

## **PART 1, CHAPTER 7**

### **FINDING OF NO SIGNIFICANT IMPACT**

#### **TABLE OF CONTENTS**

7.1 OVERVIEW .....	7-1
7.2 PROCEDURE .....	7-1
7.2.1 Environmental Assessment Update .....	7-1
7.2.2 Intradepartment and FHWA Review Process .....	7-2
7.2.3 Actions Taken After FHWA Approval of the FONSI .....	7-2
7.2.4 Guidance on Limitation of Claims Notice .....	7-3
7.3 REFERENCES.....	7-3
7.4 HISTORY .....	7-4

#### **LIST OF FIGURES**

Figure 7-1 Finding of No Significant Impact Process .....	7-5
Figure 7-2 Sample Transmittal Letter to FHWA for EA with FONSI and Public Hearing Transcript .....	7-6

## PART 1, CHAPTER 7

### FINDING OF NO SIGNIFICANT IMPACT

#### 7.1 OVERVIEW

The primary purpose of an Environmental Assessment (EA) is to determine the nature of impacts associated with a project. If there are significant impacts, an Environmental Impact Statement (EIS) must be prepared. If there are no significant impacts, a Finding of No Significant Impact (FONSI) is prepared. Since a FONSI is attached to the EA, the term “EA with FONSI” is used for the final Environmental Document throughout this Manual. The EA with FONSI should document compliance with the **National Environmental Policy Act (NEPA)** and other applicable environmental laws, Executive Orders, and related requirements (**Technical Advisory T6640.8A**). The EA with FONSI fully establishes the decisions reached by the Florida Department of Transportation (FDOT) and Federal Highway Administration (FHWA) regarding a project and details the rationale behind the alternative selection and the finding itself. The EA with FONSI serves as the decision-making document for the project. It discusses the environmental issues and reaches appropriate decisions regarding mitigation and other commitments. The FONSI process is shown in **Figure 7-1**.

#### 7.2 PROCEDURE

##### 7.2.1 Environmental Assessment Update

After the public hearing and subsequent ten (10) day public comment period, the District amends the EA as follows:

1. The Commitments section is updated to include commitments made by FDOT since the EA was prepared ([Part 2, Chapter 32, Commitments](#)).
2. The Comments and Coordination section is updated to include:
  - a. Summary of meetings held including the public hearing. This includes places, dates, participants, and issues raised.
  - b. Written and oral responses to comments and issues raised after approval of the EA and the public hearing ([Part 2, Chapter 31, Comments and Coordination](#)).
3. Modification of all other sections to reflect design, cost, or environmental changes since approval of the EA.

A FONSI is prepared according to guidance in [Part 2, Chapter 3, EIS Executive Summary/FONSI](#). The FONSI is attached to the updated EA, along with the public hearing transcript and a cover letter.

## 7.2.2 Intradepartment and FHWA Review Process

After preparing the EA with FONSI, the District conducts a quality control review and sends it to the State Environmental Management Office (SEMO). Upon receipt, SEMO will coordinate its review schedule with the District. The review period is typically 30 days; however, the review period can be discussed on a case by case basis. SEMO will provide a technical and procedural review of the document and transmit its comments to the District. The Districts should allow sufficient time in their schedules to address SEMO comments and allow for additional review or coordination.

After SEMO has completed its review and comments have been addressed by the District, SEMO will email their approval to the District. The District then submits copies (the number requested by FHWA) of the EA with FONSI and one (1) copy of the public hearing transcript to FHWA. A cover letter is submitted to FHWA requesting LDCA as shown in **Figure 7-2**. If there are cooperating agencies, the District submits copies to each agency for their review and comments.

Within thirty (30) days of receipt of the EA with FONSI, FHWA and the cooperating agencies should review and provide comments to the District. Additional reviews may be required. FHWA's Division Office will either provide a statement that the document is not ready for review, or approve the EA with FONSI. If FHWA or a cooperating agency submits comments, the District must address the comments and make any necessary revisions.

## 7.2.3 Actions Taken After FHWA Approval of the FONSI

Once the EA with FONSI is approved, FHWA will append a cover letter to the FONSI stating that Location and Design Concept Acceptance (LDCA) has been granted concurrently with approval of the FONSI. When the District receives the signed cover page of an EA with FONSI, the District should transmit the approved document to the recipients of the EA. The approved EA with FONSI should be uploaded to the EST by the District. Once uploaded, an electronic copy of the document is sent to the Florida State Clearinghouse and the Environmental Technical Advisory Team (ETAT). The District should also send copies to other interested state and federal agencies. Hard copies should be sent to Native American tribes, or others who request them. Copies must be sent to the cooperating agencies [(e.g., U.S. Coast Guard (USCG), U.S. Army Corps of Engineers (USACE)]. All organizations and agencies have a comment period of 30 days.

The District also forwards a copy of the letter authorizing LDCA to FDOT's Federal-Aid Management Office. Public notification is also made by the District in the same local newspaper(s) used for the public hearing notification for the EA to inform the public that

the project has received LDCA from FHWA and that the FONSI is available at the appropriate locations for public review.

At each production phase, subsequent to LDCA, the project is to be reevaluated in accordance with **23 CFR Part 771** to assure that there has not been a significant change in the project design or environmental impacts since approval of the Environmental Document. [Part 1, Chapter 13, Reevaluations](#) provides more detail on reevaluations.

## 7.2.4 Guidance on Limitation of Claims Notice

**Title 23 U.S.C. § 139(I)** includes a provision for limiting the time period for filing claims and seeking judicial review of permits, licenses, or approvals issued by federal agencies for a highway or public transportation capital project. The provision establishes a statute of limitations period of 150 days for filing a challenge following publication of the notice in the **Federal Register (FR)** of the agency action(s).

Upon submittal of an EA with FONSI to FHWA for review, the District must discuss with FDOT's Office of General Counsel and FHWA's Division Office the need for publication of a **Limitations of Claims Notice** under **23 U.S.C. § 139 (I)**. The determining factors in this decision will be the class of action, degree of controversy surrounding the project, the likelihood of litigation; and the anticipated time frames for advancing the project to maintain project schedules.

Regardless of whether a decision is made to publish a **Limitations of Claims Notice**, the District, upon approval of an EA with FONSI, will still publish a notice in a local newspaper(s) used for public hearing notification stating that LDCA has been approved by FHWA. At the same time, the District will submit to FHWA the project information needed to publish the **Limitations of Claims Notice** in the **FR**. FHWA will then submit the notice to the **FR**. The 150 day limitations period begins upon date of publication of the notice in the **FR**.

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 final **NEPA** approval. On those occasions, as part of the notice publication discussion, FHWA and FDOT will confer as to whether one combined notice should be published for the **NEPA** document and any associated federal agency actions. If other federal agency permits, licenses or approvals will be obtained at a later phase of the project, notice of limitations of claims would be published at that time for the subsequent approval, if the need is agreed to between FHWA and FDOT.

## 7.3 REFERENCES

Council of Environmental Quality. 1978. Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act. 43 CFR § 55978-56007 and 40 CFR § 1500-1508

Federal-Aid Policy Guide, 23 CFR Part 771, Subchapter H - Right-of-Way and Environment, Part 771 - Environmental Impact and Related Procedures, December 9, 1991, Transmittal 1

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

Federal Register (FR). August 28, 1987. Environmental Impact and Related Procedures. FR Vol. 52, No. 167

Memorandum of Agreement between the Department of Transportation and the Department of the Army, U.S. Corps of Engineers. 1983.

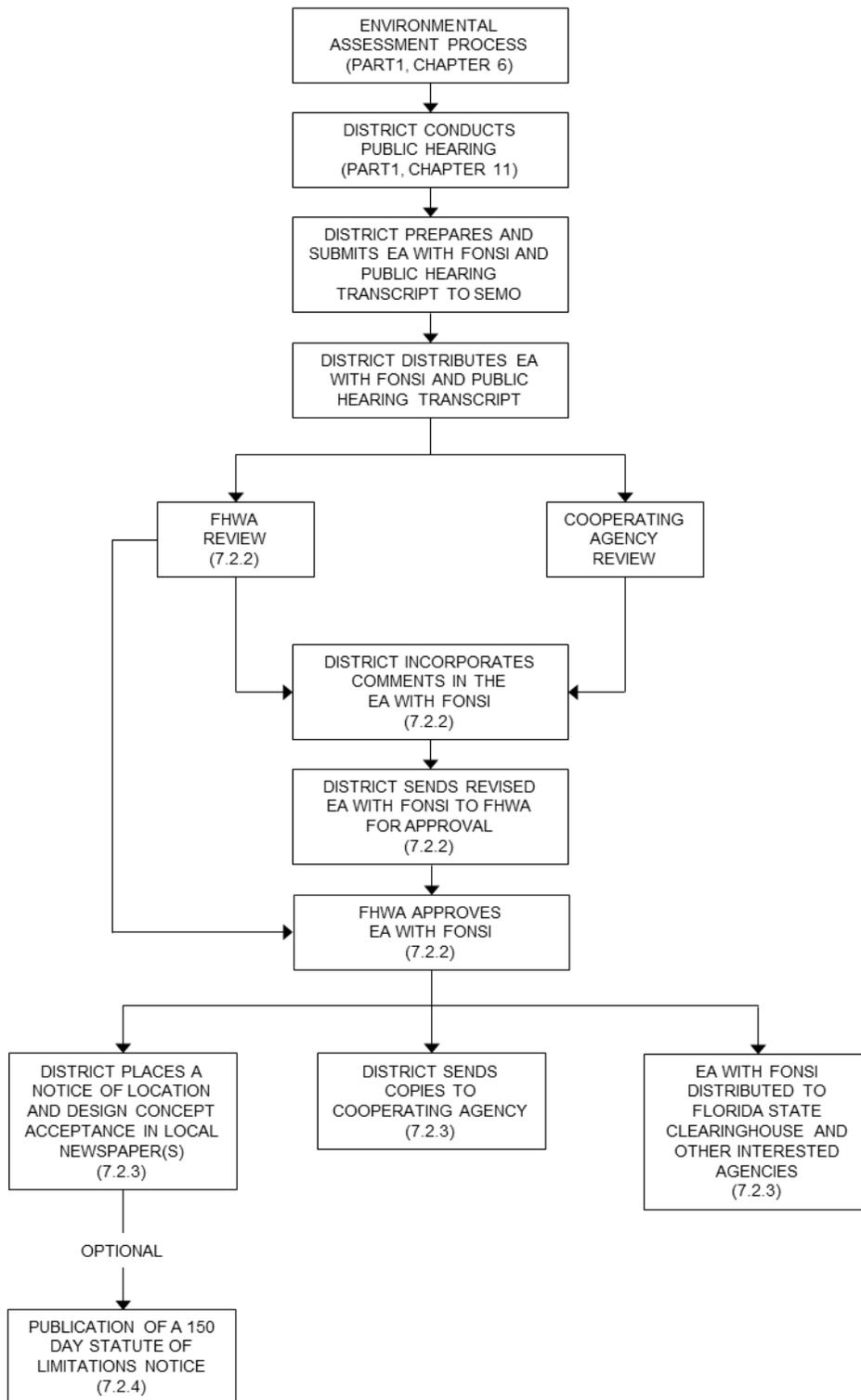
Memorandum titled, "Florida-Meeting with U.S. Coast Guard", from FHWA Highway Safety and Environmental Coordinator to FHWA Assistant Division Administrator (Copy to C.L. Irwin), September 2, 1988

Memorandum titled, "Interim Guidance on the use of 23 U.S.C. 193(1) Limitation on Claims Notices" from FHWA Acting Chief Counsel to FHWA Directors of Field Services, Division Administrators, and Federal Lands Highway Division Engineers, December 1, 2005

United States Code (U.S.C.). Title 23 U.S.C. 139(l)

## **7.4 HISTORY**

11/1/2002, 1/31/2007, 5/30/2014



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

Division Administrator  
Federal Highway Administration  
3500 Financial Plaza, Suite 400  
Tallahassee, Florida 32312

Subject : Environmental Assessment with  
Finding of No Significant Impact  
Financial Management Number XXXXX-XXXXXX  
Federal-Aid Project. No. X-XXX(X)-X  
Any County, Florida

Dear Name:

Enclosed are \_\_\_\_ copies of the Environmental Assessment with Finding of No Significant Impact for the project as required by the National Environmental Policy Act of 1969 and submitted in compliance with 23 CFR Part 771.

Also, enclosed is a copy of the certified public hearing transcript. The public hearing was held on \_\_\_\_\_.

Since this project has been developed under the guidelines of 23 CFR Part 771, location and design concept acceptance for the preferred alternative is also requested upon approval of the document.

Please advise if the document is approved, or if there are comments that must be addressed.

Sincerely,

Manager of District office in charge of  
PD&E studies as appropriate based on  
District organizational structure

Enclosure

cc: Federal-Aid Programs Coordinator

**Figure 7-2 Sample Transmittal Letter to FHWA for EA with FONSI and Public Hearing Transcript**