadvertently release information on sites that should remain confidential.

The **Conceptual Stage Relocation Plan**, if available, should **not** be placed on display due to sensitive information.

Locations where hard copies of the Environmental Document 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. In addition, the District may provide other options including by mail or by appointment. Documents for public review should also be posted on the project website, or made available by other electronic means.

EAs and DEISs have specific federal requirements for making the Environmental Document available for public review.

An EA is made available for public inspection after OEM approves it for public notice:

- For a minimum of 15 days in advance of the public hearing (if applicable)
- At the District office for 30 days
- At the public hearing (if applicable)
- On the project website or using other publicly accessible electronic means

A DEIS is made available for public comment after OEM approves it for circulation:

- For a minimum of 15 days in advance of the public hearing
- For a 45-day comment period after publication of the **Notice of Availability** in the **FR** (see [Part 1, Chapter 6, Draft Environmental Impact Statement](#))
- At the public hearing
- In other formats when reasonably necessary and hard copies on request

- On the project website or using other publicly accessible electronic means

### 11.6.9.2 Public Hearing Notice Requirements

The following notices are **required** for public hearings:

- Notification to Elected Officials and Agencies
- Notification to Property Owners/Tenants (**Section 339.155, F.S.**)
- Two Newspaper Ads (**Section 339.155, F.S.**)
- **Florida Administrative Register (Section 120.525, F.S.)**
- FDOT **Public Meeting Notices Website (Section 120.525, F.S.)**

The public comment period should be included in all notifications announcing the hearing. The public hearing comment period remains open for **a minimum of 10 calendar days after the date of the last hearing event**. After the comment period, the public hearing is officially closed. All written comments received during that period become part of the public record associated with the hearing.

All notices should be drafted using plain language, per **EO 07-01** and all notices should include the standard statements in [Section 11.6.2](#).

When preparing a public hearing for an EA or DEIS, public notice of the availability of the Environmental Document is typically combined with the first public hearing notification.

Notifications for an EA must additionally:

- Announce the availability of the EA for public review for 30 days (start date being the newspaper ad publication date). Provide locations where the EA can be obtained or reviewed by the public (see [Section 11.6.9.1](#))
- Request comments during the 30-day availability period of the EA

Notifications for a DEIS must additionally:

- Mention of the availability of the DEIS
- Provide locations where the DEIS can be obtained and reviewed by the public (see [Section 11.6.9.1](#))
- Request comments submitted on the DEIS during the 45-day comment period (45 days from **Notice of Availability** publication)

For additional information, see [Part 1, Chapter 6, Environmental Assessment](#) or [Part 1, Chapter 8, Draft Environmental Impact Statement](#).

The [PERK](#) provides sample notifications and materials for use in preparing a public hearing.

### 11.6.9.2.1 Notification to Elected Officials and Agencies

Before holding a public hearing, a letter (or email) of invitation is sent to the local governments and agencies at least 25 but **no more than 30 calendar days prior to the first public hearing event**. The letter of invitation should be distributed to the public officials and agency representatives before the public is notified by letter or advertisement.

At a minimum, this notification should include the following, either in the body of the letter or in an attachment:

1. The purpose of 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, in-person location, start times (in-person open house and in-person formal presentation), and how to participate in the virtual broadcast
5. A list of places, dates, and times where the Environmental Document and other materials will be available for public inspection
6. Standard statements (as provided in [Section 11.6.2](#))
7. Contact information for where written comments are to be sent
8. A copy of the invitation sent to property owners and tenants, if available

### 11.6.9.2.2 Notification to Property Owners

**Section 339.155(5), F.S.**, directs FDOT to notify certain affected property owners prior to holding a public 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. For interstates, within 300 feet of the ROW is used instead of the centerline. The names and addresses of property owners are obtained from the property appraiser's office. Notification must be sent to all affected property owners by mail **at least 20 calendar days prior to the first public hearing event**. Invitational letters are sent using the same elements as described in [Section 11.6.4.1](#).

Reasonable efforts are also made to notify and inform tenants and leaseholders.

### **11.6.9.2.3 Public Hearing Newspaper Ads**

Per **Section 339.155(5), F.S.**, FDOT must publish the public hearing notice according to a specified schedule for public hearings, 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 first public hearing event. The second ad should run 7-12 days prior to the first public hearing event.**

The content of advertisements should at a minimum include the same items in [Section 11.6.4.1](#).

An **Affidavit of Publication** or proof of publication should be obtained from the newspaper and included in the **SPI**.

### **11.6.9.2.4 Florida Administrative Register Notice**

To comply with **Section 120.525, F.S.**, notice of all public hearings must be published in the **FAR** at least 7 calendar days prior to the first hearing event. See [Section 11.6.4.3](#) for additional information.

### **11.6.9.2.5 FDOT Public Meeting Notices Website**

To comply with **Section 120.525, F.S.**, notice of all public hearings must be published on the FDOT [Public Meeting Notices Website](#) at least 7 days before the first hearing event. See [Section 11.6.4.4](#) for additional information.

## **11.6.9.3 Public Hearing Format**

Public hearings should include an in-person and virtual component. These components may occur concurrently or separately (no more than 7 days apart).

A formal script should be followed to present the project and explain the ROW acquisition process to the public at public hearings. Required elements are discussed in [Section 11.6.9.4](#), and a sample script can be found in the [PERK](#).

### **In-Person Component**

For the in-person component, there is generally an 'open house' period so that the public may review all information on display. Another part of the hearing is the formal presentation, moderated by an FDOT staff member. The third portion of the hearing is always the formal comment period where verbal statements can be recorded for the hearing record/transcription.

The venue is typically divided into three areas:

- Registration and sign-in: Attendee names and preferred contact method are requested as part of the public record. Attendees should be provided with a project handout, comment forms, and speaker cards, and instructed on how verbal and written comments may become part of the official public record.
- Hearing exhibits: The second area includes maps, exhibits, tables for special interests (such as ROW acquisition, noise, access management), and a printed copy of the Environmental Document, with appendices. The FDOT District Title VI Coordinator or designee should also be available to address questions on **Title VI Compliance** under the **Civil Rights Act of 1964** and related statutes. [FDOT Title VI Forms](#) should be available, if requested.
- Formal presentation: The third area includes seating for the formal presentation where the public can sit and watch a live or pre-recorded presentation.

### Virtual Component

For the virtual broadcast, the same information is presented from the in-person component. Virtual participants must be given an opportunity to submit formal comments during the public testimony portion of the hearing, if they desire. Copies of the display boards and other materials should be posted to the project website prior to the start of the public hearing for virtual attendees to access and review. For more information on best practices and how to conduct the virtual component of the hearing, see the [FDOT Public Involvement Handbook](#).

### Providing Comment

For participants interested in providing verbal comments, an opportunity to speak is provided. The length of time for the public comment period is at the District's discretion but is usually dependent on the anticipated number of people who wish to speak. The public also has the opportunity to provide their comments in writing (during the in-person component or after the in-person and virtual components via email or mail) or directly to a court reporter. Information on the comment process should be included in the project handout.

Laws and regulations applicable to the public hearing process should be placed on a display board or presentation slide. A sample statutes board is provided in the [PERK](#).

#### 11.6.9.4 Public Hearing Presentation and Script

The public hearing is officiated by a moderator and includes a presentation followed by the public comment portion of the hearing. The moderator is typically the FDOT Project Manager. The following information is included in the public hearing presentation. The

information shown in *italics*, and modified as applicable, **must** be contained in the public hearing presentation. A hearing moderator script sample is provided in the [PERK](#).

## 1. Introduction by Moderator

The FDOT moderator should introduce themselves, the project, and briefly introduce/identify the project team, as well as thank public officials for attending. This introduction should be done live.

After the live introduction by the moderator, the rest of the presentation can be conducted by the moderator, other FDOT staff, consultant representative, or can be pre-recorded.

## 2. Presentation Script

This portion of the script should contain the following sections.

### a. Purpose of the public hearing and federal and state compliance

*This public hearing is for project name, Financial Management Project Number \_\_\_\_ and Federal Aid Project Number [if an FDOT Federal Project]. This project has been conducted by FDOT in compliance with applicable federal environmental laws and pursuant to 23 United States Code Section 327 [only state next part of sentence if an FDOT Federal Project] and the implementing memorandum of understanding between FDOT and the Federal Highway Administration signed on May 26, 2022.*

*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.*

*This public hearing is being conducted consistent with federal and state requirements. [If the laws are displayed on a slide, then the script could be changed as follows: "This public hearing is being conducted consistent with the federal and state requirements shown on the slide."] 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 handout and on a sign displayed at this hearing.*

### b. Purpose and need and project's consistency with local and regional plans

Provide a brief summary of the project's purpose and need and status of planning consistency.

**c. Discussion of alternatives**

All alternatives studied, including the No-Build option, must be briefly discussed; with additional information provided on the alternatives that have been studied in further detail and documented in the Environmental Document. The advantages and disadvantages of each alternative should be provided, including major design features and estimated costs. The preferred alternative should be identified. If the preferred alternative is not chosen prior to the public hearing, see [Section 11.6.14](#).

**d. Discussion of the reasonably foreseeable environmental and other impacts of the project**

The potential reasonably foreseeable environmental impacts of the project must be briefly outlined. Key factors to be discussed include impacts on air quality, noise, floodplain impacts (required if encroachments per **EO 11988**), wetlands (required if impacts per **EO 11990**), protected species, archaeological or historical resources, **Section 4(f)** resources, residential and business displacements or relocations, ROW requirements, and any other pertinent topics/resources.

**e. Explanation of the FDOT 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 FDOT.

If both ROW acquisition and relocation will take place:

*This project could include the relocation of families and businesses. For this project, we expect approximately \_\_\_ families and \_\_\_ businesses may need to be relocated.*

*All Right of Way activities will follow Sections 339.09 and 421.55, Florida Statutes, as well as the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 —commonly known as the Uniform Act.*

*If you are required to move, you can expect to be treated fairly and in full compliance with these laws. An appraiser will inspect your property, and you are encouraged to be there during the inspection. This is an opportunity to share any information that might help establish the value of your property with the appraiser.*

*You may also be eligible for relocation assistance and payment benefits. If you disagree with the decision regarding your eligibility or the amount offered, you do have the right to appeal. FDOT will ensure you have the forms and assistance needed to complete an appeal.*

*If you move before receiving official notice of your relocation benefits may be jeopardized. The relocation specialists for this project are available and can answer your questions and provide more information regarding Relocation Assistance.*

If the project requires only ROW:

*This project will not cause any relocation of families or businesses. All right of way acquisition will be conducted in accordance with Sections 339.09 and 421.55, Florida Statutes, and also the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly known as the Uniform Act. The right of way specialists who are supervising this program are here tonight and will be happy to answer your questions.*

#### **f. Explanation of how the public can provide their comments**

Information is provided on all ways the public can comment during the live event and following the live event during the comment period.

#### **g. Next steps and concluding statement**

The next steps for the PD&E Study are explained including how to be notified about a project decision/approval.

### **3. Moderator script for public comment portion**

The comment procedure for in-person and virtual attendees is explained and other ways to submit comments and the closing date of the public hearing comment period are reiterated.

#### **11.6.9.5 Public Hearing Transcript and Certification**

The in-person hearing proceedings are recorded by a court reporter and transcribed into a written transcript. Verbal and written comments are a formal part of the public record. The transcript of hearing proceedings includes the FDOT presentation (including portions that are voiced-over or pre-recorded) and all verbal public comment/testimony received at the hearing. If holding the virtual hearing component as a separate event, the hearing recording or transcript from the platform, along with any additional written comments submitted during the event, must be provided to a court reporting service for transcription

if a court reporter is not in attendance. An online moderator may read aloud any comments received through the chat function for ease of adding into the hearing record.

Per **23 U.S.C. § 128**, public hearings must be certified. For FDOT projects, this is accomplished by the Project Manager preparing a **Public Hearing Certification Form**. This form may be completed in SWEPT or by using the **Public Hearing Certification, Form No. 650-050-56**. If completed in SWEPT, the **Public Hearing Transcript** is uploaded to SWEPT and a link to it is provided in the form. If completed outside of SWEPT, the certification form and **Public Hearing Transcript** are uploaded to SWEPT for the project file.

For a Type 2 CE, these two documents are included in the Appendix of the Environmental Document. For an EA with FONSI, FEIS/ROD or FEIS, they are incorporated by reference. Written statements from the public, both submitted at the public hearing or during the public comment period, are included in the **SPI**.

### **11.6.10 Notice of Opportunity to Request a Public Hearing**

Under limited circumstances, when a Type 2 CE or an EA does not constitute a Major Transportation Improvement pursuant to **Section 339.155(5), F.S.**, 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 of opportunity to request a public hearing is published in a local newspaper having general circulation in the project area. **A newspaper 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 proof of publication or an **Affidavit of Publication** from the newspaper that the publication was made. The proof of publication is included in the **SPI**.

A notice of opportunity to request a public hearing is typically placed in the **FAR** and the FDOT [Public Meeting Notices Website](#).

The content of the notice of opportunity to request a public hearing (newspaper ad, **FAR** and FDOT [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 hearing 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

When preparing an EA that does not require a public hearing, public notice of the availability of the EA is typically combined with the notice of opportunity to request a public hearing. The notice must include the additional requirements for notification of an EA listed in [Section 11.6.9.2](#). It also must be made available for public inspection as discussed in [Section 11.6.9.1](#).

If the District only receives a minimal number of requests from individuals for a public hearing, the District may contact the individuals and attempt to rectify the concern. If the request is not withdrawn, OEM is contacted to discuss next steps. If it is determined a public hearing is to be held, then notification and hearing procedures described in [Section 11.6](#) must be followed. In this case the notice of the availability of an EA would not need to be repeated in the public hearing notice.

For a sample of a notice of opportunity to request a public hearing, see the [PERK](#).

### **11.6.11 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 ad notification period of the agency is different from FDOT's, then the longer period for hearing notification should be used.

### **11.6.12 Toll Rate Workshops and Public 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.

A toll rate rule development workshop may be conducted as part of the PD&E phase. A toll rate rulemaking public hearing may be conducted following the 60 percent design of project development. However, the scheduling of any rule-related workshop or hearing is at the discretion of FDOT executive management.

### 11.6.13 Local Agency Managed Projects

Public meetings or public hearings may be held by a local agency (i.e., county, city) for Local Agency Managed Projects before they are transferred to FDOT. They should follow the same procedures and requirements as provided in [Section 11.6](#). The public notice requirement in **Section 120.525, F.S.**, may be met by posting on the local agency's website. For example, if the project is anticipated to be a Local Agency Program (LAP) project, but not officially a LAP project yet, the local agency may post the public notices on their website to meet the requirements.

### 11.6.14 Potential Public Involvement Following a Public Hearing

If a "use" within the meaning of **Section 4(f)** or an adverse effect under **Section 106** are identified after a public hearing, the public must be provided with the opportunity to review and comment (see [Part 2, Chapter 7, Section 4\(f\) Resources](#)).

It is normally expected that a preferred alternative is chosen prior to the public hearing. If in unusual circumstances a preferred alternative cannot be selected before the public hearing, the District should coordinate with OEM. For these situations, additional public involvement after the public hearing could be necessary and could range from another public hearing to a meeting, or a flyer/mailer. The documents should also be posted on the project website.

## 11.7 FINAL NOTIFICATIONS

Final notifications are published after the Environmental Document has been approved by OEM. They are not required for a Type 1 CE, NMSA, or a SEIR. The types of final notifications include a public notice of availability of an FEIS, an Announcement of LDCA, and a **Limitations on Claims Notice**.

### 11.7.1 Public Notice of Availability of a Final Environmental Impact Statement

If an FEIS is prepared separately from a ROD, after OEM approval, the FEIS is made available for public review:

- 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

The District places a notice of availability as a newspaper ad which advises the public of the availability of the FEIS for public review. The ad is published in the same local newspaper(s) used to advertise the public hearing. The District obtains proof of publication or an ***Affidavit of Publication*** and includes it in the ***Final Notifications Package*** (see [Section 11.9](#)).

The FEIS remains available for a 30-day comment period after publication of the ***Notice of Availability*** in the ***FR*** (see [Part 1, Chapter 9, Final Environmental Impact Statement](#)).

### **11.7.2 Announcement of Location and Design Concept Acceptance**

When a Type 2 CE, EA with FONSI, FEIS/ROD, or ROD is signed by OEM it receives LDCA. An Announcement of LDCA is then published informing the public that the project has received LDCA and is being advanced.

It must be published as a newspaper ad in the same local newspaper(s) used to advertise the public hearing, if one was held (or a newspaper of general circulation).

If the project is a Type 2 CE with an ***Individual Section 4(f) Evaluation***, then the newspaper ad should also include that the ***Final Section 4(f) Evaluation*** was approved by OEM.

Once the Announcement of LDCA is published, the District obtains proof of publication or an ***Affidavit of Publication*** which is included in the ***Final Notifications Package*** (see [Section 11.9](#)).

Other notifications are recommended, but not required including:

- Emailing a notice of project approval to public officials, local agencies, and interested parties
- Mailing a notice of project approval via a newsletter/flyer to property owners
- Uploading the approved Environmental Document to the project website, stating that it received approval from OEM with the approval date

Additionally, EA with FONSI, FEIS/RODs, and RODs have specific requirements for making the Environmental Document available in conjunction with the Announcement of LDCA.

An EA with FONSI is made available to the public after OEM approval/LCDA:

- Upon request by the public

- On the project website or using other publicly accessible electronic means

An FEIS/ROD is made available after OEM approval/LDCA:

- 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

A ROD, if separate from the FEIS, is made available after OEM approval/LDCA:

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

The Announcement of LDCA for an EA with FONSI, FEIS/ROD, or ROD must also notify the public of the availability of these Environmental Documents.

### 11.7.3 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).

A **Limitations on Claims Notice** may be prepared for a Type 2 CE at the District's discretion or upon discussion with OEM and the Office of General Counsel (OGC).

EA with FONSI, FEIS/RODs and RODs require preparation of a **Limitations on Claims Notice**. For a FEIS/ROD, the **Limitations on Claims Notice** may be combined with the **Notice of Availability** published in the **FR**. See [Part 1, Chapter 9, Final Environmental Impact Statement](#) for guidance on the **Notice of Availability**.

The District provides the **Limitations on Claims Notice** to OEM. See the OEM [Guidance for Processing Limitations on Claims](#) for a sample and more information. OEM provides the **Limitations on Claims Notice** to FHWA for signature and electronic submittal to the **FR**. A copy of the notice is included in the **Final Notifications Package** (see [Section 11.9](#)).

## 11.8 SUMMARY OF PUBLIC INVOLVEMENT

**A Summary of Public Involvement (SPI)** is a technical document compiled to confirm engagement previously outlined in the **PIP** and contains documentation of the public involvement activities that occurred during the PD&E phase. The **SPI** is uploaded to the SWEPT project file and incorporated into the Environmental Document by reference.

The **SPI** includes the following items in order to provide documentation of compliance with state and federal public involvement requirements:

- The notification process
  - The contact lists for officials, local agencies, property owners, and interested parties, for any outreach
  - Copies of all published notifications used to invite the public to activities (i.e., letters, newsletters, ads, press releases, news media)
- A summary of all public involvement outreach events
  - Summary text for public meetings and hearings, as well as any other activities completed in the PD&E phase (i.e., small group meetings, stakeholder meetings, MPO presentations, Project Advisory Group meetings, local agency coordination, pop-up events)
  - Documentation of major milestones, including photographs, sign-in sheets, maps, graphs, handouts, display boards and/or exhibits, scans of any comment forms, comment summaries, surveys, presentations, and meeting minutes, as applicable
- Reference to the **Public Hearing Transcript** and certification (included in the SWEPT project file), if applicable.
- Acknowledgement and explanation of public involvement strategy changes since the **PIP** was finalized.

Periodic evaluation of public involvement strategy included in the **PIP** is needed to determine the effectiveness of planned engagement. It is expected that tailored strategies may need to be adjusted/supplemented as more communication with the local community takes place. i.e.:

*The project team anticipated reaching out to Group X and Group Y, but during the alternatives meeting, we were notified about Group Z's interest in the project. So, the team also reached out to Group Z.*

Or:

*The project team documented anticipated coordination in the PIP with Group Y, but upon reaching out, Group Y declined participation and suggested contacting Group X. The project team coordinated with Group X through the following events:*

Resource agency coordination may be mentioned in the **SPI**, however, this coordination is discussed in detail in the applicable technical documents and the Environmental Document, and correspondence is included in the project file.

Final notifications may be referenced in the **SPI**, but only to note that publication copies of any approval notices will be included in the **Final Notifications Package** (see [Section 11.9](#)). A sample **SPI** is included in the [PERK](#).

## 11.9 FINAL NOTIFICATIONS PACKAGE

A **Final Notifications Package** confirms publication of final notifications of project approvals. It includes any **Affidavits of Publication**, along with copies/scans of any other published notices. The package should be uploaded to the project file in SWEPT. See [Section 11.7](#) for information on final notification preparation. For a sample **Final Notifications Package**, see the [PERK](#).

## 11.10 PUBLIC INVOLVEMENT AFTER THE PD&E PHASE

Public meetings or public hearings held after PD&E project approval should follow the same procedures and requirements as provided within [Section 11.6](#).

### 11.10.1 Median Openings

A public meeting must be held for any projects on the State Highway System which will divide a state highway, erect median barriers modifying currently available vehicle turn movements, or have the effect of closing or modifying an existing access to an abutting property owner, per **Section 335.199 F.S.** This meeting must be held a minimum of 180 days before the design of the project is completed. This may apply to all types of projects including resurfacing, reconstruction, standalone safety projects, and design-build regardless of the type of Environmental Document prepared.

### 11.10.2 Re-evaluations

During a Re-evaluation, the District determines whether changes in the project or new information warrant additional public involvement. OEM may be consulted, as needed. Any public involvement activities since the project approval or the previous Re-evaluation, should be included in the **Re-evaluation Form**. For more information on preparing a Re-evaluation, see [Part 1, Chapter 13, Re-evaluations](#).

### 11.10.3 Noise Barriers and Outdoor Advertising

During the Design phase of the project, a noise abatement workshop and/or a public survey is used to determine the wishes of the benefited receptors. Each benefited receptor (owner or resident) is given the opportunity to provide input to FDOT regarding their desire to have the proposed noise abatement measure constructed. They may also be given the opportunity (at the discretion of the District) to provide input regarding their aesthetic preferences from a list of pre-selected options.

For more information, see [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.

The construction of noise barriers could impact outdoor advertising signs. **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 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](#)). For all other considerations, see [Part 2, Chapter 18, Highway Traffic Noise](#).

### 11.10.4 Overlapping PD&E and Design Phases

Public meetings and public hearings held for projects with overlapping PD&E and Design phases should follow the same procedures and requirements as provided in [Section 11.6](#). A **CAP** is typically prepared for these projects, however a **PIP** may be prepared instead, depending on the needs of the project. For more information about developing a **CAP**, see the [FDOT Design Manual, Part 1, Chapter 104, Public Involvement, Topic No. 625-000-002](#).

### 11.10.5 Design-Build

Once a project begins construction in a Design-Build process, it may switch to a construction public information approach (see the [FDOT Public Involvement Handbook](#)). A **CAP** may be prepared in this instance. To support **NEPA** in the Design phase, see the meeting requirements outlined in [Section 11.6](#).

## 11.11 REFERENCES

AASHTO/ACEC and FHWA, Improving the Quality of Environmental Documents, May 2006. <https://environment.transportation.org/resources/aashto-publications/improving-the-quality-of-environmental-documents/>

Americans with Disabilities Act (ADA) of 1990

Chapter 120, F.S., Administrative Procedures Act

Civil Rights Act of 1964, Title VI, and Related Statutes

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

FDOT, Community Engagement Website:

<https://www.fdot.gov/planning/policy/community-engagement/index>

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

FDOT, ETDM Public Access Site: <https://etdmpub.fl-a-etat.org/est/pub/>

FDOT Employee Portal: <https://fdot.sharepoint.com/sites/FDOT-Portal>

FDOT, FDOT Design Manual, Topic No. 625-000-002.

<https://www.fdot.gov/roadway/fdm/default.shtm>

FDOT, Median Openings and Access Management, Procedure No. 625-010-021

FDOT, OEM Website: <http://www.fdot.gov/environment/>

FDOT, Public Engagement Resource Kit. <https://www.fdot.gov/environment/oem-divisions/env/public-involvement>

FDOT, Public Involvement Handbook. <https://www.fdot.gov/planning/policy/community-engagement/resource-guide.shtm>

FDOT, Public Meeting Notices Website:

<https://www.fdot.gov/planning/policy/community-engagement/public-meeting-notices>

FDOT, Title VI Forms: <https://www.fdot.gov/equalopportunity/titlevi.shtm>

FHWA, 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)

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

<https://www.govinfo.gov/content/pkg/COMPS-10352/pdf/COMPS-10352.pdf>

Section 120.525, F.S., Meetings, Hearings, and Workshops

Section 286.011, F.S., Florida'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

Chapter 339, F.S., Transportation Finance and Planning

Section 339.135, F.S., Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.

Section 339.155, F.S., Transportation Planning

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 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. § 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

<https://www.transportation.gov/civil-rights/civil-rights-library/policy-guidance-concerning-recipients-responsibilities-limited>

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

## **11.12 FORMS**

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

**Table 11-1 Federal Regulations Applicable to Public Involvement Activities**

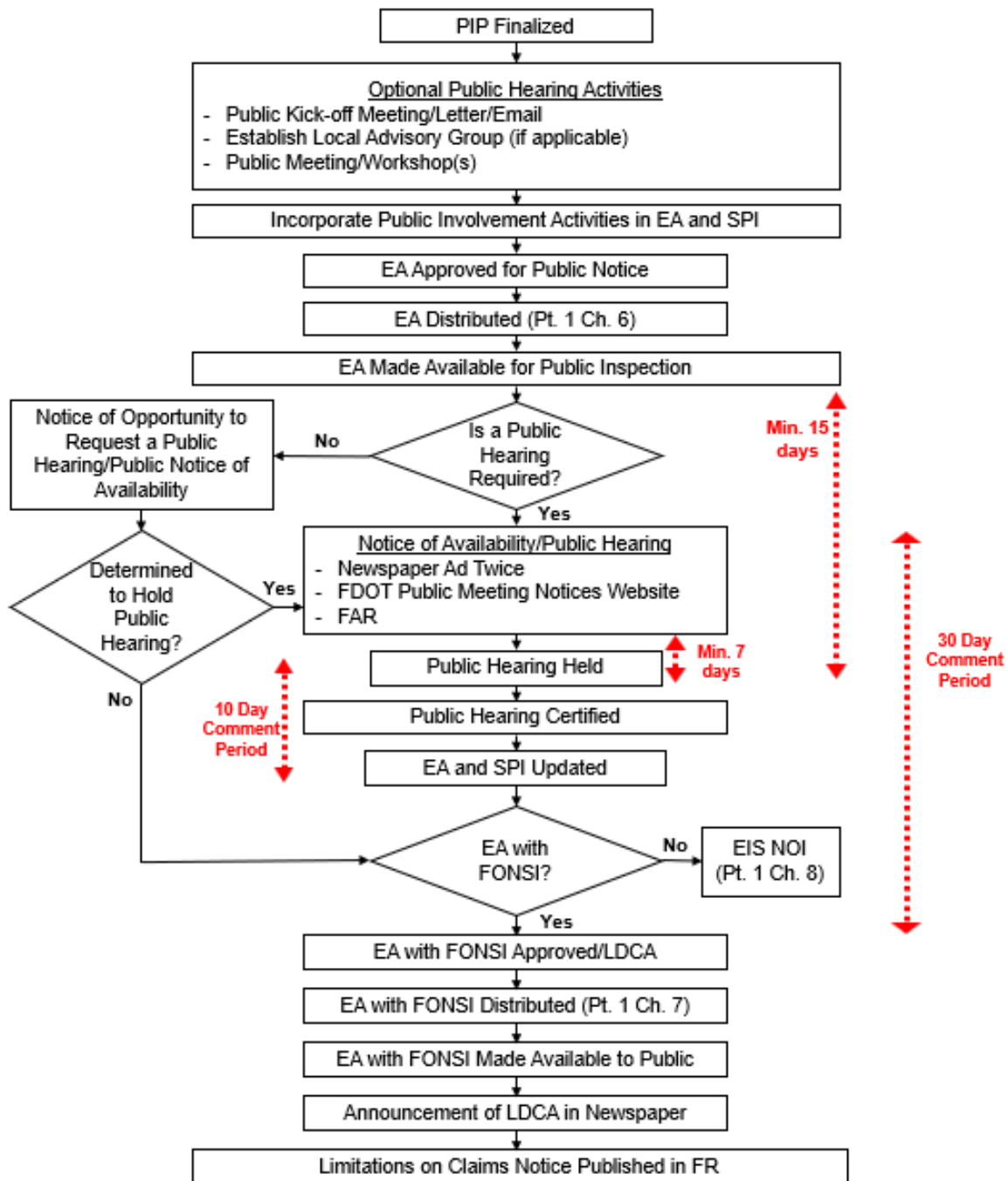
Citation	Title	Purpose
42 United States Code (U.S.C.) § 2000d	Title VI of the Civil Rights Act of 1964	Prohibiting discrimination in federally-assisted programs based on race, color, or national origin
29 U.S.C. §794	Americans with Disabilities Act (ADA)	Prohibiting discrimination and ensuring equal opportunity for persons with disabilities
42 U.S.C. §§ 6101-6107	Age Discrimination Act of 1975	Prohibiting federally-assisted program from discrimination based on age
42 U.S.C. § 4321	National Environmental Policy Act (NEPA) of 1969	Requiring the consideration of potential impacts on the environment during transportation decision-making
23 U.S.C. §109(h)	Highway, Standards	Requiring that potential economic, social, and environmental impacts of proposed transportation projects are addressed
23 U.S.C. §128	Highways, Public Hearings	Requiring the opportunity for public hearings for federal-aid highway projects, and consideration of potential economic, social, and environmental effects of the implementation of the project
23 U.S.C. §135	Statewide Transportation Planning	Requiring that during development of statewide transportation plans there are sufficient opportunities for public comment
23 U.S.C. §139	Efficient environmental reviews for project decision-making	Requiring that as early as practicable there is an opportunity for public involvement in the purpose and need and range of alternatives for a project
23 Code of Federal Regulations (CFR) §450.210	Federal Highway Administration (FHWA), Department of Transportation (DOT): Interested Parties, Public Involvement, and Consultation	Requiring states carrying out the statewide transportation planning process to develop and use a documented public involvement process that provides opportunities for public review and comment at key decision points, and providing minimum criteria for the public involvement process

**Table 11-1 Federal Regulations Applicable to Public Involvement Activities (Page 2 of 2)**

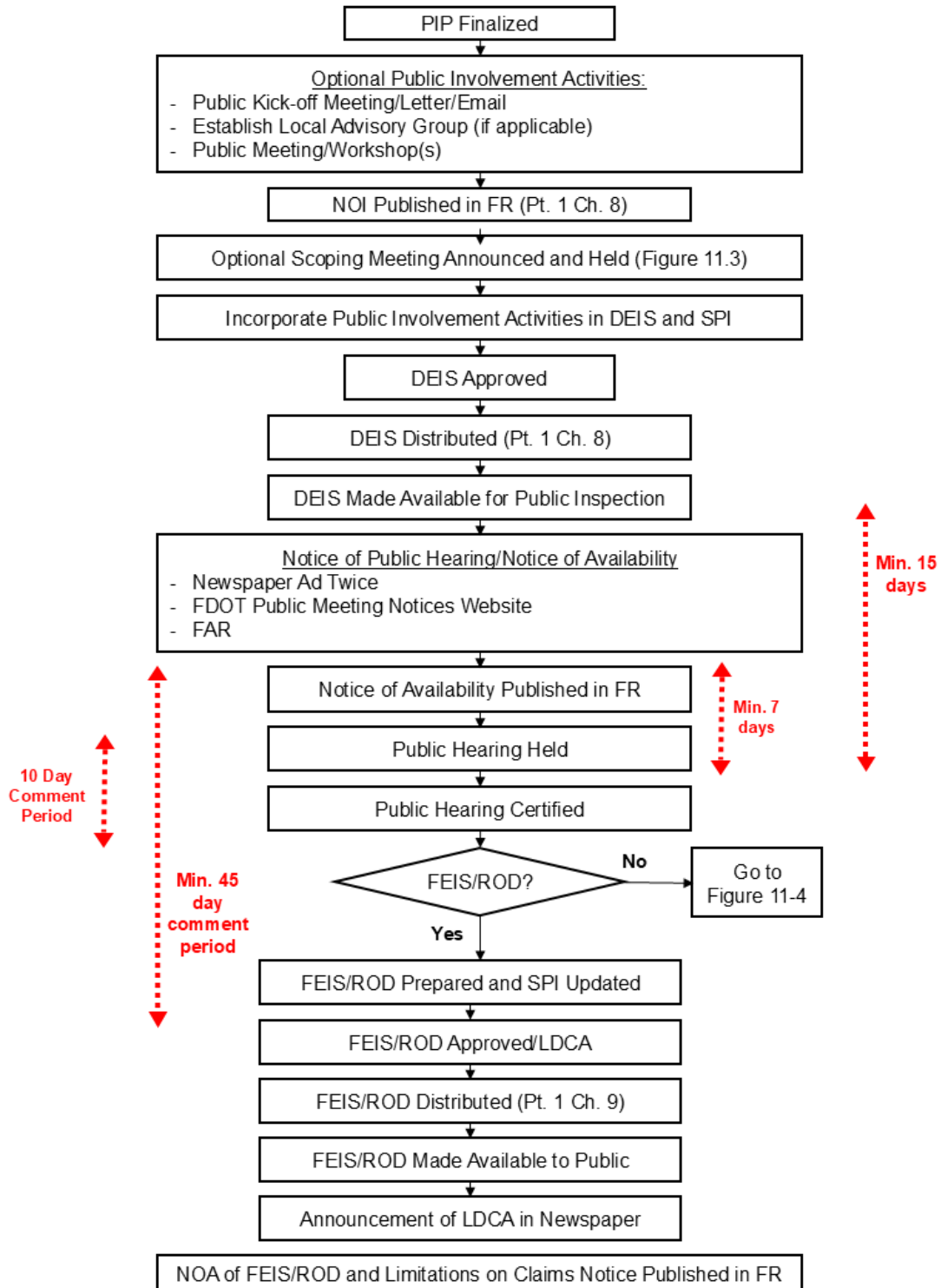
Citation	Title	Purpose
23 CFR §771.111	Early coordination, public involvement, and project development	Requiring each state to have procedures approved by the FHWA to carry out a public involvement/public hearing program
40 CFR §6.200	Protection of the Environment	Establishes public involvement requirements as per the Environmental Protection Agency (EPA)
49 CFR Part 24	Uniform Relocation Assistance and Real Property Acquisition (Uniform Act) for Federal and Federally Assisted Programs	Ensuring that property owners displaced by federally-assisted projects receive fair treatment and entitlement
FHWA Technical Advisory 6640.8A	Guidance for Preparing and processing Environmental and Section 4(f) documents.	Guidance (not regulatory) emphasizing early coordination with agencies and the public in the preparation and processing of environmental documents and Section 4(f) documents

**Table 11-2 State Regulations Applicable to Public Involvement Activities**

Citation	Title	Purpose
S. 120.525, Florida Statutes (F.S.)	Meetings, hearings, and workshops	Notice publication and agenda requirements for public meetings, hearings, and workshops
S. 286.011, F.S.	Government in the Sunshine Law	All meetings of public boards and commissions should be open to the public, with no discrimination, and with sufficient notice. Meeting minutes should also be publicly accessible.
S. 335.02(1), F.S.	Authority to designate transportation facilities	Notice requirements for a public hearing prior to redesignating or relocating transportation facilities which are part of the State Highway System
S. 335.199, F.S.	Transportation projects modifying vehicle movements and access to adjacent property	Requiring a public meeting within the jurisdiction (city/county) of the project when the Florida Department of Transportation (FDOT) proposes to divide a state highway, erect median barriers, or close or modify existing access to abutting commercial business properties
S. 339.135, F.S.	Work program; legislative budget request; definitions; preparation, adoption, execution and amendment	Requiring a public hearing prior to submittal of the District Work Program
S. 339.155, F.S.	Transportation planning	Requiring public involvement procedures for the transportation planning process. In the event of a major transportation improvement, a public hearing should be held prior to selecting the project site and the improvement alternative.
House Bill (HB) 1877	Jessica Lunsford Act	FDOT policy prohibits holding any public meetings at public school facilities (K-12). For exceptions, approval from the FDOT's Assistant Secretary of Engineering and Operations is required. Alternate venues include colleges, universities, and private schools.
Executive Order 07-01	Plain Language Initiative	Requiring the use of clear plain language in communication with the public to ensure an understandable format



**Figure 11-1 Typical Public Involvement and Notice Activities for an EA and EA with FONSI**



**Figure 11-2 Typical Public Involvement and Notice Activities for a DEIS and FEIS/ROD**

If a formal scoping meeting is to be held for an EIS, guidance is provided below:

### **Invitation**

A scoping meeting is initiated by an invitational letter or email sent by the District to relevant government agencies, public interest groups, and others with an interest in or knowledge about the project. The public is permitted to attend and listen to the proceedings. The invitation should:

- Give notice that a scoping meeting is being held. Notice is provided in the FAR and FDOT Public Meeting Notices Website.
- Describe why the meeting is being held (FDOT expected outcome of the meeting; roles of participants)
- Provide information about the project and potential alternatives (including project location map)
- Provide information on the date, time, physical location of the scoping meeting, directions on how to get to the physical location, how to participate virtually, and meeting agenda
- Provide contact information for the project representative

### **Meeting Format**

The format of a scoping meeting entails a formal presentation to fully acquaint attendees 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.

A field visit or virtual field review may be scheduled. After the field visit/review, participants would then reconvene and further discuss potential project issues. Before adjourning, each agency is asked to state its position on the identified issues. Each agency's position is then included in a meeting summary (minutes) for use by FDOT.

### **Agenda**

The activities below may take place or be discussed at the meeting.

Discuss the scope and significance of issues and the degree of analysis required in the EIS. This includes identification of the range of alternatives and potential impacts.

## **Figure 11-3 Guidelines for an Environmental Impact Statement Scoping Meeting**

- Discuss the elimination 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.
- Allocate assignments for preparation of the EIS among FDOT and cooperating agencies, with FDOT retaining responsibility for the EIS.
- Discuss any adjacent or nearby projects that are being prepared and are related to, but are not part of, the scope of the EIS under consideration.
- Discuss 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.
- Discuss any permits, licenses, or entitlements that are necessary.
- Determine whether a joint public hearing can be held and outline the coordination required.
- Determine the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decision-making schedule.

### **Meeting Follow-up**

The meeting summary/meeting minutes are forwarded to all attendees, agencies that showed interested in participating but could not attend the scoping meeting, and those on the invitation mailing list. The minutes of all events are included in the SWEPT project file.

## **Figure 11-3 Guidelines for an Environmental Impact Statement Scoping Meeting (Page 2 of 2)**

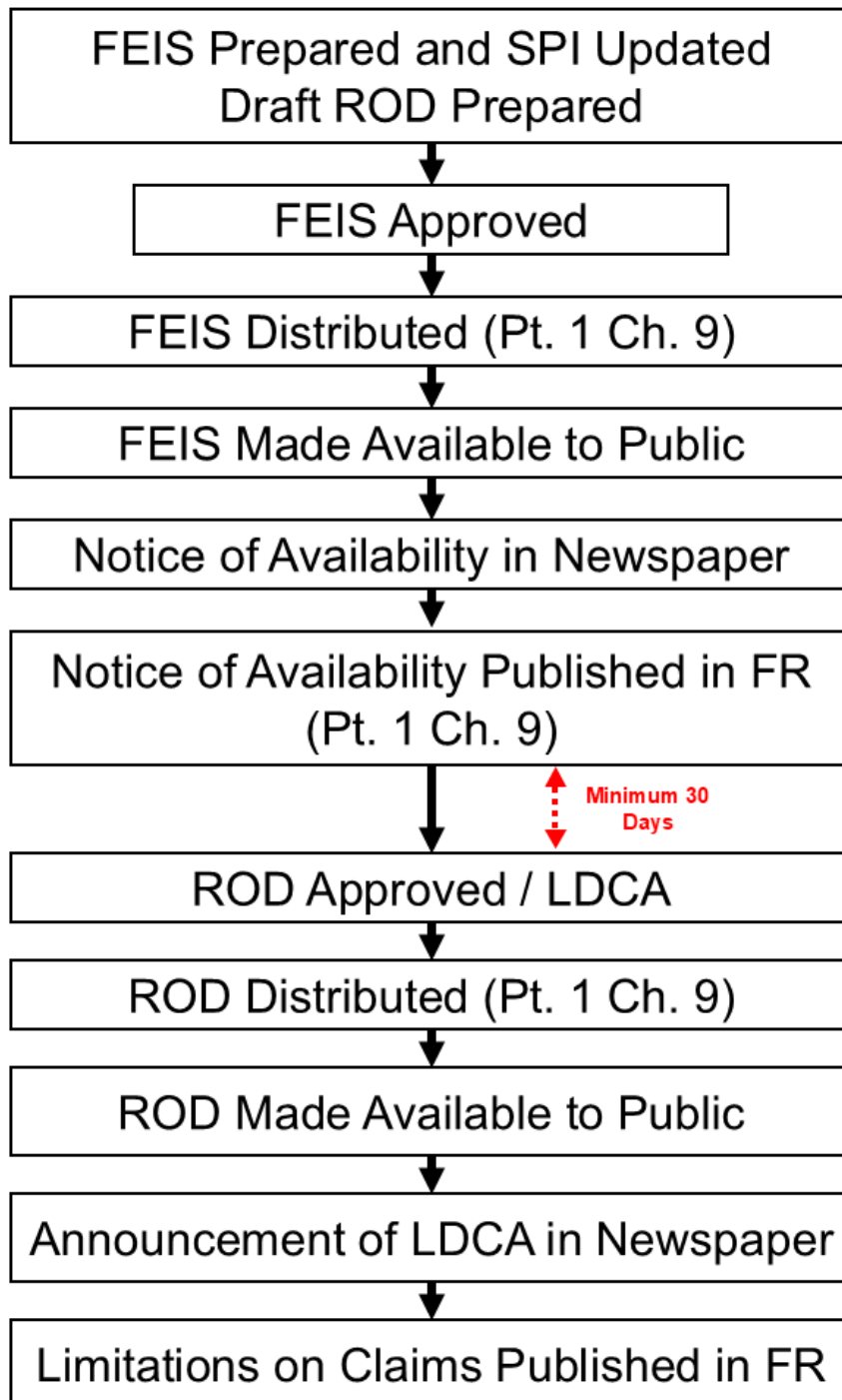


Figure 11-4 Typical Notice Activities for a FEIS and Separate ROD

## **PART 1, CHAPTER 12**

# **ENVIRONMENTAL PERMITS**

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## PART 1, CHAPTER 12

# ENVIRONMENTAL PERMITS

### 12.1 OVERVIEW

This chapter details the environmental permits that may be required for Florida Department of Transportation (FDOT) projects as well as coordination required from project planning through construction and maintenance. The need to obtain an environmental permit for a transportation project is determined by the project's impact on a protected resource. [Table 12-1](#) identifies the most common federal and state laws, and agency rules and policies associated with environmental permits for transportation projects.

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 prepares an Environmental Document that identifies the preferred alternative to be designed. Resource impacts are evaluated, mitigation options are identified, and commitments may be made with regulatory/resource agencies. Information gathered during PD&E can support 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. Efforts to avoid and minimize impacts to protected resources will assist in efficiently navigating the permitting process to assure regulatory agencies that the project will not result in unacceptable impacts. 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 FDOT's [Permit Handbook](#).

## 12.1.1 District Roles and Responsibilities

The District ETDM Coordinator screens qualifying projects in the Environmental Screening Tool (EST) and transmits agency comments to the PD&E Project Manager and Environmental Permits Coordinator. See the [ETDM Manual, Topic No. 650-000-002](#) for details on ETDM Coordinator and Environmental Permits Coordinator responsibilities during ETDM.

The District prepares the appropriate Environmental Document and supporting technical reports for the project.

The Environmental Permits Coordinator is responsible for obtaining the necessary project permits. They also coordinate with Environmental Office staff during PD&E, review the Environmental Document and applicable technical reports, coordinate with resource agencies during project permitting, and coordinate with Construction staff as necessary. The responsibilities of the Environmental Permits 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 Environmental Permits Coordinator.

Design Project Managers in coordination with the District Drainage Engineer and Environmental Permits Coordinator ensure that permits are obtained in accordance with the project schedule and the project design incorporates environmental commitments, as appropriate.

The Construction Project Administrator is responsible for compliance during the Construction phase. For more information on the responsibilities of the Construction Project Administrator, see **Section 8.2** of the [Construction Project Administration Manual \(CPAM\), Topic No. 700-000-000](#).

## 12.1.2 Definitions

The definitions below are used throughout this chapter.

**Compensatory Mitigation** (federal definition) - The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances of preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization have been achieved. See **33 Code of Federal Regulations (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 Section 3 at (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 solicitation.

**Direct Effects** - Effects that are caused by the activity and occur at the same time and place. The terms "impacts" and "effects" are used interchangeably in this chapter. See **86 Federal Register (FR) 2744**.

**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)**.

**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 Essential Fish Habitat (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 **Rule 68A-27.001(5), Florida Administrative Code (F.A.C.)**.

**Indirect Effects** - Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable. See **86 FR 2744**. The terms “indirect” and “secondary” are used interchangeably in this chapter.

**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. Measures proposed by or acceptable to the applicant to mitigate adverse effects that may be caused by the regulated activity. Such measures may include, but are not limited to, onsite mitigation, offsite mitigation, offsite regional mitigation, and the purchase of mitigation credits from mitigation banks permitted under **Section 373.4136, F.S.** See **Section 373.414(1)(b), F.S.**

**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**.

**Non-tidal wetland** - A wetland that is not subject to the ebb and flow of tidal waters. Nontidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line). See **86 FR 2744**.

**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 the **Environmental Resource Permit (ERP) Applicant's Handbook, Volume I**.

**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** - Those lands by which the State of Florida acquired title 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, 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 United States Code (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** - Intentional or negligent acts or omissions 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 (**Rule 68A-27.001(4), 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.**

**Tidal wetland** - A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line. See **86 FR 2744**.

**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 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. Certain protected species impacts may also require a specific species permit.

FDOT typically coordinates with the agencies listed below throughout the permitting process. More details on the permitting agencies can be found in [Section 12.2.1](#).

### Federal Agencies

The USACE has the authority to issue permits under **Section 10 of the Rivers and Harbors Act** and **Section 404 of the Clean Water Act (CWA)** for activities involving the discharge of dredge and fill materials into waters of the United States, including wetlands. The USACE may grant permission to alter a civil works project in accordance with **Section 14 of the Rivers and Harbors Act [33 United States Code (U.S.C.) § 408]**, commonly referred to as **Section 408**.

The U.S. Coast Guard (USCG) has the authority to issue permits under **Section 9 of the Rivers and Harbors Act** and **General Bridge Act**. The 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. The USFWS and/or NMFS act as lead permitting agencies for **Section 10** permitting under the **Endangered Species Act (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. When projects occur 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 (NFWWMD) does not have full ERP authority from FDEP. FDEP implements the National Pollution Discharge Elimination System (NPDES) and Coastal Construction Control Line (CCCL) permitting programs throughout the State. The permitting responsibilities of each agency are 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 Florida Fish and Wildlife Conservation Commission (FWC) serves as the state wildlife commenting agency on state environmental permits and issue certain protected species permits.

The Director of the Florida Division of Historical Resources (FDHR) at the Department of State serves as the SHPO for the State of Florida. The FDHR 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, Florida Statutes (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 State Highway System (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 USACE's **Source Book** and in the **ERP Applicants Handbook, Volume I**, 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 may 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, FDOT programmatic approaches, and supplemental protected species information, can be found on FDOT's [Protected Species and Habitat Website](#).

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 issued by multiple federal agencies under various regulatory authorities. Permits are typically required for proposed impacts to jurisdictional wetlands and other surface waters, impacts to civil works projects, and 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](#) lists the main federal authorizations needed from these regulatory agencies. Impacts to protected federal species may need to be permitted by either USFWS or NMFS. See [Section 12.2.3](#) for federal species permit information.

The USACE issues dredge and fill permits in Waters of the United States in accordance with **Section 404** of the **CWA** and **Section 10** and **Section 14** 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. **Section 14** of the **Rivers and Harbors Act** allows the USACE to grant permission to alter civil works projects.

If a project involves a bridge over navigable waters of the United States, the USCG issues bridge permits 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 federal permitting authorities, either the USACE or USCG must prepare a **National Environmental Policy Act (NEPA)** document in support of their **NEPA** action (permit). If either agency participates as a Cooperating Agency in an FDOT Federal Project, they may adopt the FDOT’s **NEPA** document as their own, or they may use it to develop their own **NEPA** document. It is important to coordinate early with the USACE or USCG to confirm that the FDOT **NEPA** document, or a State Environmental Impact Report (SEIR), will address the Cooperating Agency’s **NEPA** requirements so as to expedite project delivery.

FDOT typically invites the USACE to be a Cooperating Agency when a Standard permit is anticipated for a project. The USACE may be invited to be a Participating Agency when FDOT anticipates a General Permit (includes Regional General and Nationwide permits) is needed. Cooperating or Participating Agency invitations should not be sent until FDOT has determined the appropriate permit type for a project. The USACE may instead request to be a Cooperating or Participating Agency. The District should consider the USACE’s request on a case by case basis. FDOT will continue to coordinate with the USACE and share information relevant to the permitting process when warranted regardless of the agencies status as a Cooperating or Participating Agency for a PD&E Study. The USCG will automatically be invited to be a Cooperating Agency for projects requiring a USCG bridge permit.

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. If FDOT has completed consultation with USFWS and NMFS under

the **ESA** or **Magnuson-Stevens Fishery Management Act**, the USACE or USCG can rely on the results of such consultation. 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 Action when an action has the potential to adversely 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 the permitting agency or serve as lead or cooperating agencies for a Federal Action, the issuance of federal permits requires coordination with resource agencies. If a 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 Essential Fish Habitat (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. For projects where FDOT has completed **ESA Section 7** and/or EFH consultation or technical assistance, the results of the consultation or coordination will be provided to the applicable permit issuing agency.

Additionally, the USACE, USCG, or USFWS are 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 review process mandated by **Section 106** to assess a project's effects on historic properties is outlined in regulations issued by ACHP (see [Part 2, Chapter 8, Archaeological and Historic Resources](#)). For projects where FDOT has completed **Section 106** consultation, the results will be provided to the applicable permit issuing agency.

### 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 jurisdictional waters, 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. Minimize adverse effects on the resource, if impacts are unavoidable; and
- c. Compensate for all remaining unavoidable impacts (i.e., wetland or listed wildlife mitigation) such that there is no net loss of wetland function from 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, Regional 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, modified or suspended. The USACE's **Source Book**, included by reference in [Figure 12-1](#) should be reviewed for an entire listing of thresholds for a project to qualify under a general permit. Coordination with the USACE will ensure the project impacts meet the requirements for general permit authorizations. It is important to note that "consideration of alternatives in **40 CFR § 230.10(a)** are not directly applicable to General Permits" [**40 Code of Federal Regulations (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 qualify for the NWP 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 provided in writing as early as possible prior to commencing the proposed activity, but must be received no less than 45 days prior to commencing construction. 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** to modify, suspend, or revoke the NWP authorization.

Both the NWPs, and the General Conditions required in PCN, are itemized in the **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 generally 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, No. 15 USCG Approved Bridges, and No. 23 Approved Categorical Exclusions.

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., where dredge and fill impacts do not result in the loss of greater than a total of 0.5 acre of tidal impacts to waters of the United States (wetlands, surface waters and navigable waters) for the entire project, and 5.0 acres of non-tidal impacts to waters of the United

States (wetlands, surface waters and navigable waters) for any 1-mile segment of roadway length as measured from the beginning of the project, up to a maximum loss of 50 acres of waters of the United States per project]. This regional general permit is limited to projects that have been reviewed through the FDOT's ETDM and/or PD&E processes. To be current, the Environmental Document must have been evaluated, re-evaluated, or confirmed within 5 years of submitting an application. This regional general permit may not authorize construction of a new alignment (non-existing roadway).

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 federal and state 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 § 325.5** 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 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 guidance. Insufficient supporting documentation may result in requests for additional information until the file is deemed complete by USACE. 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 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 **Section 408** review is conducted at the District level in Jacksonville. 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. 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. See [Part 1, Chapter 16, Navigation](#) for more details.

## 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. WMDs issue ERPs for most FDOT projects; whereas, FDEP issues NPDES and CCCL permits ([Sections 12.2.2.2](#) and [12.2.2.5](#) 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 FDHR a reasonable opportunity to comment on 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 **ERP Applicant's Handbook, Volume I**. These requirements include consultation and findings letters from the FDHR. See [Part 2, Chapter 8, Archaeological and Historical Resources](#) for more information. In instances where FDOT has completed consultation under **Section 106** of the **NHPA**, documentation of the consultation can be used to satisfy requirements under **Chapter 267, F.S.**

### 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**. The **ERP Applicant's Handbook** 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 **ERP Applicant's Handbook, Volume I** apply statewide.

The **ERP Applicant's Handbook, Volume I** 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 **ERP 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 (**ERP Applicant's Handbook, Volume II**) for each of the WMDs. **Volume II** primarily applies to activities that require the services of a registered professional to design a stormwater management system. Links to the **ERP Applicant's Handbook, Volume I** (identical for all WMDs) and **Volume II** (unique to each of the five WMDs to address regional differences) are provided in [Figure 12-2](#).

Each WMD incorporates a provision in the **ERP Applicant's Handbook, Volume II** referencing **Section 373.413(6), F.S.**, and providing for flexibility for state transportation projects and facilities. This statutory language provides the WMDs and FDEP with additional flexibility when permitting stormwater management facilities for state transportation projects, such as regional treatment facilities. FDOT is also only required to treat stormwater generated by its transportation projects, not water entering its treatment systems from offsite areas.

Depending on the size, location and nature of proposed project, a project 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 its 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 verification 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. An agency determination that an activity qualifies for an exemption is subject to **Chapter 120, F.S.** Although some projects may be exempt 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](#)) require a proprietary authorization from the Board of Trustees of the Internal Improvement Trust Fund (BOT) 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 BOT 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 authorization rests with the Governor and Cabinet of the state of Florida, who serve as the BOT. 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 CGP 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.) designed or used for collecting or conveying stormwater 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 eliminate 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 62-624.200(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.**, this chapter (**Chapter 62-624, 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 Federal Consistency Determination is made by FDEP in coordination with other agencies early in the planning process for FDOT Federal Projects (see [Part 2, Chapter 14, 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 or local water control district'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** permission. 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(6), 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.** More information on the CCCL permitting can be found in [Figure 12-2](#).

### 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 issue 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 discusses 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 **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. 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 species listed only by the state. Incidental Take permits for federally listed species would be issued by USFWS or NMFS. Additional information on the **ISMP**, **HCPs**, and Incidental Take permits is available on the FWC and USFWS/NMFS websites ([Figure 12-3](#)).

Three avian species found in Florida, American bald eagle, Florida burrowing owl, and osprey, are not subject to **ESA** review, but receive federal protection under 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. 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 are generally not addressed under the **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.** See [Section 12.2.3.4](#) for more information on gopher tortoise protections.

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 660 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 per ***50 CFR § 22.3*** is 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, referenced at ***Rule 68A-16.003(3), F.A.C.***, as meaning “a nest that does not contain eggs or flightless young.” See also web links included in [Figure 12-3](#).

2. There is also a General Permit for disturbing bald eagles at the nest location, provided there is no practicable alternative to avoid or minimize the disturbance. This type of take is referred to as "non-purposeful take" and is allowed under a General Permit for Bald Eagle Disturbance. Authorization is also subject to permit conditions to minimize impacts. The regulation authorizing Eagle Disturbance Permits for bald and golden eagles is 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](#). Take of eagle nests, including by substantively modifying nesting substrate sufficient to render the substrate unsuitable for eagle nesting, is not authorized under a General Permit.

### 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 **Chapter 68A-27, F.A.C.** (federal and state listed species) or **Rule 68A-16.002, F.A.C.** (bald eagles).

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.** . 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 relocating 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 FDOT's [Protected Species and Habitat Website](#).

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). Registered agents may obtain no more than two 10 or Fewer Burrows permits in a 12-month period.
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. An after action report is not required for this permit type.
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 (e.g., storm debris disposal) to an official declaration of a state of emergency by the Governor of Florida or a local governmental entity. Applications submitted for this permit must include all information that is required when 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 Environmental Permits Coordinator 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 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. Identified permits should be documented in the Environmental Document and the StateWide Environmental Project Tracker (SWEPT) 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 CE's may occasionally need environmental permits. For these projects, a summary of anticipated permits is included in the ***Type 1 Categorical Exclusion Checklist*** ([Part 1, Chapter 5, Categorical Exclusion](#)). Documentation of permitting agency coordination and mitigation for impacts (as appropriate) is included in the project file.
2. **Non-Major State Actions (NMSAs)** - For a NMSA, a summary of anticipated permits and documentation of permitting agency coordination and mitigation for impacts (as appropriate) is included in the project file.
3. **Type 2 Categorical Exclusions (CEs)** Some Type 2 CE's 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 CE's.

## 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 Environmental Permits Coordinators, District Environmental Offices, and others who may be involved in the PD&E process that follows 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 should 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 regardless of whether they 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 confirm the 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***.

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. See [Part 1, Chapter 16, 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 topic/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 later in the Environmental Document 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 use regulatory and 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, FDEP, 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/FDHR) 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.

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 "Protected Species 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 protected 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 coordination should involve the Environmental Permits Coordinator and compare the list of anticipated permits identified during the ETDM screening to those permits identified as necessary for the project from the analysis/impact assessment. 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 Environmental Permits Coordinator and the Environmental Office during development of the **NRE** or technical memorandum will ensure the resulting report contains information sufficient to support subsequent permitting. Anticipated environmental permits that may be required for the project are listed in the **NRE**. The **NRE** is sent to the resource agencies for review so they have an opportunity to review the project impacts and provide concurrence, as applicable, in advance of finalization of the Environmental Document. The District reviews the draft **NRE** prior to agency submittal. For FDOT Federal Projects, the Office of

Environmental Management (OEM) also reviews the draft **NRE** prior to agency submittal. See the **Natural Resources Evaluation Outline and Guidance** on FDOT's [Protected Species and Habitat Website](#) for guidance on preparing an **NRE** or technical memorandum.

During the PD&E process, the **NRE** is summarized in the Environmental Document. This includes any permits for unavoidable impacts to or take of listed species as well as any wetland permits listed in the **NRE**.

It is important for the PD&E Project Manager to coordinate with the Environmental Permits 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 BOT
- Whether project funding is available to support the permitting effort, including mitigation

### 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 options are further described in **Section 373.4137, F.S.**

To validate the feasibility of a project design in PD&E (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 plan 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 Final Design without 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 to identify compensatory mitigation opportunities. See [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.**, mitigation options may include “the use of mitigation banks and any other mitigation options that satisfy state and federal requirements” (e.g., mitigation bank credit purchases, funding to WMD for mitigation services and FDOT- responsible mitigation projects). These options are included 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 Environmental Permits Coordinator assist with preparation, or review of the conceptual mitigation plan and mitigation discussion included in the Environmental Document. The Environmental Permits 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](#) and FDOT's [Standard Environmental Commitments Guidance](#) document 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 is uploaded 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 part of the coordination with the resource agency requiring the permit. The Environmental Document should identify whether the USCG has determined if a bridge permit is required. See [Part 1, Chapter 5, 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 part of the 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 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.

There may be occasions when associated federal agency approvals (e.g., USACE permit, 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 **Limitations on Claims 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 on claims would be published at that time for the subsequent approval. See [Part 1, Chapter 11, Public Involvement](#) for guidance on preparing a **Limitations on Claims Notice**.

#### 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](#)) or **State Environmental Impact Report Re-evaluation Form** ([Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)).

#### 12.3.5 Design and Permitting

During the Design phase, the project design initiated in PD&E is refined and applications are prepared for federal and/or state environmental permits authorizing the construction of the proposed project. During this phase, it is important for the Environmental Permits Coordinator and Project Designer(s) to refer to information prepared during the PD&E phase or subsequent Re-evaluation, including the Environmental Document, technical reports, and agency coordination/consultation 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](#). The DB firm is required to coordinate any permit modifications with FDOT. FDOT is responsible for maintaining 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 Local Agency Program (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 fulfillment 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 Programs Manual, Topic No. 525-010-300](#).

### 12.3.5.1 Finalize Mitigation

As the project design is refined and permitting is initiated, the impacts and mitigation options identified during PD&E 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 unavoidable 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. Mitigation for wetland impacts may also provide conservation benefit for listed species. When finalizing mitigation, coordination with regulatory agencies can help to determine whether identified mitigation may satisfy mitigation needs of multiple permits. The final mitigation plan is included in the permit application and becomes a condition 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 Environmental Permits Coordinator, environmental staff, and the Design Project Manager to coordinate during permitting to ensure that information gathered during the PD&E Study or subsequent Re-evaluation is utilized during permitting. The PD&E Project Manager should transmit the Environmental Document and relevant technical reports, such as the ***NRE, Cultural Resource Assessment Survey (CRAS) Report***, and resource agency correspondence/concurrence, to the Environmental Permits Coordinator. In some cases, the Environmental Document or Re-evaluation 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 Environmental Permits 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 analysis 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 these items/updates can be documented 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 can 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 Environmental Permits 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 also includes a section to request 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 relative certainty.

Initiation of the application process is directed by the Environmental Permits 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 Environmental Permits 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 applicable WMD or FDEP to initiate the state ERP 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.

If applicable, an application is submitted to the USACE for a federal dredge and fill permit. The FDOT uses **Form ENG 4345** to initiate the federal permitting process. The form and related instructions are available on the USACE web site (**USACE, 2015**). The Environmental Permits Coordinator with assistance from the Environmental Manager should coordinate with the USACE.

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 Environmental Permits Coordinator work with the Design Project Manager to ensure permits are timed 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 Office of Resilience and Coastal Protection 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 the **ERP Applicant's Handbook, Volume I** 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. To comply with this requirement, FDOT develops a **Stormwater Runoff Control Concept (SRCC)**. The [FDOT Design Manual, Part 2, Section 251, Topic No. 625-000-002](#) describes the purpose, objective, and signing and noticing requirements of the **SRCC**. The **SRCC** 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 to a sovereign submerged lands authorization. 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.

The federal permitting process does not have a statutory timeframe for permit issuance. The USACE and USCG will notify an applicant of apparent errors or omissions in application materials and request additional information needed to clarify the information in 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, Navigation](#).

When required, FDEP, USACE, or the USCG, solicit comments from the public and resource agencies (e.g., FWC, USFWS, NMFS, SHPO, EPA) by publishing a public notice during the permitting process. The period for the public to submit comments is identified in the public notice (i.e., typically between 15 and 30 days). Once the public comment period closes, the permit issuing 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.

As commenting agencies for federal permits, 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 as appropriate 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 wildlife agencies for listed species may take 180 days or longer, depending on the level of impact proposed.

For ERPs, the WMD or FDEP may solicit comment from FWC regarding a proposed project’s potential effect on 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 WMD or FDEP may solicit comment from SHPO regarding a proposed project’s potential effect on historic resources. 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 or FDEP 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 Environmental Permits Coordinator should facilitate the communication of FWC decisions and commitments (if any) to the WMD or FDEP as part of the ERP application process, and should 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 for take of federally listed species 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 implemented to offset the take. Additional information on **HCPs** and Incidental Take permits is available on the USFWS **Ecological Services** site. The NMFS website has information on permits related to protected marine resources. The USFWS and NMFS have a **Habitat Conservation Planning and Incidental Take Permitting Processing Handbook** that provides guidance on this permitting process. See [Figure 12-3](#) for links to these resources.

FWC will approve or deny a complete Incidental Take permit application for state listed species 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.). Additional information on state Incidental Take permits can be found online in FWC's **Florida Wildlife Conservation Guide**. See [Figure 12-3](#).

#### 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**

Upon issuance of environmental permit(s), the Environmental Permits Coordinator utilizes a **Permit Transmittal Memorandum, Form No. 650-040-01** or the form in SWEPT to transfer the permit(s) to the District Construction Engineer and posts the permit(s) to [FDOT's File Transfer Protocol \(FTP\) site](#). A sample of the **Permit Transmittal Memorandum, Form No. 650-040-01** is provided in [Figure 12.5](#). 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 conditions 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 SWEPT, 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 Programs Manual, Topic No. 525-010-300](#).

### **12.3.6 Construction**

The Environmental Permits Coordinator should participate in the pre-construction meeting to brief Construction staff and Contractor on permitting and environmental issues. The Environmental Permits Coordinator should also send a pre-construction environmental permit briefing memorandum that includes the [FDOT Contractor Requirements for Unanticipated Interaction with Protected Species](#) 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 Environmental Permits 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 compliance with the permit prior to, 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 inform construction contractors and/or DB firms of their contractual obligation to follow approved commitments, permit conditions and project design in order that the project remains compliant with permit requirements. While FDOT may face liability for non-compliance due to its status as permittee, a contractor or DB firm may also be liable to regulatory agencies as a responsible party.

In accordance with **Section 8.2** of the [Construction Project Administration Manual, Topic No. 700-000-000](#), the Project Administrator is responsible for overseeing permit compliance during Construction. The Project Administrator should meet with the Environmental Permits 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 Environmental Permits 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 provide awareness of project progress to 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 **Form 62-330.310(1) - As-Built Certification and Request for Conversion to Operation Phase, Rule 62-330.310(4)(a)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 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 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 of construction completion.

The Project Administrator is also responsible for monitoring all permit expiration dates and advising the Environmental Permits 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 Environmental Permits Coordinator is responsible for acquiring necessary permit extensions and/or renewals from the appropriate regulatory agency in the event work is not anticipated to be completed within the time authorized by the permit.

## 12.4 REFERENCES

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Chapter 62-113, F.A.C., Listing of regulatory delegation agreements

Chapter 62-330, F.A.C., Implements the comprehensive statewide environmental resource permit (ERP) program

Chapter 62-340, F.A.C., Method for delineating the landward extent of wetlands and surface waters

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USCG, 2014. Bridge Permit Processing Procedure. <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Marine-Transportation-Systems-CG-5PW/Office-of-Bridge-Programs/Bridge-Permit-Application-Process/>

United States Department of Transportation (USDOT), 2013. Memorandum of Understanding between the U.S. Coast Guard and Federal Highway Administration and Federal Transit Administration and Federal Railroad Administration to Coordinate and Improve Bridge Planning and Permitting

## 12.5 FORMS

[Permit Transmittal Memorandum, Form No. 650-040-01](#)

**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 Officer (SHPO)

**Table 12-1 Legislation Related to Environmental Permitting (Page 2 of 3)**

<b>Title and Citation</b>	<b>Relevance to Permitting</b>	<b>Lead Agency/ Required Commenters</b>
<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
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.	FDEP or WMD / FWC and SHPO

**Table 12-1 Legislation Related to Environmental Permitting (Page 3 of 3)**

Title and Citation	Relevance to Permitting	Lead Agency/ Required Commenters
<b>State Legislation</b>		
<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 12-1 Federal Permit Types**

Lead Agency	Action/Permit Type	Permit Number/Name or Activity Description	Commenting Agency	Remarks
U.S. Army Corps of Engineers	No Section 404 Permit Required	N/A	N/A	Utilize Permit Involvement Form or other checklist to ensure correct determination.
	Section 404 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
	Section 404 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.
	Section 404 Letter of Permission	Letter of Permission	USFWS, NMFS, SHPO	Refer to USACE Source Book
	Section 404 Standard Permit	Standard Permit	USFWS, NMFS, EPA, SHPO	Refer to USACE Source Book
	408 Permit	Permission	WMDs	Refer to USACE Section 408 Guidance
U.S. Coast Guard	Bridge Permit	Bridge Permit	NMFS, USFWS, EPA, SHPO	Refer to USCG Bridge Permit Application Guide

**Table 12-2 State Permit Types**

Lead Agency	Action/Permit Type	Permit Number/Name or Activity Description	Commenting Agency	Remarks
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 12-3 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 an 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)
	ISMP	Species Specific	Species specific
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)
		General Permit for Bald Eagle Disturbance	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:**

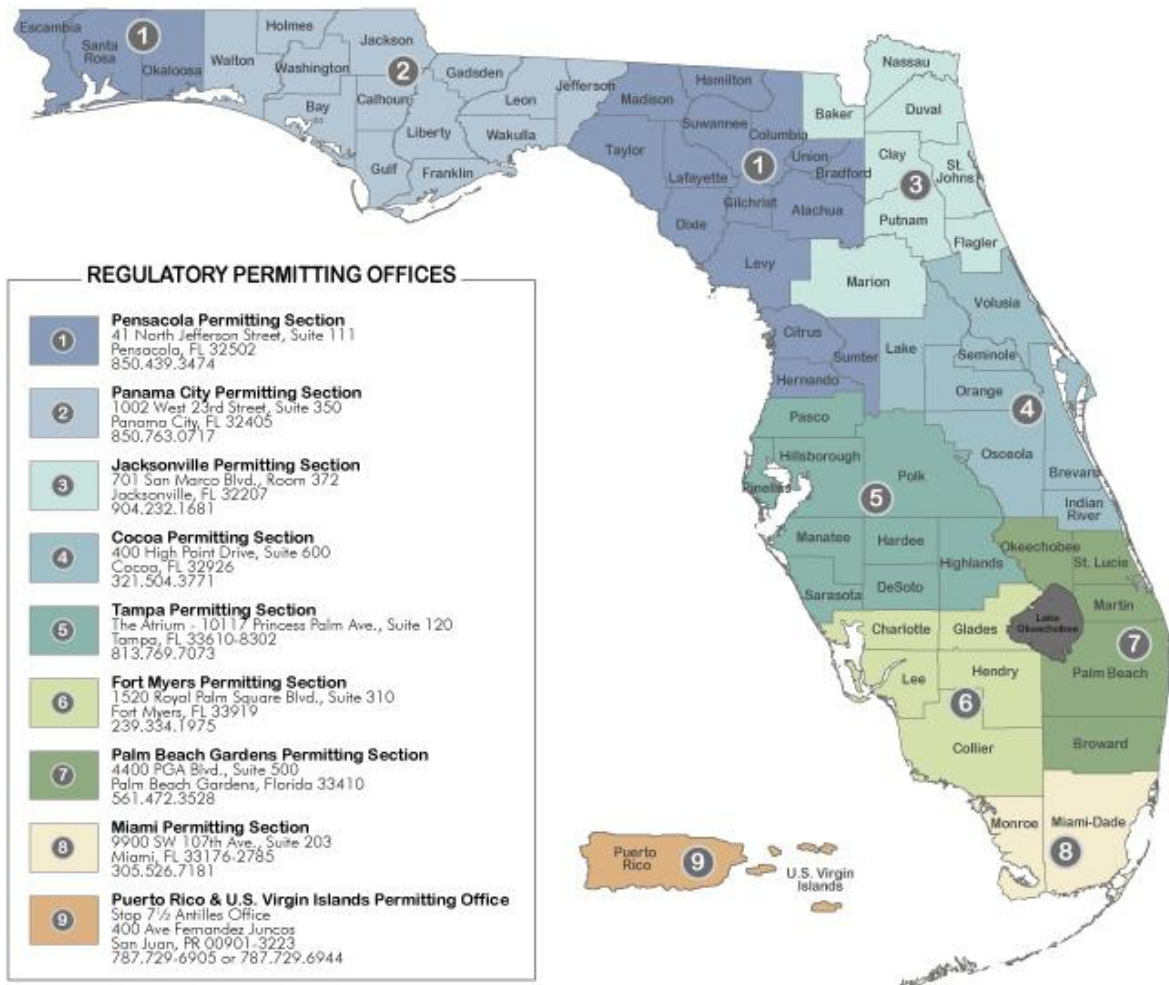
### *United States Coast Guard*

See [Part 1, Chapter 16, Navigation](#) for information sources.

### *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/Applications-Forms>
- St. Johns River WMD:  
<https://www.sjrwm.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 flexibility for FDOT stormwater permitting. The statute can be found within:  
[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=373.413&URL=0300-0399/0373/Sections/0373.413.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=373.413&URL=0300-0399/0373/Sections/0373.413.html)

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>

#### *Coastal Construction Control Line (CCCL)*

General information on the CCCL Program can be found at <https://floridadep.gov/CCCL>

To locate the CCCL, use Map Direct. A link to the tool can be found at <https://floridadep.gov/rcp/coastal-construction-control-line/content/locate-coastal-construction-control-line-ccc>

### **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 a General Permit for Bald Eagle Disturbance, 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. Also see the General Permit Standard Conditions for Bald Eagle Nest Disturbance at <https://www.fws.gov/media/general-permit-standard-conditions-bald-eagle-nest-disturbance>.

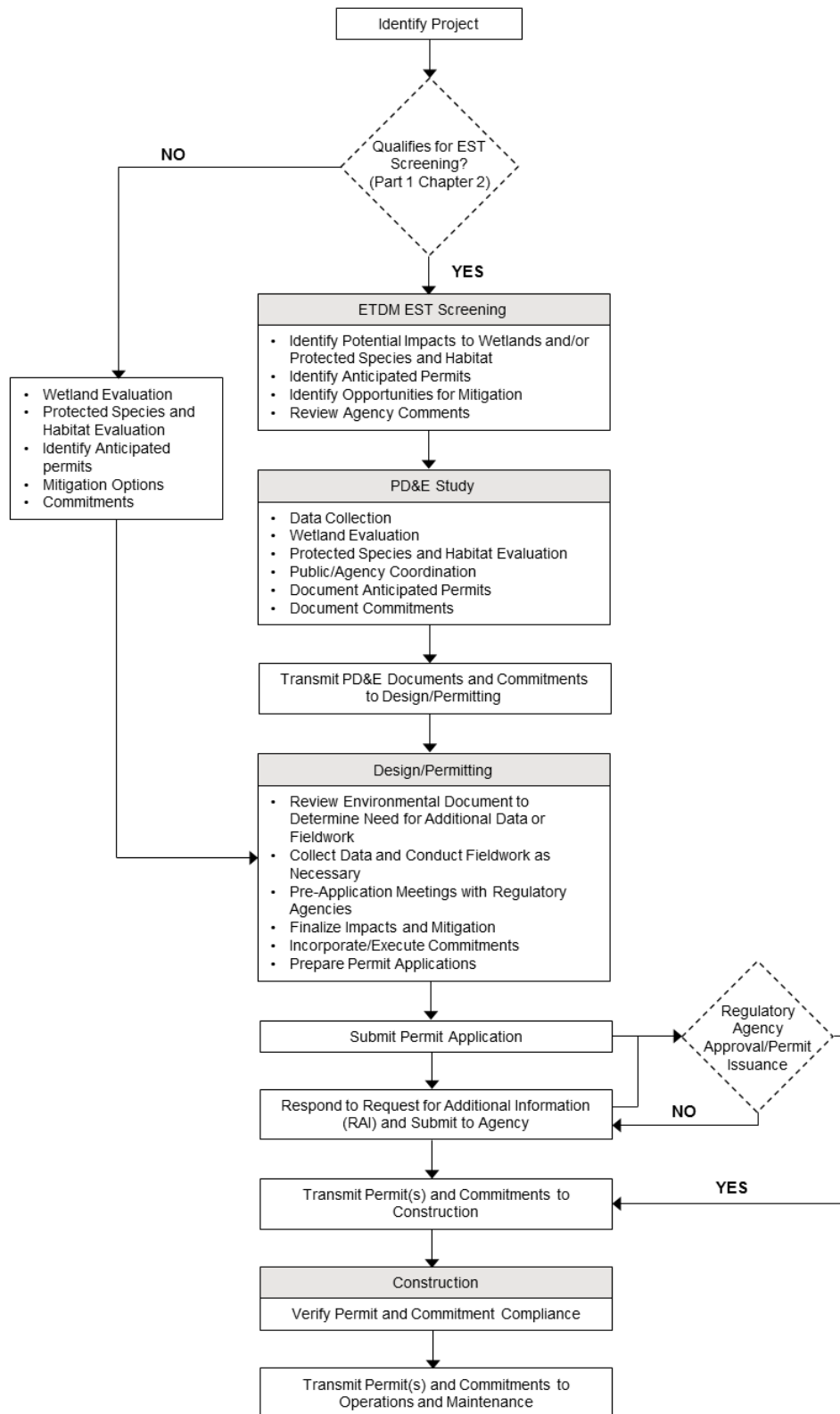
*Gopher Tortoise Permitting:*

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/service/habitat-conservation-plans> 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 2)**



**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

The ***National Environmental Policy Act (NEPA)*** requires federal agencies to consider and disclose the environmental impacts of their proposed projects prior to making decisions. 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. These factors may trigger the need to revisit the ***NEPA*** analysis by preparing a Re-evaluation. The purpose of a Re-evaluation is to determine whether an Environmental Document or decision remains valid for Agency decision making. A Re-evaluation is a continuation of the project development process, though it does not re-open the ***NEPA*** decision. Therefore, Re-evaluations are not ***NEPA*** documents. The Florida Department of Transportation (FDOT) performs Re-evaluations on both FDOT Federal Projects and FDOT State Projects.

This chapter outlines the Re-evaluation process for FDOT Federal Projects, establishes the framework to meet consultation requirements in ***23 Code of Federal Regulations (CFR) § 771.129***, and provides guidance to ensure compliance with applicable federal and state laws prior to federal aid authorizations needed to advance a project. Re-evaluations for FDOT Federal Projects are documented on a ***Re-evaluation Form*** (see [Section 3.2.1.2](#)). FDOT documents Re-evaluations for FDOT State Projects similarly as detailed in [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

It is important that in phases subsequent to the Project Development and Environment (PD&E) phase [e.g., Design, Right of Way (ROW), and Construction] Project Managers 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. Whenever possible, Design Project Managers should minimize project changes that could impact previously coordinated avoidance, minimization, and mitigation of impacts, or commitments made during the PD&E phase. Project changes may require additional interagency coordination/consultation or public involvement, as well as the identification of new impacts requiring additional evaluation.

##### 13.1.1 Definitions

**Re-evaluation** - A Re-evaluation is a review of proposed change(s) in action, affected environment, anticipated impact, applicable requirements, or mitigation measures as they relate to an approved Environmental Document.

**Consultative Re-evaluation** - A Re-evaluation not requiring Office of Environmental Management (OEM) approval because changes to the project or project circumstances are minor.

### 13.1.2 Legislative and Regulatory Framework

**Title 23 CFR § 771.129** requires a determination of whether an approved Environmental Document remains valid, prior to granting any new approval related to the action or amending any previously approved aspect of the action, including mitigation commitments. **Title 23 CFR § 771.129(a)** specifies a written Re-evaluation is required for a Draft Environmental Impact Statement (DEIS) if a Final Environmental Impact Statement (FEIS) is not submitted within three years from the date of the DEIS circulation. Per **23 CFR § 771.129(b)**, a written Re-evaluation of the FEIS is required before any further approvals, if major steps to advance the action (e.g., authority to undertake final design, authority to acquire a significant portion of the ROW, or approval of the plans, specifications and estimates) have not occurred within three years after the approval of the FEIS, or the last major approval. **Title 23 CFR § 771.129(c)** provides consultation and documentation 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) prior to requesting any major approvals or grants to establish whether or not the approved Environmental Document or CE designation remains valid for the action.

## 13.2 PROCEDURE

A Re-evaluation documents changes since the originally approved Environmental Document Location Design Concept Approval (LDCA) or prior Re-evaluation(s), 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 the Office of Environmental Management (OEM) pursuant to **23 CFR § 771.129**. Re-evaluations also update the status of environmental project commitments.

The LDCA date authorizes the Design phase and may authorize ROW or Construction phases if funded within three years and no changes require a Re-evaluation.

Re-evaluations are required when:

1. Design changes result in new or additional impacts, possibly requiring agency coordination or public involvement.
2. Federal-aid authorization is requested for ROW or Construction phase, more than three years after LDCA. (phase change)
3. Changes in laws, passage of time, or changes in topic/resource need to be documented.

4. A project with a previously approved **NEPA** document changes to state funded only and federal project funds were not previously expended.

Re-evaluations for phase changes may cover one or more segments, but must consider the limits of the approved Environmental Document. The entire project limits and the specific segments being advanced should be detailed on the **Re-evaluation Form** ([Section 13.2.1.2](#)).

If there is a design change or changes in law, they can be incorporated into a Re-evaluation conducted for a phase change. 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 or previous Re-evaluation, then those changed limits are also considered in the Re-evaluation. If changes in the project may result in new significant impacts to topics/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. The Procurement Office may be contacted to obtain a copy of the Design-Build Request for Proposals boilerplate.

### **13.2.1 Re-evaluation Preparation for Type 2 CE, EA with FONSI, and EIS Projects**

The Re-evaluation process for Type 2 CE, Environmental Assessment (EA) with FONSI, and Environmental Impact Statement (EIS) projects is shown in

[Figure 13-](#) 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 ([Section 13.2.1.1](#)), or whether the **Re-evaluation Form** will require OEM's review and approval.

The Re-evaluation process should be initiated early enough to provide sufficient time for completion prior to the need for federal-aid authorization. The District determines the level of analysis necessary and whether additional public involvement is needed. The 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 Environmental Document or decision no longer valid, FDOT decides the nature and scope of the supplemental analysis and documentation needed. If the project is an 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 13.2.1.4](#).

### 13.2.1.1 Consultative Re-evaluations

The potential for project changes to be documented in a Consultative Re-evaluation is typically discussed during monthly District/OEM meetings or a project meeting. The District prepares the **Re-evaluation Form** in the StateWide Environmental Project Tracker (SWEPT) up to Section 11. See the [Guidance for Part 1, Chapter 13](#) for a visual of the **Re-evaluation Form**. The District coordinates with OEM to discuss the project. As a result of the coordination, OEM may provide concurrence and the District adds the consultation date to Section 11 of the **Re-evaluation Form**. The meeting minutes or concurrence email from OEM are included in the project file. See [Guidance for Part 1, Chapter 13](#) for types of projects that may be appropriate for a Consultative Re-evaluation.

### 13.2.1.2 Re-evaluation Form

The **Re-evaluation Form** is prepared in SWEPT, and a visual is provided in the [Guidance for Part 1, Chapter 13](#). An outline of the **Re-evaluation Form** is included as [Figure 13-2](#). Information supporting the Re-evaluation is submitted with the **Re-evaluation Form** and uploaded to the project file in SWEPT. The [Re-evaluation Quality Assurance \(QA\)/Quality Control \(QC\) Checklist](#) is used as guidance when preparing the **Re-evaluation Form**.

### 13.2.1.3 Processing of Re-evaluations

The District prepares the Re-evaluation and conducts a quality control review using the [Re-evaluation QA/QC Checklist](#). When OEM approval is required, the District uploads the **Re-evaluation Form**, and any supporting information (including the **Re-evaluation QA/QC Checklist**) for OEM Initial review to the Electronic Review and Comment (ERC) application and prepares the **Environmental Document Submittal Form** in SWEPT. The District should confirm that the original Environmental Document, technical documents, and any supporting information have 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 has 30 days (timeframes identified in this section are calendar days) to review the draft documents and provide comments in the ERC. The District addresses OEM comments and provides responses in the ERC. The OEM project review team then has 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 schedules 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 final 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 advances to OEM Environmental Process Administrators review.

The OEM Environmental Process Administrators have 25 days to recommend the Re-evaluation for approval. The Director of OEM, or designee, then has five 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 notifies other phase managers e.g., Design, ROW, and Construction, Cooperating Agencies, and others as appropriate. The District Environmental Office also provides the date of the signed Re-evaluation on the **Environmental Certification for FDOT Federal Project**, as shown in the [Guidance for Part 1, Chapter 5](#), which is required as part of the contract file for federal oversight projects.

#### 13.2.1.4 Supplemental Environmental Impact Statements

A SEIS may be necessary 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 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 reasonably foreseeable environmental impacts that are significant and were not evaluated in the EIS; or
- (2) The Administration (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 prepared for 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** is provided as a visual in the [Guidance for Part 1, Chapter 5](#). The Re-evaluation process for Type 1 CEs is shown in [Figure 13-3](#).

Re-evaluations for Type 1 CEs should be completed 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**. They also should be completed if subsequent release of federal funds is required after a year has passed since the previous **Environmental Certification for FDOT Federal Project** form was submitted. The completion of the checklist is documented in the **Environmental Certification for FDOT Federal Project** form in SWEPT which provides the District Environmental Office's clearance for the project to advance to the next. The **Environmental Certification for FDOT Federal Project** form is sent to the District Federal-Aid Coordinator.

## 13.3 REFERENCES

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)

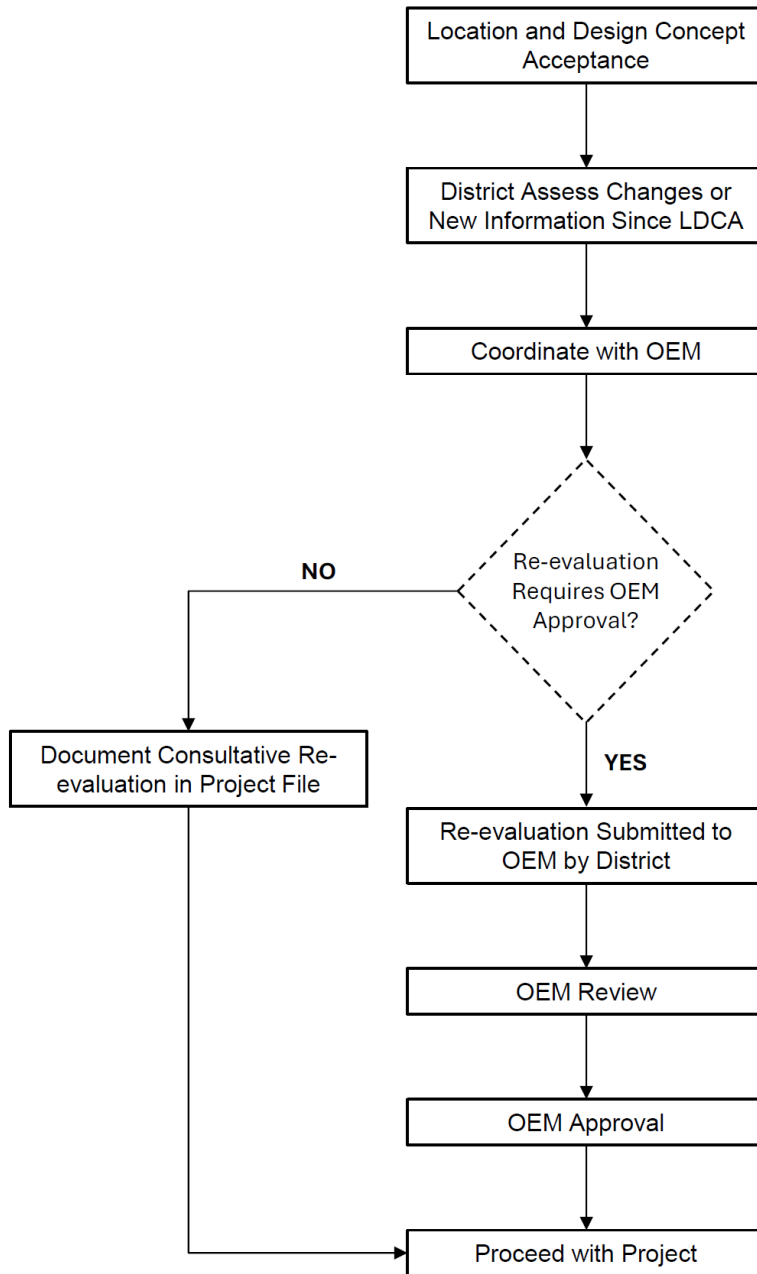
FDOT, FDOT Design Manual, Topic No. 625-000-002.  
<https://www.fdot.gov/roadway/fdm>

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

FDOT, Re-evaluation Guidance for Section 3 - Changes in Applicable Law or Regulation. [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/reeval-regs-laws-checklist\\_2025-0916.pdf?sfvrsn=52041e4e\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/reeval-regs-laws-checklist_2025-0916.pdf?sfvrsn=52041e4e_1)

Title 23 CFR § 636, Design-Build Contracting

Title 23 CFR § 771, Environmental Impact and Related Procedures

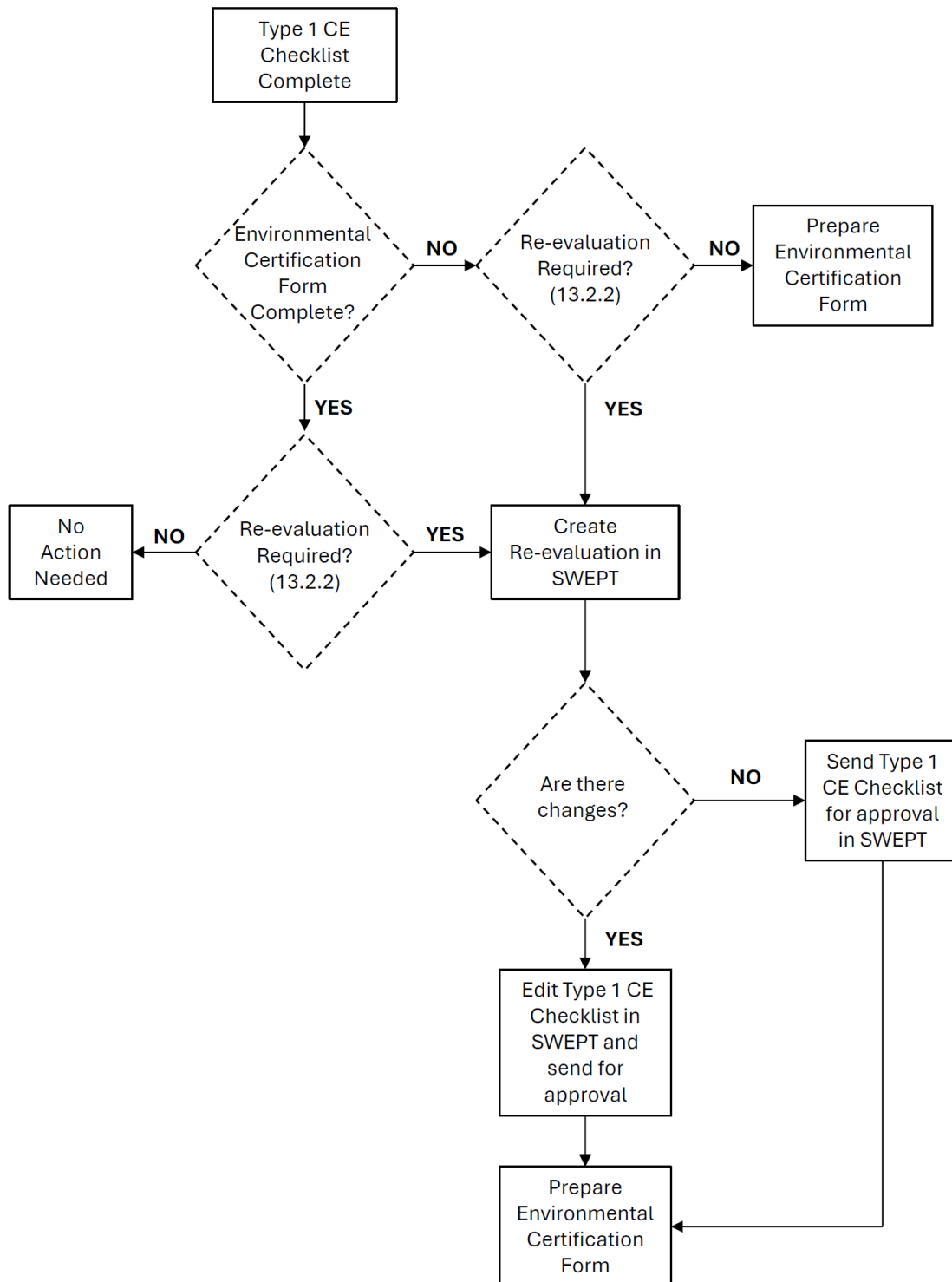


**Figure 13-1 Re-evaluation Process for Type 2 Categorical Exclusions, Environmental Assessments, and Environmental Impact Statements**

## **RE-EVALUATION FORM**

- 1. GENERAL PROJECT INFORMATION**
  - A. Re-evaluation Type(s)
  - B. Original approved Environmental Document
  - C. Prior Re-evaluation
  - D. Project or project segment(s) being evaluated
- 2. PROJECT DESCRIPTION**
- 3. CHANGES IN APPLICABLE LAW OR REGULATION**
- 4. EVALUATION OF DESIGN CHANGES**
- 5. PUBLIC INVOLVEMENT**
- 6. PROJECT or SEGMENT(S) PLANNING CONSISTENCY**
- 7. EVALUATION OF CHANGES IN IMPACTS**
  - a. COMMUNITY EFFECTS
  - b. CULTURAL
  - c. NATURAL
  - d. PHYSICAL
- 8. COMMITMENT STATUS**
- 9. STATUS OF PERMITS**
- 10. CONCLUSION**
- 11. DISTRICT REVIEW AND APPROVAL**
- 12. OEM APPROVAL**
- 13. LINKS TO SUPPORTING DOCUMENTATION**

**Figure 13-2 Re-evaluation Form Outline**



**Figure 13-3 Re-evaluation Process for Type 1 Categorical Exclusions**

## **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

The Florida Department of Transportation (FDOT) maintains its Environmental Document files in accordance with FDOT's [Procedure No. 050-020-025, Records Management](#). For FDOT Federal Projects, FDOT complies with the requirements of **Federal Highway Administration (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 **Chapter 13** of FDOT's [Office of Information Technology Manual, Topic No. 325-000-002](#) serves as the environmental file of record for Environmental Documents. The EDMS stores and archives files and provides backup and disaster recovery while maintaining document access and managing records to appropriate retention and disposal schedules. When the files are imported into the EDMS, they are published to the archive and made available to other FDOT computer applications.

To support record-keeping and retention responsibilities, the StateWide Environmental Project Tracker (SWEPT) application is used in conjunction with EDMS. SWEPT is an interactive website that supports activities during FDOT's Environmental Document Review Process. SWEPT provides an interface to the EDMS that is integrated with the document review workflow. 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 an Environmental Document, FDOT determines how to manage its project files, as long as the procedures satisfy FDOT record-keeping and retention requirements and meet or exceed 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 Environmental Document. Documents maintained in the project file for each project include, but are not limited to, letters, technical reports, correspondence, emails,

comments, responses, meeting minutes, studies, and 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 ***National Environmental Policy Act (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 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, if needed, 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 in 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 is maintained electronically within SWEPT. The Project Development and Environment (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. It is recommended that documents be placed within the applicable folder in SWEPT according to the SWEPT Project File Organization Guidance on FDOT's [PD&E Manual Website](#) under the Supporting Resources section. 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 made available according to the Environmental EDMS protocols established in the ***Enterprise Electronic Document Management System (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.)

COA = Abbreviated Class of Action:

- CE1 = Type 1 Categorical Exclusion
- CE2 = Type 2 Categorical Exclusion
- EA = Environmental Assessment
- EIS = Environmental Impact Statement
- NMSA = Non-Major State Action
- SEIR = State Environmental Impact Report

- b. District = Abbreviated District number or Florida's Turnpike Enterprise (FTE) for Turnpike: D1, D2,...FTE
- c. 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 Environmental Document. And a subtype of that report could be data, correspondence, concurrence request, or concurrence.
- d. Document\_Name = The original file name, minus extension (apply this before the date), with spaces replaced by underscores

- e. 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 FDOT Federal Projects, 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 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 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 100, 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) are 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. <https://environment.transportation.org/resources/practitioners-handbooks/maintaining-a-project-file-and-preparing-an-administrative-record-for-a-nepa-study/>

FHWA, 2013, FHWA Order No. 1324.1B, issued July 29, 2013.  
<https://www.fhwa.dot.gov/legisregs/directives/orders/13241b.cfm>

FHWA, 2013, FHWA Records Disposition Manual (Field Offices) Chapter 4.  
<http://www.fhwa.dot.gov/legisregs/directives/orders/envi-reg.cfm>

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FDOT, 2025, StateWide Environmental Project Tracking website. <https://www.fl-etat.org/est/swept/>

FDOT, SWEPT Project File Organization Guide.  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/swept-file-quick-guidance.xlsx?sfvrsn=39a0be74\\_6](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/swept-file-quick-guidance.xlsx?sfvrsn=39a0be74_6)

National Environmental Policy Act of 1969 (NEPA) as amended (42 U.S.C. § 4321 et seq.). <https://www.govinfo.gov/content/pkg/COMPS-10352/pdf/COMPS-10352.pdf>

## **PART 1 CHAPTER 16 NAVIGATION**

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## PART 1, CHAPTER 16

### NAVIGATION

#### 16.1 OVERVIEW

This chapter outlines the environmental review process, coordination, and documentation for projects in which a United States Coast Guard (USCG) permit is required.

##### 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 United States Code (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. This obligation is met by the issuance of bridge permits.

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 Southeast District, located in Miami, issues bridge permits for projects in FDOT Districts 1, 2, 4, 5, 6 and 7. The USCG Heartland 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 [U.S. Army Corps of Engineers (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 ***23 U.S.C. § 144*** and was enacted to reduce paperwork and related costs in the execution of the USCGs bridge permit programs. For Federal Highway Administration (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 FDOT Federal Projects under jurisdiction of the USCG Southeast District, with USCG making the decision through the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) for projects that qualify for screening. For FDOT Federal Projects in the USCG Heartland 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.

Since the ***Title 23 U.S.C. § 144(c)*** exemption is only applicable to FHWA funded or eligible projects, it can only be used for FDOT Federal Projects.

## 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 **National Environmental Policy Act (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 set forth in **42 U.S.C. § 4336a**, **U.S. Department of Transportation (USDOT) 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. 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 into 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, Federal Transit Administration (FTA), and Federal Railroad Administration (FRA) entered into a MOU in 2014 with the same goal of improving the bridge permitting process.

According to **23 U.S.C. § 139 (c) 5**, 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 **NEPA** document for a Federal Action.

### **16.1.5 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 Environmental Document type, 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 which USCG District jurisdiction the project falls under. During project initiation, the USCG also reviews the proposed project purpose and need statement, if applicable.

**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.

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 FDOT Federal Projects 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 Florida Department of Transportation Federal Projects

The navigation process for FDOT Federal Projects is outlined in [Figure 16-1](#).

#### 16.2.1.1 Projects Not Qualifying for Efficient Transportation Decision Making Screening

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 the USCG Southeast District, this coordination may take place by directly contacting the USCG. For projects located in the USCG Heartland District, the District follows the coordination process with FHWA outlined in [Section 16.2.1.2](#).

For projects that do not require EST screening, decisions and conditions should be documented in the project file, summarized in the Environmental Document, and addressed through incorporation into the final design plans. Documentation in the Environmental Document is as follows:

**Type 1 Categorical Exclusion** - Minimal documentation on navigational effects is required for a Type 1 CE. In the **Type 1 Categorical Exclusion Checklist**, “no waterway crossing”, “No USCG bridge permit required”, or “USCG bridge permit” is selected. If a USCG bridge permit is not needed, the rationale on how this determination was made is documented. If it is identified that a USCG bridge permit is needed, the District must contact the Office of Environmental Management (OEM). Further guidance on preparing a **Type 1 Categorical Exclusion Checklist** is found in [Part 1, Chapter 5, Categorical Exclusion](#).

**Type 2 Categorical Exclusion** - Some Type 2 CEs may not require screening through the EST. See [Section 16.2.1.3.2](#) for guidance on documenting Type 2 CEs.

### 16.2.1.2 Projects Qualifying for Efficient Transportation Decision Making Screening

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 FDOT Federal Projects that qualify for screening in the EST, the conditions in the **2014 MOA between USCG and FHWA** are met in the following process.

During the Planning screenings, a preliminary permitting exemption determination may be made. The USCG may also request a **Navigation Impact Report** for the project.

#### USCG Southeast District

For FDOT projects under the jurisdiction of the USCG Southeast 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 Southeast 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** to help them determine whether a bridge permit is required. A sample questionnaire is provided in the [Guidance for Part 1, Chapter 16](#).

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 Heartland 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.

### 16.2.1.2.1 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 Heartland District, District 3 prepares a navigation package that includes a completed **Bridge Project Questionnaire** 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** (see [Guidance for Part 1, Chapter 16](#)).

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 16.2.1.3.1](#)). 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.

The draft Environmental Document 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 [Guidance for Part 1, Chapter 16](#) 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.

#### **16.2.1.2.1.1 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 Heartland 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, and 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.

#### 16.2.1.2.1.2 Documentation

The results of FDOT's navigation analysis and USCG coordination is documented in the Environmental Document. If a **Navigation Impact Report** or **Bridge Project Questionnaire** is prepared it should be saved in the SWEPT project file. The documentation for each type of Environmental Document is outlined below:

**Type 2 CE** – If the project is not in USCG jurisdiction, “not applicable” is selected 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, the appropriate status (to be acquired, application submitted, or permit received) is selected 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. Additional information can also be documented in the comments box in the Permit section. 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, Categorical Exclusion](#)) in SWEPT. It is recommended that these documents be placed in the Navigation folder within SWEPT.

**EAs and 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 Heartland District).

For projects where a USCG permit is needed, coordination with the USCG and/or FHWA (USCG Heartland 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.

There may be occasions when associated federal agency approvals (e.g., USACE permit, 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 **Limitations on Claims 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 on claims would be published at that time for the subsequent approval. See [Part 1, Chapter 11, Public Involvement](#) for guidance on preparing a **Limitations on Claims Notice**.

### 16.2.1.3 Design and Permitting

During permitting, the District's role is as an applicant. 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 Florida Department of Transportation State Projects

For FDOT State Projects 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-](#) for a process flowchart.

### **16.2.2.1 Projects Not Qualifying for Efficient Transportation Decision Making Screening**

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*. The question that asks “Will the project cause adverse impacts to navigation requiring a federal permit?” is answered. The answer should be no. If a USCG bridge permit is not needed, the rationale on how this determination was made is documented. 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.

### **16.2.2.2 Projects Qualifying for 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 Southeast District.

If it has been determined that a USCG permit may be needed for a project in the USCG Heartland District, District 3 prepares a navigation package that includes a completed *Bridge Project Questionnaire* and submits it to the USCG. A sample questionnaire is provided in the [Guidance for Part 1, Chapter 16](#). 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* (see [Guidance for Part 1, Chapter 16](#)). If the USCG Heartland 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.

### 16.2.2.2.1 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 16.2.1.2.1.1](#) 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 [Guidance for Part 1, Chapter 16](#) 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 an applicant. 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.

#### **16.2.2.2.1.1 Documentation of State Environmental Impact Reports**

If the project is not within USCG's jurisdiction, "Not present" is selected in the Navigation section of the ***State Environmental Impact Report Form***.

If the project is within USCG's jurisdiction (based on the outcome of analysis and coordination) "Present" is selected and it is identified if there will be a substantial impact.

Any analysis or coordination to determine USCG jurisdiction should be briefly summarized and included in the SEIR. The summary box should also include a reference to attachments containing supporting information. The correspondence, letter for preliminary determination of navigational clearance (if applicable), and other applicable documents (e.g., ***Navigation Impact Report, Bridge Project Questionnaire***) should be contained in the project file in SWEPT and referenced in the SEIR. The SEIR should include items needed for permitting, if available, and be prepared so that USCG can use the information to prepare their own ***NEPA*** document.

In the Permits section of the form, the applicable status next to the USCG bridge permit (not applicable, to be acquired, application submitted, permit received) is selected. If needed, this determination can be explained in the Permit Comments box and coordination emails or letters can be included in the project file. See [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#) for more information on preparing a SEIR.

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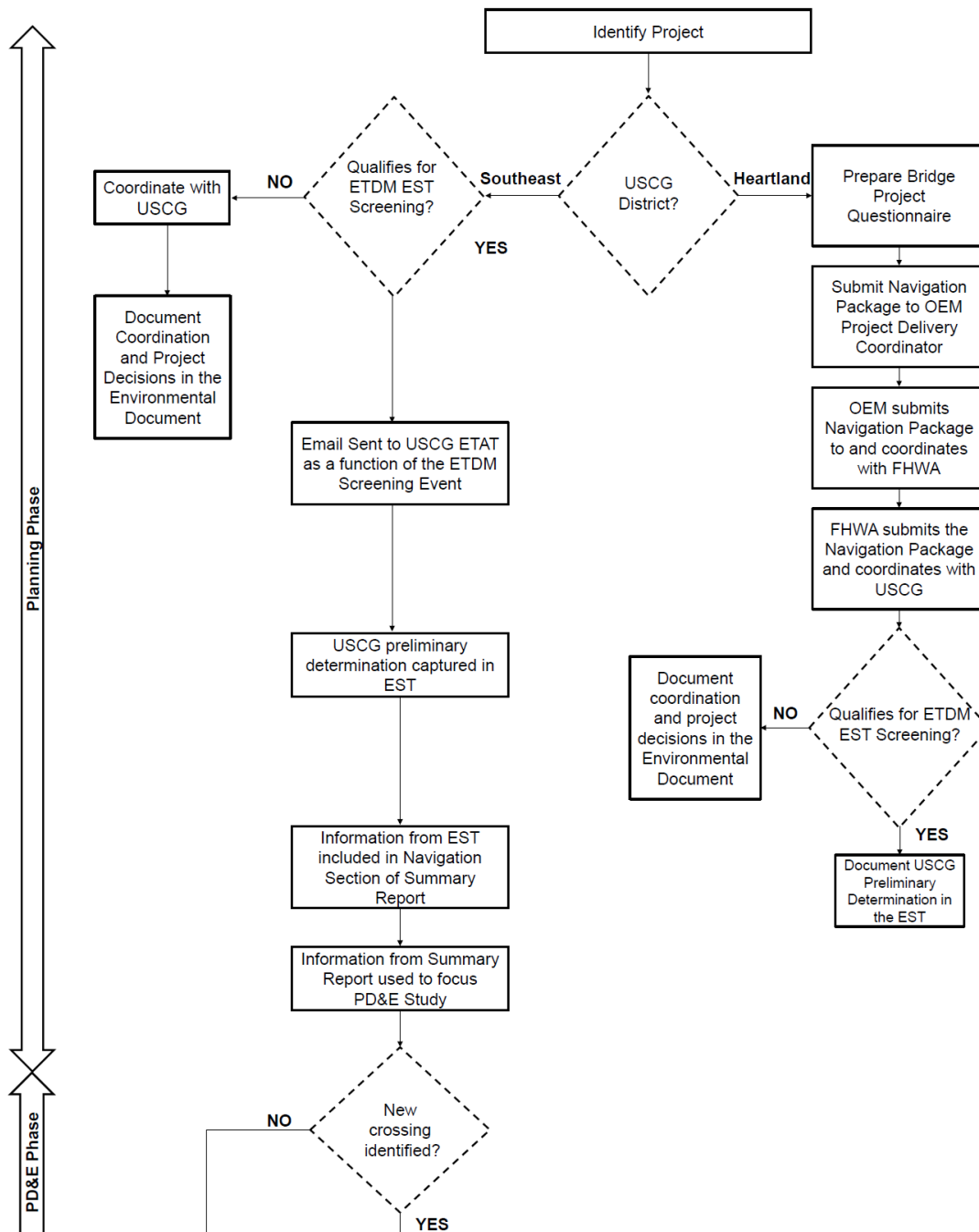


Figure 16-1 FDOT Federal Project Navigation Process

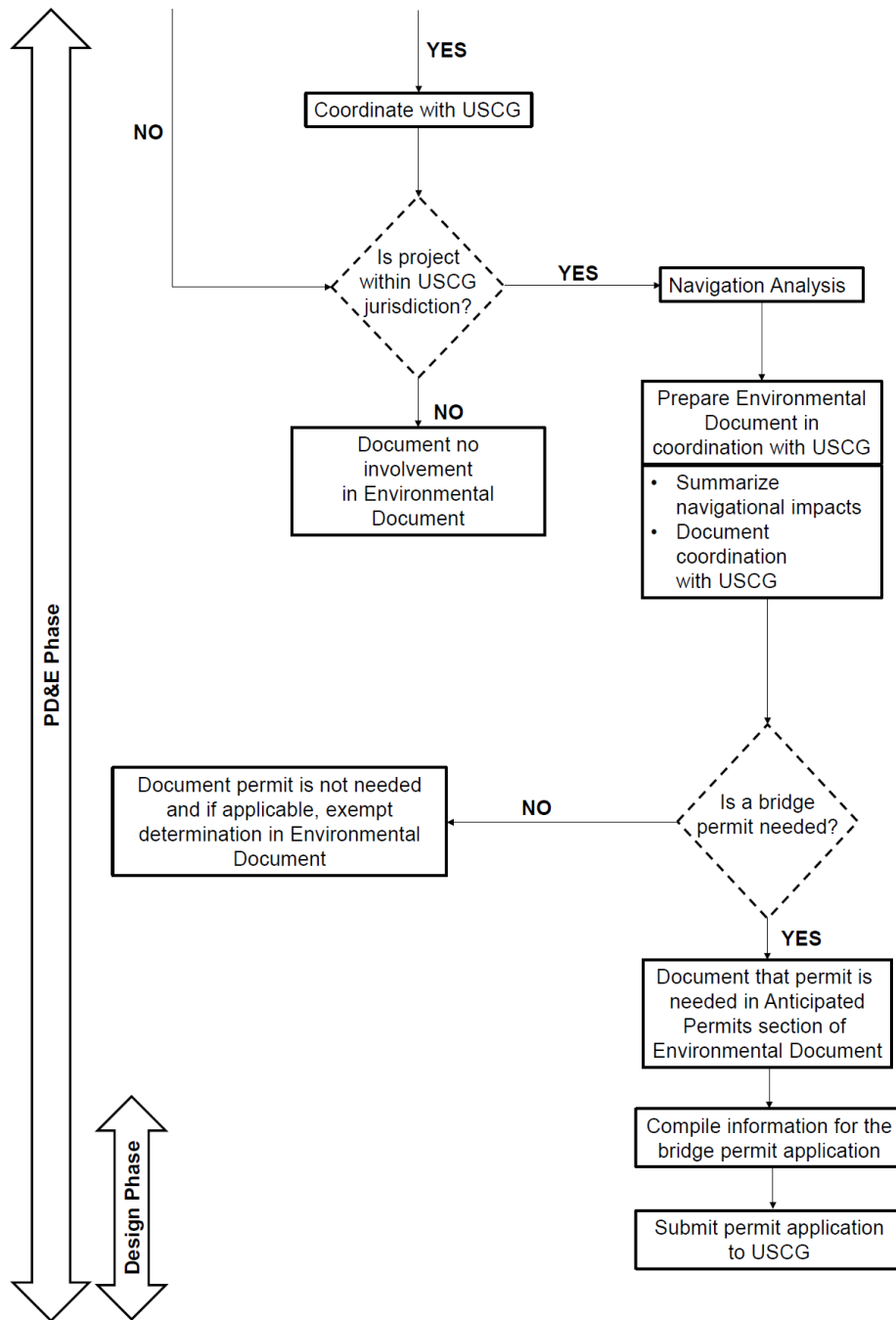


Figure 16-1 FDOT Federal Project Navigation Process (page 2 of 2)

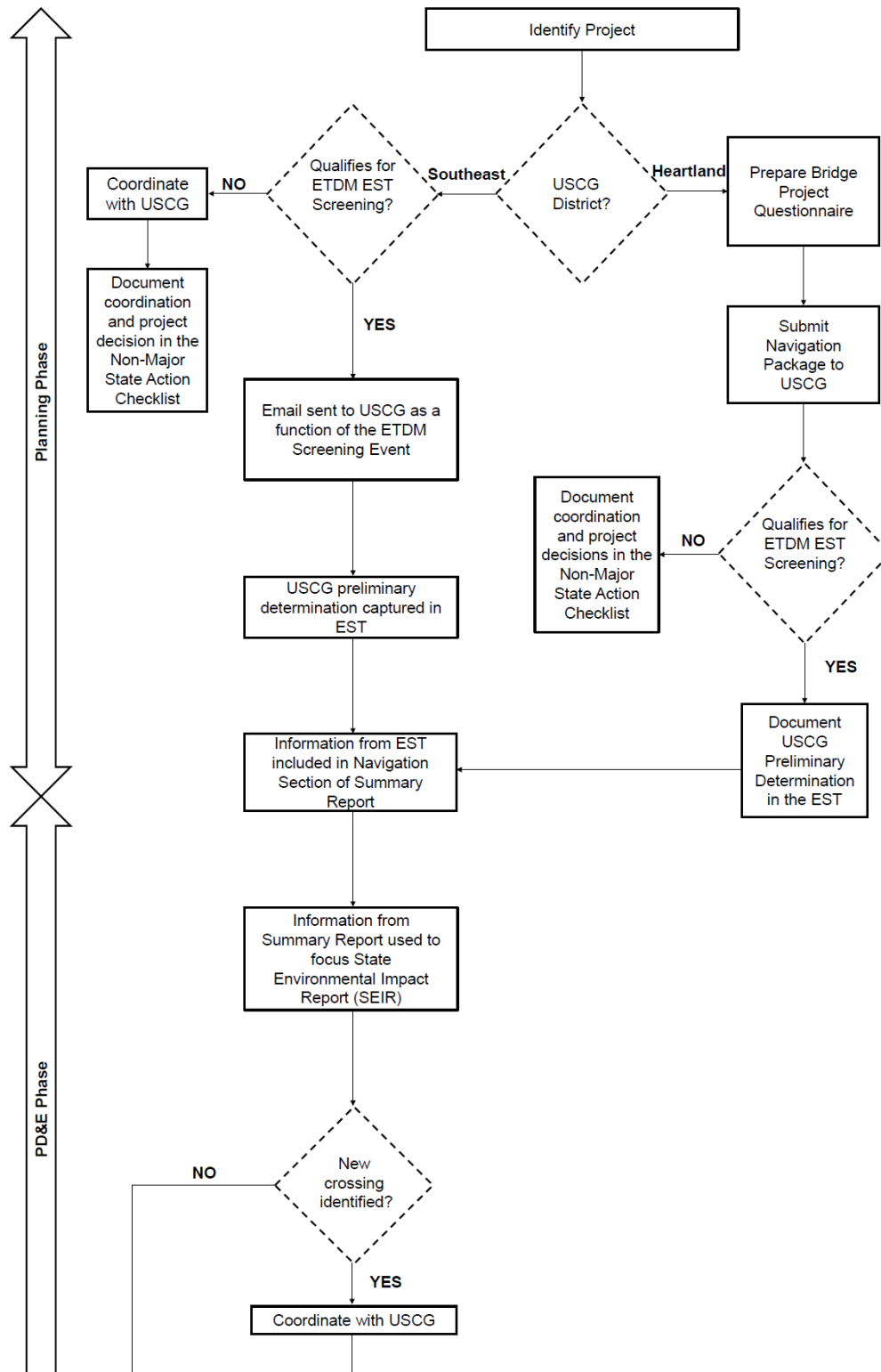


Figure 16-2 FDOT State Project Navigation Process

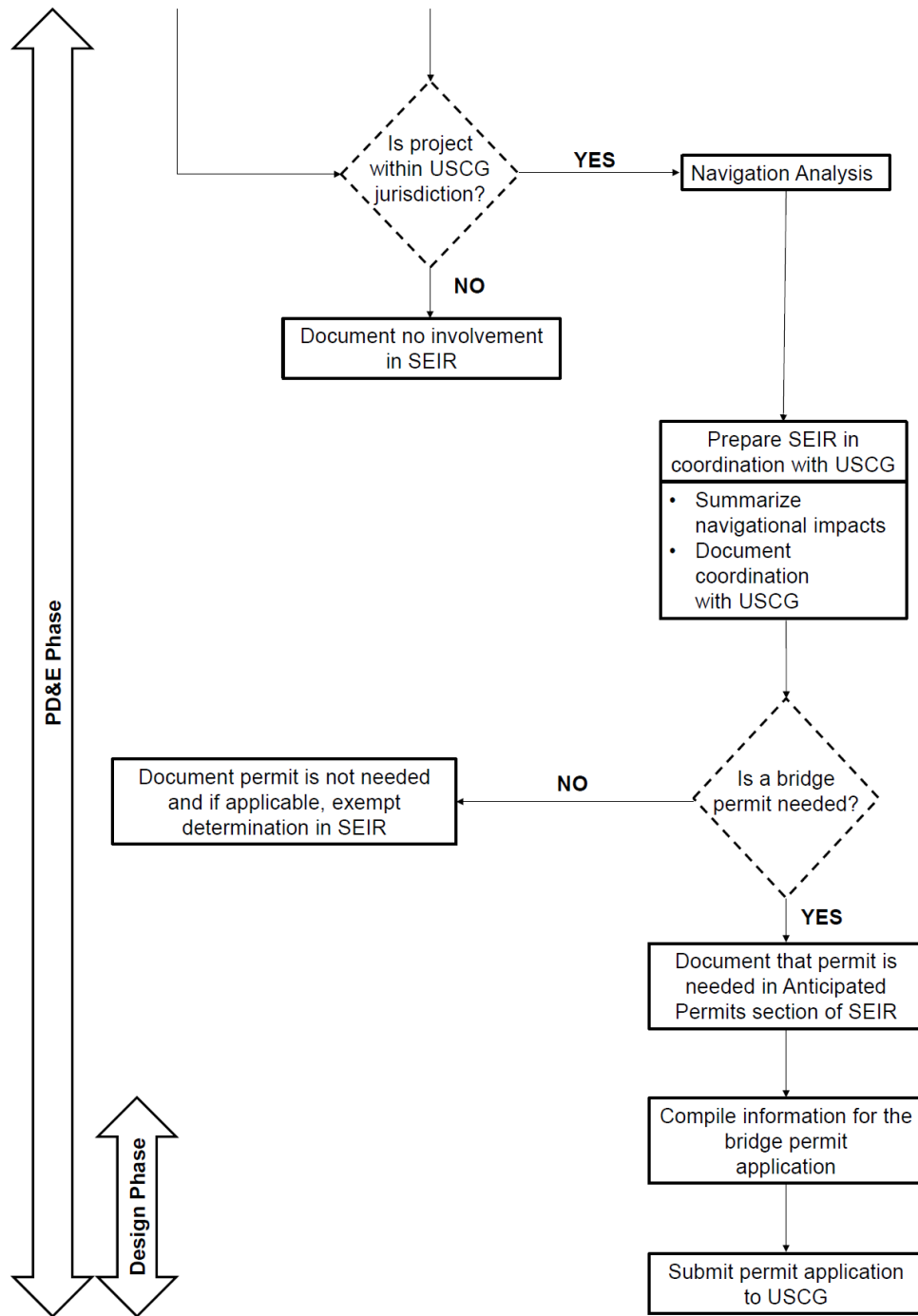


Figure 16-2 FDOT State Project Navigation Process (page 2 of 2)