NEPA OVERVIEW

National Environmental Policy Act (NEPA) is a policy established for the protection of the environment, including the natural and human environment. It requires federal agencies, in cooperation with state and local governments, to address the environmental impacts of federal action. NEPA is an umbrella of environmental laws, a few of the many laws that fall under the NEPA umbrella include:

- Clean Air Act
- Clean Water Act
- Executive Order 11988 (floodplains)
- Fish and Wildlife Coordination Act
- Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations.

The Council on Environmental Quality (CEQ) promulgated regulations in 40 Code of Federal Regulations (CFR) parts 1500-1508 to implement NEPA. These regulations provide that the Environmental Document serves as the administrative record of compliance with the policies and procedures of NEPA and other environmental statutes and executive orders.

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

1. Environmental Impact Statement (EIS) (Class I) - This COA applies to actions that significantly affect the environment as defined by CEQ regulations. The types of actions which normally require an EIS are:
    a. A new controlled-access freeway.
    b. A highway project of four or more lanes on the new location.
    c. Construction or extension of a fixed rail transit facility (e.g., rapid rail, light rail, commuter rail, bus rapid transit) that will not be located primarily within an existing transportation right of way; or
    d. New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing transportation right of way.
2. Categorical Exclusion (CE) (Class II) - This COA applies to actions that do not individually or cumulatively have a significant environmental effect. These actions do not:
    a. Induce significant impacts to planned growth or land use for an area.
    b. Requires the relocation of significant numbers of people.
    c. Have a significant impact on any natural, cultural, recreational, historic, or other resources.
    d. Involve significant air, noise, or water quality impacts.
    e. Have significant impacts on travel patterns; or
    f. Either individually or cumulatively, have any significant environmental impacts CEs are exempt from the requirements to prepare an EA or EIS.
3. Environmental Assessment (EA) (Class III) - This COA is assigned to actions in which the significance of the environmental impact is not clearly established. All actions that are not Class I or Class II are Class III. All

actions in this class require the preparation of an EA to determine the appropriate environmental documentation required.

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

- Federal funds or assistance is or is expected to be used during any phase of project development or implementation.
- Federal funding or assistance eligibility is being maintained for subsequent phases.
- Consultation with the federal permitting agency results in the determination that an FDOT NEPA document (rather than the federal permitting agency using a State Environmental Impact Report as the basis of their NEPA document) is required to support the permit [e.g., U.S. Coast Guard (USCG) bridge permit, U.S. Army Corps of Engineers (USACE) Section 404 permit]; or
- Federal approval of an action is required [e.g., change in Interstate access control, use of Interstate Right of Way (ROW)].
- Project Development and Environment (PD&E) is the FDOT process for evaluating potential environmental impacts from transportation projects and complying with the ***NEPA*** for federal projects and applicable federal and state laws and regulations. The process outlined in the (PD&E) Manual is the Florida Department of Transportation's (FDOT's) procedure for complying with NEPA. Key aspects of a PD&E Study include:
- Determine Class of Action/Environmental Document
- Refine Purpose and Need
- Develop and Analyze Alternatives
- Involve Public and Resource Agencies
- Evaluate Environmental Impacts
- Prepare Environmental Document
- Obtain Location and Design Concept Acceptance

NEPA ASSIGNMENT OVERVIEW

Pursuant to ***23 United States Code (U.S.C.) § 327*** and the implementing Memorandum of Understanding (MOU) executed on May 26, 2022, the Florida Department of Transportation (FDOT) has assumed, and Federal Highway Administration (FHWA) has assigned its responsibilities under the ***National Environmental Policy Act (NEPA)*** for highway projects on the State Highway System (SHS) and Local Agency Program (LAP) projects off the SHS (***NEPA*** Assignment). In general, FDOT's assumption includes all highway projects in Florida which source of federal funding comes from FHWA or which constitute a federal action through FHWA.

NEPA Assignment includes responsibility for:

- Environmental review, interagency consultation, and other activities pertaining to the review or approval of NEPA actions.

FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).