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## CHAPTER 11 - ENVIRONMENTAL COMPLIANCE

### 11.1 OVERVIEW

Environmental evaluations are required for all projects to comply with state and federal laws and Department policy. The level of assessment and documentation depends on the nature of the project, the potential for impacts, and the level of Department involvement. The type of environmental documentation for state or federal funded projects depends upon the lead agency and the actions being taken. This chapter discusses how state and federal projects will be managed when a Local Agency (LA) is a subrecipient of grant funds and takes on the role of “lead agency” for the environmental evaluation.

If the project needs a federal permit or action from an agency such as the U.S. Army Corps of Engineers (USACE), follow the federal provisions or “NEPA” process described in this chapter. For example, if the project affects any historic or archaeological resources, then the project must comply with Section 106 of the National Historic Preservation Act (NHPA). However, if no federal permit or action is required and no federal funds are involved, consultation with the Florida Division of Historical Resources (DHR) is required.

#### 11.1.1 Basis of State Requirements

A LA may advance a project through any one of several state funding programs described in this Manual, [Chapter 339, F.S.](#), and [FDOT’s Work Program Instructions](#). For these projects, if state funds only are being used, the LA follows the procedures outlined [PD&E Manual Part 1, Chapter 10](#) to prepare a Project Environmental Impact Report or “PEIR” when necessary. The LA may prepare a PEIR to support its acquisition of appropriate environmental permits and satisfy other agreements with the Department. The LA acts as the lead agency and is responsible for compliance with Florida laws and rules. State environmental compliance requirements are set forth by other State agencies, such as Florida Department of Environmental Protection and the Florida Division of Historical Resources. It is the LA’s responsibility to document any compliance actions taken in the project file.

#### 11.1.2 Basis of Federal Requirements

Pursuant to [23 United States Code \(U.S.C.\) § 327](#) and the implementing [Memorandum of Understanding \(MOU\)](#) executed on December 14, 2016, the Florida Department of Transportation (the “Department”) has assumed Federal Highway Administration’s

(FHWA) 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. In general, the Department's assumption includes all highway projects in Florida whose source of federal funding comes from FHWA or which constitute a federal action through FHWA. This includes responsibilities for environmental review, interagency consultation and other activities pertaining to the review or approval of **NEPA** actions. Consistent with law and the MOU, the Department will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

Whereas, all federally funded projects must comply with **NEPA**, projects converted to federal funds from other fund sources must be evaluated for Federal-Aid funding eligibility and **NEPA** compliance. Additionally, the need for federal environmental permits will require evaluation and consultation activities that meet requirements under the federal regulatory agency's **NEPA** process. For projects that will be pursuing federal funds or need to maintain federal eligibility, the LA should coordinate with FDOT on the preparation of the environmental document. The Department's Project Development and Environment (PD&E) Process meets these requirements. The LA must be well versed with the Department's [PD&E Manual \(Topic No. 650-000-001\)](#) and specifically, **Part 1, Chapter 2**, which determines the level of documentation required under **NEPA** and **Part 2, Chapter 22** Commitments, to understand how commitments are made and tracked. The preparation of **NEPA** documents is described in detail in **Part 1** of the **PD&E Manual**.

The Department maintains a comprehensive **PD&E Manual** detailing the steps involved for **NEPA** compliance, therefore, the purpose of this Chapter is to provide basic information on the processes that may be required on a LAP project and when a LA should seek additional information from the **PD&E Manual**. Many LAP projects are determined by the FDOT to be a Type 1 Categorical Exclusion (in accordance with the **Part 1, Chapter 2** of the **PD&E Manual**), but this Chapter identifies requirements for all project Class of Action (COA) determinations.

## 11.2 EFFICIENT TRANSPORTATION DECISION MAKING

### 11.2.1 Federal Funded Project Requirements

As part of the planning and programming of Federal-Aid projects, an environmental screening and interagency review is completed as part of the Department's Efficient Transportation Decision Making (ETDM) process on qualifying projects (see the [ETDM Manual Topic No. 650-000-002](#)). ETDM provides information used to aid in developing and focusing the project scope for the **NEPA** document. The decision of whether a project

is screened in ETDM is based on a qualifying project type (*ETDM Manual Chapter 2, Section 2.3.1*), and the conditions illustrated in the ETDM Programming Screen Matrix contained in *Table 2.2* of the *ETDM Manual Chapter 2, Section 2.3.1*. The screening of qualifying projects provides sufficient information to support agreement on a COA determination by the Department.

A LA cannot make the COA determination. For projects qualifying for screening, the District ETDM Coordinator must enter the proposed COA into the Environmental Screening Tool (EST) for OEM approval. The District administers the screening event on behalf of the LA and completes the ETDM process for qualifying projects. For non-qualifying projects coordinate with the District to determine the COA.

Planning activities that may take place before the *NEPA* process (e.g., ETDM process and Alternative Corridor Evaluation process) can be used to narrow the *NEPA* scope. The Department has these procedures established in the *ETDM* and *PD&E Manuals* that link planning and the *NEPA* process. If the LA intends to perform planning activities and intends to seek adoption into the *NEPA* process, then it should coordinate with the Department as early as possible. LAP projects should follow the processes and documentation methods outlined in *Part 1 Chapter 4, Section 4.2.2* of the *PD&E Manual* to the extent practicable.

### 11.2.2 State Funded Project Optional Screening

At the option of the LA, a PEIR project can be screened in the EST, if it satisfies qualifying project type and the conditions of the ETDM Screening Matrix for Qualifying Projects in Chapter 2, of the *ETDM Manual, Topic No. 650-000- 002*. The requesting entity contacts the District Environmental Office if they anticipate project screening in the EST.

## 11.3 PROJECT DEVELOPMENT AND ENVIRONMENT

The *NEPA* process requires an assessment of the environmental effects of federal actions. The environmental review process ensures consideration of effects to the human, natural, and physical environments. Furthermore, it informs and involves citizens; documents project impacts and efforts taken to avoid, minimize, and mitigate any project impacts; and, documents that informed decisions have been made and duly considered the impacts resulting from the project. All applicants for Federal funding must document the impacts of a proposed action through one of the following COAs: Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS). The level of documentation required for each COA is described in *Part 1* of the *PD&E Manual*.

The Department is responsible for review, quality assurance, and approval of **NEPA** documents. The administrative process may require OEM to review and approve documents, including re-evaluations. This review depends on the COA according to **Parts 1** and **2** of the Department's **PD&E Manual**. The Department may authorize the LA to prepare portions of the **NEPA** documents, but this will be determined on a case by case basis. The District Environmental Administrator prepares and approves the **Status of Environmental Certification for Federal Project**, for all COAs. This is created in the Statewide Environmental Project Tracker or SWEPT.

A project cannot be submitted for Federal Authorization for construction without an executed **Status of Environmental Certification for Federal Project** attached to the request. The form must be submitted within one year of signature date by the District, otherwise a re-evaluation of the environmental document is required as described in **Part 1, Chapter 13** of the **PD&E Manual**.

The Final Design cannot be initiated until the **NEPA** process is complete. If a LA intends to advance preliminary engineering activities, then it must coordinate with the Department to ensure compliance with FHWA requirements as described in **Part 1, Chapter 4** of the **PD&E Manual**.

For projects determined by the Department to be a Type 1 Categorical Exclusion (in accordance with the **Part 1, Chapter 2** of the **PD&E Manual**), the environmental review occurs concurrently with Design and must be coordinated with the District Environmental Office. The environmental review must be concluded prior to advancing the project to the right of way or construction phase.

## 11.4 LOCAL AGENCY FEDERAL PROJECT RESPONSIBILITIES

When the COA is determined by OEM (Type 2 Categorical Exclusion, Environmental Assessment or Environmental Impact Statement) or the District (Type 1 Categorical Exclusion), the LA is responsible for conducting environmental analysis, obtaining permits, preparing the **NEPA** documentation, and coordinating with Department staff. The requirements for the environmental and engineering analyses are described in the **PD&E Manual**. Requirements may include, but are not limited to, providing the Department assistance with cultural resource assessments, State Historic Preservation Office reviews, Contamination Assessments, as well as Threatened and Endangered Species Surveys. The District LAP Administrator, in consultation with the District Environmental Office, will coordinate with and obtain needed approvals from OEM.

The LA must follow [Procedure No. 650-000-003, FDOT Commitment Tracking](#). This

procedure provides guidance on tracking and documenting project commitments throughout Project Development, Design, Right of Way (ROW), and Construction phases. If or when project commitments are identified for a LAP project by either LA staff or Department staff (i.e. project engineer, project manager, Environmental Office) a Project Commitments Record (PCR) Form must be generated and provided to the LA and District LAP Administrator for the project file. The PCR Form is generated in [Project Suite Enterprise Edition \(PSEE\)](#). The PCR must be included in the LA's construction and CEI contracts if commitments have been identified prior to advertisement. In addition, the final version of the PCR showing all commitments are met must be included in the LAP project close out package (**Chapter 23**).

Per **FDOT Standard Specifications 7-1.4 and 7-1.8**, LAs must ensure compliance of the contractor's proposed staging/storage area with the [Endangered Species Act, Section 4F](#) and [Section 106 of the Code of Federal Regulations](#). Required Sections of 7-1.4 and 7-1.8 of Standard Specifications are included in FDOT's Division 1 Specification Package for Local Agencies on the FDOT [Specs on the Web](#) page (additional information on Specs on the Web is located in Chapter 20).

## 11.5 RESOURCES

[Project Development and Environment \(PD&E\) Topic No. 650-000-001](#)

[ETDM Manual Topic No. 650-000-002](#)

[36 CFR 800.3 – Initiation of the Section 106 Process](#)

**Project Commitments Record (PCR) Form** is generated in [Project Suite Enterprise Edition \(PSEE\)](#), for more information on PCR see [Procedure No. 650-000-003, Project Commitment Tracking](#).

Office of Environmental Management Training Program:  
<https://www.fdot.gov/environment/sched/train1.shtm>